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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0903; Directorate Identifier 2013–SW–043–AD; Amendment 39–18548; AD 2016–11–21]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH) (Airbus Helicopters)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Airbus Helicopters Model EC135P1, EC135P2, EC135P2+, EC135T1, EC135T2, and EC135T2+ helicopters. This AD requires reducing the life limit of certain parts and removing each part that has reached its life limit. The actions of this AD are intended to reduce the life limits of certain critical parts to prevent failure of a part and subsequent loss of control of the helicopter.

DATES: This AD is effective July 11, 2016.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

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–2014–0903; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy, Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On November 13, 2014, at 79 FR 67382, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model EC135P1, EC135P2, EC135P2+, EC135T1, EC135T2, and EC135T2+ helicopters. The NPRM proposed to require, before further flight, revising the Airworthiness Limitations Section (ALS) of the applicable maintenance manual and the component history card or equivalent record by reducing the life limit for various parts and removing from service any part that has reached its life limit. The proposed requirements were intended to reduce the life limits of certain critical parts to prevent failure of a part and subsequent loss of control of the helicopter.

The NPRM was prompted by AD No. 2013–0178, dated August 7, 2013, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Eurocopter Deutschland GmbH (ECD) (now Airbus Helicopters) Model EC135P1, EC135P2, EC135P2+, EC135T1, EC135T2, EC135T2+, EC635T1, EC635P2+, and EC635T2+ helicopters. EASA advises that ECD has revised the airworthiness limitations for the EC135 and EC635 type design as published in the Master Servicing Manual (MSM) EC135 Chapter 04—ALS documents. Revision 14 of the MSM contains these new airworthiness limitations. EASA states that failure to comply with these limitations could result in an unsafe condition. For these reasons, EASA AD No. 2013–0178 requires revising the ALS to include the new life limits and replacing each part that has reached its life limit.

Since the NPRM was issued, the FAA Southwest Regional Office has relocated and a group email address has been established for requesting an FAA Alternative Method of Compliance for a helicopter of foreign design. We have updated this information throughout this Final Rule.

Comments

After our NPRM (79 FR 67382, November 13, 2014) was published, we received comments from three commenters.

Request

Three commenters requested that the FAA not issue this AD. The commenters stated an AD to revise the airworthiness limitations of an aircraft manual is unnecessary because operators are required to use the most current revision of the manual.

We disagree. The FAA must issue an AD to mandate an airworthiness limitations revision, such as a new life limit, for all operators.

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA, considered the comments received, and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

This AD does not apply to Airbus Helicopters Model EC635T1, P2+, or EC635T2+ helicopters because those helicopters are not type certificated in the U.S.

Related Service Information

The airworthiness limitations and maintenance procedures for certain parts are contained in the Airworthiness Limitations section, Chapter 4, of Eurocopter's MSM EC135, dated December 1, 2001. Revision 14 of the MSM, dated July 1, 2012, establishes a life limit for certain part-numbered main rotor blades and reduces the life limits for swashplate and mixing lever gear unit parts.

Costs of Compliance

We estimate that this AD affects 267 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour. We estimate 2 work-hours to update the maintenance manual for a total cost of $170 for each helicopter and $45,390 for the U.S. fleet.

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 helicopters 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 to the extent that it justifies making a regulatory distinction; 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.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

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):

2016–11–21 Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH): Amendment 39–18548; Docket No. FAA–2014–0903; Directorate Identifier 2013–SW–043–AD.

(a) Applicability

This AD applies to Model EC135P1, EC135P2, EC135P2+, EC135T1, EC135T2, and EC135T2+ helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of a critical part, which could result in loss of control of the helicopter.

(c) Effective Date

This AD becomes effective July 11, 2016.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Before further flight:

(1) Revise the life limit of each part listed in paragraphs (e)(1)(i) and (ii) in the Airworthiness Limitations Section of the applicable maintenance manual and record the revised life limit on the component history card or equivalent record as follows:

(i) For swashplate parts:

(A) Ring (bearing ring), part number (P/N) L623M2001214, reduce the life limit from 8,300 hours time-in-service (TIS) to 8,000 hours TIS.

(B) Ring (control ring), P/N L623M2001213, reduce the life limit from 8,300 hours TIS to 8,000 hours TIS.

(C) Cardan ring (two-part), P/N L623M2005205, reduce the life limit from 14,400 hours TIS to 12,900 hours TIS.

(D) Bolt (control ring), P/N L671M7001215, reduce the life limit from 14,400 hours TIS to 12,900 hours TIS.

(E) Bolt (sliding sleeve), P/N L623M2006206 and P/N L623M2006213, reduce the life limit from 14,400 hours TIS to 12,900 hours TIS.

(ii) For mixing lever gear unit parts:

(A) Forked lever assembly, P/N L671M3012102, reduce the life limit from 9,000 hours TIS to 8,700 hours TIS.

(B) Hinged support, P/N L671M7003210, reduce the life limit from 8,700 hours TIS to 8,400 hours TIS.

(C) Bolt, P/N L671M7001220, reduce the life limit from 8,700 hours TIS to 8,400 hours TIS.

(2) Remove from service any part listed in paragraph (e)(1) of this AD that has reached or exceeded its newly revised life limit.

(f) Special Flight Permits

Special flight permits are limited to a one-time flight to a maintenance facility to replace a part that has reached its life limit.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Eurocopter Master Servicing Manual EC135 Chapter 04—Airworthiness Limitations Section, Revision 14, dated July 1, 2012, which is not incorporated by reference, contains additional information about the subject of this final rule. For service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2013–0178, dated August 7, 2013. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2014–0903.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6300, 2700 Swashplate Ring, Cardan

Ring, Bolt, Mixing Lever Gear Unit (flight controls).

Issued in Fort Worth, Texas, on May 23, 2016.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2016–13103 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0338; Directorate Identifier 2014–CE–010–AD; Amendment 39–18495; AD 2016–08–18]

RIN 2120–AA64

Airworthiness Directives; Piper Aircraft, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting an airworthiness directive (AD) that published in the **Federal Register**. That AD applies to certain Piper Aircraft, Inc. Model PA–31–350 airplanes. The wing locations of engine TIO–540–J2B and LTIO–540–J2B in table 1 of the Applicability, paragraph (c), section are incorrect. This document corrects that error. In all other respects, the original document remains the same; however we are publishing the entire rule in the **Federal Register**.

DATES: This final rule is effective June 6, 2016.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0338; 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 Document 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: Gary Wechsler, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, Georgia 30337; telephone: (404) 474–5575; fax: (404) 474–5606; email: *gary.wechsler@faa.gov.*

SUPPLEMENTARY INFORMATION: Airworthiness Directive 2016–08–18, Amendment 39–18495 (81 FR 26106, May 2, 2016), currently requires inspecting the fuel hose assembly and the turbocharger support assembly for proper clearance between them, inspecting each assembly for any sign of damage, and making any necessary repairs or replacements for certain Piper Aircraft, Inc. Model PA–31–350 airplanes.

As published, the wing locations of engine TIO–540–JJ2B and LTIO–540–J2B in table 1 of the Applicability, paragraph (c), section are incorrect. This document corrects that error.

Although no other part of the preamble or regulatory information has been corrected, we are publishing the entire rule in the **Federal Register**.

The effective date of this AD remains June 6, 2016.

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):

2016–08–18 Piper Aircraft, Inc.: Amendment 39–18495; Docket No. FAA–2014–0338; Directorate Identifier 2014–CE–010–AD.

(a) Effective Date

This AD is effective June 6, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Piper Aircraft, Inc. Model PA–31–350 airplanes, serial numbers 31–5001 through 31–5004, 31–7305005 through 31–8452024, and 31–8253001 through 31–8553002, certificated in any category, that are equipped with the following engines and fuel pump hose assemblies:

TABLE 1 TO PARAGRAPH (c) OF THIS AD—APPLICABLE ENGINES AND FUEL PUMP HOSE ASSEMBLIES

Engine	Manufacturer's hose name	Manufacturer's part No. (P/N)	Hose description
LTIO–540–J2B (right wing)	Hose Assembly—Fuel	Piper 39995–034	Inlet fuel hose to engine fuel pump.
TIO–540–J2B (left wing)	Hose, Fuel pump to Injector	Lycoming LW–12877–6S142	Exit fuel hose from engine fuel pump.
LTIO–540–J2BD (right wing)	Hose, Fuel pump to Injector	Lycoming LW–12877–6S142	Exit fuel hose from engine fuel pump.
TIO–540–J2BD (left wing)	Hose Assembly—Fuel	Piper 39995–034	Inlet fuel hose to engine fuel pump.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 73: Engine Fuel and Control.

(e) Unsafe Condition

This AD was prompted by a report of an engine fire caused by a leak in the fuel pump inlet hose. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

Comply with this AD within the compliance times specified in paragraphs (g)(1) through (j)(2) of this AD, unless already done.

(g) Ensure Proper Clearance Between the Fuel Hose Assembly and the Turbocharger Support Assembly

(1) Within the next 60 hours time-in-service (TIS) after June 6, 2016 (the effective date of this AD) or within the next 6 months after June 6, 2016 (the effective date of this AD), whichever occurs first, inspect to determine the clearance between the inlet and exit fuel hose assemblies listed in table 1 to paragraph (c) of this AD, and each turbocharger support assembly, Lycoming P/N LW–18302. There should be a minimum 3/16-inch clearance. Do the inspection following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(2) Before further flight after the inspection required in paragraph (g)(1) of this AD, if the measured clearance is less than 3/16-inch, make all necessary adjustments to make the clearance a minimum of 3/16-inch between the inlet and exit fuel hose assemblies listed in table 1 to paragraph (c) of this AD and each turbocharger support assembly,

Lycoming P/N LW–18302, following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(h) Visually Inspect the Fuel Hose Assembly and Replace If Necessary

(1) Within the next 60 hours TIS after June 6, 2016 (the effective date of this AD) or within the next 6 months after June 6, 2016 (the effective date of this AD), whichever occurs first, visually inspect the inlet and exit fuel hose assemblies listed in table 1 to paragraph (c) of this AD for evidence of leaking, cracking, chafing, and any other sign of damage. Do the inspection following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(2) Before further flight after the inspection required in paragraph (h)(1) of this AD, if any evidence of leaking, cracking, chafing, or any other sign of damage is found in any inlet or exit fuel host assembly listed in table 1 to paragraph (c) of this AD, replace the fuel hose assembly with a serviceable part. Do the replacement following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(i) Visually Inspect the Turbocharger Support Assembly and Replace If Necessary

(1) Within the next 60 hours TIS after June 6, 2016 (the effective date of this AD) or within the next 6 months after June 6, 2016 (the effective date of this AD), whichever occurs first, visually inspect each turbocharger support assembly, Lycoming P/N LW–18302, for evidence of chafing and any other signs of damage. Do the inspection following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(2) Before further flight after the inspection required in paragraph (i)(1) of this AD, if any evidence of chafing or any other sign of damage is found on any turbocharger support assembly, replace Lycoming P/N LW–18302 with a serviceable part. Do the replacement following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(j) Engine Run-Up

(1) If any fuel line component was adjusted or replaced during any actions required in paragraphs (g)(1) through (i)(2) of this AD, before further flight, perform an engine run-up on the ground to check for leaks. Do the engine run-up following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(2) If any leaks found during the engine run-up required in paragraph (j)(1) of this AD emanate from any fuel line component adjusted, repaired, or replaced during any actions required in paragraphs (g)(1) through (i)(2) of this AD, before further flight, take all necessary corrective actions following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(k) Alternative Methods of Compliance (AMOCs)

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

For more information about this AD, contact Gary Wechsler, Aerospace Engineer, FAA, Atlanta ACO, 1701 Columbia Avenue, College Park, Georgia 30337; telephone: (404) 474–5575; fax: (404) 474–5606; email: *gary.wechsler@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) Piper Aircraft, Inc. Service Bulletin No. 1257A, dated August 4, 2015.

(ii) Reserved.

(3) For Piper Aircraft, Inc. service information identified in this AD, contact Piper Aircraft, Inc., 926 Piper Drive, Vero Beach, Florida 32960; telephone: (772) 567–4361; fax: (772) 978–6573; Internet: *www.piper.com/home/pages/Publications.cfm.*

(4) You may view this service information at 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.

(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 May 31, 2016.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–13226 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–0449; Airspace Docket No. 16–ASW–2]

Amendment of Class E Airspace; Clovis, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Portales Municipal Airport, Clovis, NM. Decommissioning of the Portales non-directional radio beacon (NDB), cancellation of NDB approaches at Portales Municipal Airport, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also updates the geographic coordinates for Portales Municipal Airport to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, September 15, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Portales Municipal Airport, Clovis, NM.

History

On March 11, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class E airspace extending upward from 700 feet above the surface at Portales Municipal Airport, Clovis, NM (81 FR 12847). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Portales Municipal Airport, Clovis, NM. With the decommissioning of the Portales NDB, removal of NDB approaches, and implementation of area navigation (RNAV) instrument approaches, the FAA is reducing the airspace from an 8-mile radius to a 6.6-mile radius of the airport in accordance with airspace requirements specified in FAA Joint Order 7400.2K. The geographic coordinates for Portales Municipal Airport are also being updated to coincide with the FAA's aeronautical database.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (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); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW NM E5 Clovis, NM [Amended]

Clovis, Cannon AFB, NM
(Lat. 34°22′58″ N., long. 103°19′20″ W.)
Portales Municipal Airport, NM
(Lat. 34°08′44″ N., long. 103°24′37″ W.)
Texico VORTAC
(Lat. 34°29′42″ N., long. 102°50′23″ W.)

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Cannon AFB, and within a 6.6-mile radius of Portales Municipal Airport, and within 8 miles north and 4 miles south of the 072° radial of the Texico VORTAC extending from the 20-mile radius to 16 miles east of the VORTAC.

Issued in Fort Worth, Texas, on May 25, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–13145 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–7857; Airspace Docket No. 15–ASW–22]

Amendment of Class D and Class E Airspace for the Following Oklahoma Towns: Antlers, OK; Oklahoma City, OK; Oklahoma City Wiley Post Airport, OK; and Shawnee, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace, Class E airspace designated as surface areas, and Class E airspace extending upward from 700 feet above the surface at Antlers Municipal Airport, Antlers, OK; El Reno Regional Airport, Oklahoma City, OK; Wiley Post Airport, Oklahoma City Wiley Post Airport, OK; and Shawnee Regional Airport, Shawnee, OK. The decommissioning of non-directional radio beacons (NDB) and/or cancellation of NDB approaches due to advances in Global Positioning System (GPS) capabilities have made this action necessary for the safety and

management of Instrument Flight Rules (IFR) operations at the above locations. This action also updates the airport names of University of Oklahoma Westheimer Airport, Norman, OK; David Jay Perry Airport, Goldsby, OK; El Reno Regional Airport; Shawnee Regional Airport; Chandler Regional Airport, OK; and Sundance Airport, Oklahoma City, OK, to coincide with the FAA's aeronautical database. Additionally, this action updates the geographic coordinates for Tinker AFB, Oklahoma City, OK; El Reno Regional Airport; Wiley Post Airport; Antlers Municipal Airport; Sundance Airport; Seminole Municipal Airport, OK; Prague Municipal Airport, OK; Chandler Regional Airport, OK; Tilghman NDB; Cushing Municipal Airport, OK; Cushing NDB; and Cushing Regional Hospital Heliport, OK, to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, September 15, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX, 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D airspace, Class E airspace designated as surface areas, and Class E airspace extending upward from 700 feet above the surface at Antlers Municipal Airport, Antlers, OK; El Reno Regional Airport, Oklahoma City, OK; Wiley Post Airport, Oklahoma City Wiley Post Airport, OK; and Shawnee Regional Airport, Shawnee, OK.

History

On March 11, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class D airspace, Class E airspace designated as surface areas, and Class E airspace extending upward from 700 feet above the surface at Antlers Municipal Airport, Antlers, OK; El Reno Regional Airport, Oklahoma City, OK; Wiley Post Airport, Oklahoma City Wiley Post Airport, OK; and Shawnee Regional Airport, Shawnee, OK (81 FR 12845). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received.

One comment from Mr. Robert Pigott, Aeronautical Information Services, identified an error in the geographic coordinates for the Tilghman NDB and Antlers Municipal Airport, and identified that the name of Sundance Airport had been changed. The FAA agrees with the commenter and amends the geographic coordinates for Antlers Municipal Airport and the Tilghman NDB, as well as noting the name change to Sundance Airport.

Another comment was received from Carolyn Bloom, Aeronautical Information Services, advising that the geographic coordinates for Chandler Regional Airport had been updated after the NPRM was published, and that the name of University of Oklahoma Westheimer Airport had been changed. The FAA agrees with the commenter and amends the geographic coordinates for Chandler Regional Airport, and the name of the University of Oklahoma Westheimer Airport.

Class D and Class E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Antlers Municipal Airport, Antlers, OK; El Reno Regional Airport, Oklahoma City, OK; and Prague Municipal Airport, Shawnee, OK. After review, the FAA found that with the decommissioning of NDBs, cancellation of the NDB approaches, and implementation of area navigation (RNAV) instrument approaches the Class E airspace extending upward from 700 feet above the surface at: Antlers Municipal Airport should be reduced from a 6.5-mile radius to 6.3 miles and the extension to the south of the airport from the 6.5-mile radius to 7.3 miles was no longer required; El Reno Regional Airport should be reduced from a 7.4-mile radius to 6.6 miles; and Prague Municipal Airport should be reduced from a 6.5-mile radius to 6.3 miles and the extension to the north of the airport from the 6.5-mile radius to 8.9 miles was no longer required in accordance with airspace requirements specified in FAA Joint Order 7400.2K. This action is necessary for the safety and management of IFR operations under standard instrument approach procedures.

Additionally, this amendment notes the name change of the following airports: University of Oklahoma Westheimer Airport (formerly University of Oklahoma Westheimer Airpark), Norman, OK; El Reno Regional Airport (formerly El Reno Municipal Airpark); Sundance Airport (formerly Sundance Airpark), Oklahoma City, OK; David Jay Perry Airport, Goldsby, OK (formerly David J. Perry Airport, Norman, OK); Shawnee Regional Airport (formerly Shawnee Municipal Airport); and Chandler Regional Airport (formerly Chandler Municipal Airport).

Geographic coordinates are also being updated for the following airports and navigation aids: Tinker AFB; El Reno Regional Airport; Wiley Post Airport; Antlers Municipal Airport; Sundance Airport; Seminole Municipal Airport; Prague Municipal Airport; Chandler Regional Airport; Tilghman NDB; Cushing Municipal Airport; Cushing NDB; and Cushing Regional Hospital Heliport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (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); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW OK D Oklahoma City Wiley Post Airport, OK [Amended]

Oklahoma City, Wiley Post Airport, OK
(Lat. 35°32′03″ N., long. 97°38′49″ W.)

That airspace extending upward from the surface to and including 3,800 feet MSL within a 4.3-mile radius of Wiley Post Airport excluding that airspace within the Oklahoma City, Will Rogers World Airport, OK, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASW OK E2 Oklahoma City Wiley Post Airport, OK [Amended]

Oklahoma City, Wiley Post Airport, OK
(Lat. 35°32′03″ N., long. 97°38′49″ W.)

Within a 4.3-mile radius of Wiley Post Airport excluding that airspace within the Oklahoma City, Will Rogers World Airport, OK, Class C airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth.

* * * * *

ASW OK E5 Antlers, OK [Amended]

Antlers Municipal Airport, OK
(Lat. 34°11′33″ N., long. 95°39′00″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Antlers Municipal Airport.

* * * * *

ASW OK E5 Oklahoma City, OK [Amended]

Oklahoma City, Will Rogers World Airport, OK
(Lat. 35°23′35″ N., long. 97°36′03″ W.)
Oklahoma City, Tinker AFB, OK
(Lat. 35°24′53″ N., long. 97°23′12″ W.)
Norman, University of Oklahoma Westheimer Airport, OK
(Lat. 35°14′44″ N., long. 97°28′20″ W.)
University of Oklahoma Westheimer Airport ILS Localizer
(Lat. 35°14′58″ N., long. 97°27′51″ W.)
Goldsby, David Jay Perry Airport, OK
(Lat. 35°09′18″ N., long. 97°28′13″ W.)
Oklahoma City, Clarence E. Page Municipal Airport, OK
(Lat. 35°29′17″ N., long. 97°49′25″ W.)
El Reno Regional Airport, OK
(Lat. 35°28′22″ N., long. 98°00′21″ W.)
Oklahoma City, Wiley Post Airport, OK
(Lat. 35°32′03″ N., long. 97°38′49″ W.)
Oklahoma City, Sundance Airport, OK
(Lat. 35°36′07″ N., long. 97°42′22″ W.)

That airspace extending upward from 700 feet above the surface within an 8.1-mile radius of Will Rogers World Airport, and within an 8.2-mile radius of Tinker AFB, and within an 8.9-mile radius of University of Oklahoma Westheimer Airport, and within 1.8 miles each side of the University of Oklahoma Westheimer Airport ILS Localizer southwest course extending from the 8.9-mile radius to 12 miles southwest of the airport, and within a 6.3-mile radius of David Jay Perry Airport, and within a 6.5-mile radius of Clarence E. Page Airport, and within a 6.6-mile radius of El Reno Regional Airport, and within a 6.8-mile radius of Wiley Post Airport, and within a 6.8-mile radius of Sundance Airport.

* * * * *

ASW OK E5 Shawnee, OK [Amended]

Shawnee Regional Airport, OK
(Lat. 35°21′26″ N., long. 96°56′34″ W.)
Seminole, Seminole Municipal Airport, OK
(Lat. 35°16′28″ N., long. 96°40′31″ W.)
Prague Municipal Airport, OK
(Lat. 35°28′51″ N., long. 96°43′08″ W.)
Chandler Regional Airport, OK
(Lat. 35°43′27″ N., long. 96°49′13″ W.)
Tilghman NDB
(Lat. 35°43′31″ N., long. 96°49′07″ W.)
Cushing Municipal Airport, OK
(Lat. 35°57′00″ N., long. 96°46′24″ W.)
Cushing NDB
(Lat. 35°53′24″ N., long. 96°46′24″ W.)
Cushing Regional Hospital Heliport, OK, Point In Space Coordinates
(Lat. 35°58′41″ N., long. 96°45′27″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shawnee Regional Airport, and within a 6.6-mile radius of Seminole Municipal Airport, and within a 6.3-mile radius of Prague Municipal Airport, and within a 6.4-mile radius of Chandler Regional Airport, and within 2.5 miles each side of the 352° bearing from the Tilghman NDB extending from the 6.4-mile radius to 7.3 miles north of the airport, and within a 6.5-mile radius of Cushing Municipal Airport and within 2.1 miles each side of the 185° bearing from the Cushing NDB extending from the 6.5-mile radius to 9.3 miles south of the airport, and that airspace within a 6-mile radius of the Point In Space serving Cushing Regional Hospital Heliport.

Issued in Fort Worth, Texas, on May 25, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–13146 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

Notice of Policy on Evaluating Disputed Changes of Sponsorship at Federally Obligated Airports

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

ACTION: Notice of policy.

SUMMARY: This document clarifies the FAA's legal authority and policy for addressing disputed changes of sponsorship at federally obligated, publicly owned airports. This document also explains the requirements for state or local government entities to coordinate with the FAA when contemplating actions that may impact an airport's ownership, sponsorship, governance, or operations.

DATES: June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis, Manager, Airport Compliance Division, ACO–100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–4629.

SUPPLEMENTARY INFORMATION:

I. Introduction

This document clarifies the FAA's legal authority and policy for monitoring and approving requests to change the sponsorship of, and/or operational responsibility for, an airport from one public agency to another public agency when there is a dispute surrounding the proposed change.[1] This document also describes the requirements for coordination between the FAA and state or local governments contemplating actions that may impact an airport's ownership, sponsorship, governance, or operations, to ensure that such actions are consistent with Federal requirements. Where the current sponsor/operator and the proposed new sponsor/operator agree to a change of sponsorship and/or operational control, Section IV of this document does not apply.

II. FAA Legal Authority and Responsibility

While state or local legislative action, or a judicial action, as the case may be, may seek to change an airport's ownership, sponsorship, governance, or operations, only the FAA has the authority to determine sponsor eligibility, approve and formally change airport sponsorship, and approve and issue a new Airport Operating Certificate pursuant to 14 CFR part 139. The FAA has a statutory obligation to ensure that an airport sponsor/operator is capable of assuming all grant assurances, safety compliance, and other Federal obligations, and has the expertise to operate the airport. Specifically, an airport sponsor/operator must meet the requirements set out in title 49 U.S.C. 44706, as implemented by 14 CFR part 139, for obtaining an Airport Operating Certificate, (if applicable) or in 49 U.S.C. 47102, as implemented by FAA Order 5100.38D (which includes provisions governing sponsor eligibility for Airport Improvement Program (AIP) funding) and/or 14 CFR part 158 (which governs the Passenger Facility Charge (PFC) program pursuant to 49 U.S.C. 40117).

The FAA's obligation extends to reviewing sponsor/operator eligibility when state and local governments propose a change in the airport governance structure to ensure that there is no ambiguity regarding responsibility for Federal obligations and that any proposed changes will not impact compliance with Federal law. (In the event of a local or state dispute regarding sponsorship/operation of the airport, the FAA will apply the policy set out in Section IV below.) If any proposed changes give rise to such concerns by the FAA, the agency will work with state and/or local government(s) to resolve the concerns or, if the concerns cannot be addressed, deny the request.

Airport sponsors and operators are required to maintain compliance with Federal requirements at all times, and this document does not preclude the FAA from taking enforcement action if a sponsor or operator fails to fulfill its obligations, even if the FAA has approved the transfer.

III. Coordination of Potential Actions To Change Sponsorship/Operations

Any state or local legislative body or public agency considering whether to take an action, such as drafting legislation, that would impact airport ownership, sponsorship, governance, or operations should (1) consult with and obtain the consent of the current sponsor/operator (absent extraordinary circumstances, such as substantial evidence of mismanagement on the part of the current sponsor/operator); [2] and (2) request technical assistance from the FAA about the interrelationship between Federal and state or local requirements, and seek the FAA's review and comment as early in the deliberative process as is practicable. A failure to consult may cause FAA to deny a proposed change to airport sponsorship and/or operating authority. In all cases, final decisions regarding the proposed change will be made by FAA's Office of Airport Compliance and Management Analysis.

In seeking technical assistance, representatives of the existing and/or proposed sponsors and operators must contact the appropriate Regional Office or Airport District Office (ADO) as early in the process as practicable. The Regional Office or ADO will inquire as to whether the proposed change is disputed, and the FAA will not act upon the proposed change until the dispute is resolved in accordance with Section IV below. In the absence of a dispute or upon final resolution of a dispute, the Regional Office or ADO will work with prospective airport sponsors and operators to ensure understanding of and compliance with the legal obligations associated with being an airport sponsor or operator (including those under part 139 as well as the AIP grant assurances and the PFC program requirements).

As soon as Regional Offices and ADOs become aware of a proposed change in ownership, sponsorship, governance, or operations, they must alert the FAA Office of Airport Compliance and Management Analysis, which will advise the Office of Airport Safety and Standards and Office of Airport Planning and Programming. The Office of Airport Compliance and Management Analysis is responsible for approving all changes to an airport's ownership, sponsorship, governance, or operations. The Office of Airport Safety and Standards is responsible for administering 14 CFR part 139. The Regional Airport Safety and Standards Offices are responsible for approving changes to the part 139 Airport Certification Program Handbook. The Office of Airport Planning and Programming also plays a role in determining sponsor eligibility, and

[1] The policy does not apply to a change of sponsorship or ownership of a privately-owned airport, transfers under the Airport Privatization Pilot Program, or changes when the Federal Government exercises its right of reverter.

[2] Consent from the current sponsor/operator before a change of sponsorship or operational authority is a critical factor for the FAA in determining whether safety, efficiency, and compliance with grant assurances as required by Federal law will be fully satisfied prior to, during, and after any transition period between sponsors/operators. Even when consent is obtained, the FAA independently will determine whether the proposed sponsor/operator is able to satisfy Federal requirements for airport sponsorship or operation.

administers the AIP and PFC programs, as well as several associated programs and requirements.

IV. FAA Policy on Disputed Changes to Airport Sponsorship or Operations

The determination of whether to seek a new applicant for airport sponsorship is a state or local decision. The FAA expects that all disputes about whether to change airport sponsorship and/or operating authority will be resolved through a legally-binding agreement between the parties involved in the dispute or a final, non-reviewable legal decision. While parties should seek technical assistance from the FAA as early as practicable, parties are encouraged to wait until a dispute has been resolved before submitting an application to the FAA seeking the agency's approval of a change in sponsorship of, and/or operational responsibility for, an airport. In matters in which a proposed change is contested by a current sponsor or operator, the FAA will not act on a part 139 application or a change of airport sponsorship and/or operating authority until the dispute is definitively resolved to the satisfaction of the FAA. Resolution may be demonstrated by issuance of a final, non-reviewable judicial decision requiring such a change, by the issuance of a consent letter between the existing airport sponsor and/or operator and the proposed new sponsor and/or operator, or by other legally definitive means deemed acceptable to the FAA.

The FAA will accept an application for a change in airport sponsorship/operation only upon a legally definitive resolution of a dispute. At that time, the FAA will evaluate whether an application is complete and whether the proposed airport sponsor/operator is capable of assuming all grant assurances, safety compliance, and other Federal obligations, and has the expertise to operate the airport as required by law.

V. Reimbursement of Airport Investments

In circumstances in which a change in sponsorship or operation of an airport is approved and effectuated, the new airport sponsor and/or operator should reimburse the prior sponsor for investments that have been made by the prior sponsor of the airport but have not been fully recouped at the time of the change in airport sponsorship. Any such reimbursements must be consistent with the FAA's *Policy and Procedures Concerning the Use of Airport Revenue,* 64 FR 7696 (Feb. 16, 1999).

Issued in Washington, DC, on May 25, 2016.

Eduardo A. Angeles,

Associate Administrator for Airports.

[FR Doc. 2016–13177 Filed 6–1–16; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Parts 203, 250, 251, 252, 254, 256, 280, 282, 290, and 291

[Docket ID: BSEE–2016–0006; EEEE500000 16XE1700DX EX1SF0000.DAQ000]

RIN 1014–AA15

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Technical Corrections

AGENCY: Bureau of Safety and Environmental Enforcement (BSEE), Interior.

ACTION: Final rule.

SUMMARY: This rule makes minor edits, changes, and updates to BSEE regulations. These changes include, but are not limited to: correcting all current Office of Management and Budget (OMB) control numbers from ''1010'' to ''1014''; adding two new control numbers to regulations as required by the Paperwork Reduction Act (PRA); changing the BSEE address from ''Herndon, VA'' to ''Sterling, VA''; changing ''shall'' to ''will'' or ''must'' and changing ''which'' to ''that''; and revising other language where necessary for improved clarity.

DATES: This rule becomes effective on July 28, 2016.

FOR FURTHER INFORMATION CONTACT: Amy White, Regulations and Standards Branch at (703) 787–1665 or email at *regs@bsee.gov.*

SUPPLEMENTARY INFORMATION:

Background

The technical corrections in this rulemaking affect offshore operators, lessees, pipeline right-of-way holders, and permittees. The corrections are necessary to reflect accurate regulatory citations, add or change a few words for clarification, and revise section numbering. Also, regulatory text that was inadvertently removed in a 2013 regulatory update is being re-inserted where it belongs. These corrections will make the regulations easier to read, understand, and comprehend, but will not change the purpose, scope or effect of the regulations.

Because this rule makes no substantive change in any rule or requirement, BSEE for good cause finds that notice and public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B).

This rulemaking will correct regulations in 30 CFR parts 203, 250, 251, 252, 254, 256, 280, 282, 290, and 291 to reflect the changes discussed below. The following table shows the current regulatory citation and what changes were made.

Section-by-Section Discussion

Current citation	Description of revision
30 CFR part 203	Revises the authority citation for Part 203 from ''43 U.S.C. 1331 *et seq.*'' to ''43 U.S.C. 1334''. Revises the ''Herndon, VA'' address to reflect the new address in ''Sterling, VA''.
§ 203.3(b)	Provides a correct Web site address for the BSEE *Fees for Services* page (application fees) for electronic payments of royalty relief fees.
§ 203.5(a)	Corrects the OMB Control Number from ''1010–0071'' to ''1014–0005''.
30 CFR part 250	Revises the ''Herndon, VA'' address to reflect the new address in ''Sterling, VA''.
§ 250.102(b)	Adds the word ''part'' before ''250'' in paragraphs (b)(1) through (b)(18) in the table of general references for these regulations.
§ 250.102(b)	Adds new paragraph (b)(19) to the table of general references for these regulations, to include ''Safety and Environmental Management Systems (SEMS), 30 CFR part 250, subpart S''.
§ 250.114(a)	Adds the cross reference ''(as incorporated by referenced in § 250.198)'' after the phrase ''Division 2''.
Undesignated Center Heading before § 250.118.	Adds ''Gas Storage or Injection'' as an undesignated center heading to assist the reader with the regulatory text that follows.
§ 250.126	Provides a correct Web site address for the BSEE *Fees for Services* page (application fees) for electronic payments, adds the words ''or permit,'' and makes structural changes so that all text is contained in subsections (a) and (b).

Current citation	Description of revision
§ 250.193(e)(2)(i)(C)	Corrects a previous rulemaking published April 5, 2013 (78 FR 20423), which inadvertently used as BSEE's address ''Herndon, VA'' when it should have read ''Washington, DC''.
§ 250.198(d), (e), (g), (i), (j), (k), (m)	Updates these sections to reflect current phone numbers, URLs, and addresses of where the public can obtain standards and other documents incorporated by reference.
§ 205.405	In the introductory paragraph, corrects ''air take'' to read ''air intake''.
§ 250.610	Removes an already-past deadline date for diesel engine air intake shut down equipment and rewrites the section in active voice. Corrects punctuation by adding missing commas.
§ 250.611	Removes an already-past deadline date for traveling-block safety devices and rewrites the section in active voice.
§ 250.713(b)	Clarifies that site-specific information in approved plans may be relied upon to support permit issuance only when the approved plan covers ''that'' particular ''well location and conditions'' included in the APD.
§§ 250.803(b) and 250.901(a)(24)	Provides references to § 250.198 in instances where documents are incorporated by reference. The effect of incorporating a document into the regulations is to make the incorporated document a requirement.
§ 250.806(c)	Revises ''MS–4020'' to read ''VAE–OORP'' and revises BSEE's ''Herndon, VA'' address to read ''Sterling, VA''.
§ 250.901(a)(24)	Adds the cross reference ''(as incorporated by reference in § 250.198)''.
§ 250.904	Corrects the split rulemaking (76 FR 64462, October 18, 2011), which inadvertently used ''≤'' when it should have used ''>''.
§ 250.908(a)	Corrects the word ''maximum'' to read ''minimum''. Consistent with the title of the section, ''What are the minimum structural fatigue design requirements'', and the final rulemaking notice of December 27, 2001 (66 FR 66851), the intent of this paragraph (originally in the 2001 rule as § 250.913) was always ''minimum''. Use of ''minimum'' is also in keeping with the statements in § 250.908(a)(2) and (a)(3). Also amends the word ''analysis'' to read ''fatigue analysis.''
§ 250.920(b)	Revises ''operational loading, or inadequate deck height your platform'' to read ''operational loading, inadequate deck height, or''.
§ 250.1000(c)(3), (4), (12), and (13)	Removes obsolete dates from § 250.1000(c)(3)(i) and (iv); provides in § 250.1000(c)(4), (c)(12)(ii), (c)(13)(i), and (c)(13)(ii) a general reference to the ''appropriate Department of Transportation (DOT) pipeline official'' with responsibility for transfer points instead of referring to a specific DOT office, since that office title has changed several times since the rule was originally published. Rewords for further clarity.
§§ 250.1015(e) and 250.1018(c)	Removes an already past date. An emergency rulemaking (70 FR 61893, October 27, 2005) was codified as a result of Hurricane Katrina and filing fees were suspended until January 3, 2006.
§ 250.1165(b)	Clarifies that approval for enhanced recovery operations will be handled by BSEE and the Bureau of Ocean Energy Management (BOEM). BSEE is responsible for approving enhanced recovery, but under the current regulations, the proposed enhanced recovery request must be accompanied by submission of Form BOEM–0127. The amended language clarifies that the applicant would submit the form to BOEM.
§ 250.1302(a), (c), (d)	To avoid any confusion, revises this section by correcting the agency name to read ''BSEE'' and by changing the phrase ''joint development and production plan'' to ''Competitive Reservoir Development Program.'' Competitive Reservoir Development Programs will continue to be submitted to BSEE (not BOEM), as was the original intent. As a result of the reorganization of BOEM and BSEE (76 FR 64570), BSEE regulations at § 250.1302(a) and (d) were inadvertently changed to refer to 'BOEM,' evidently because the phrase 'joint development and production plan' was confused with the similarly named development and production plan (DPP) that would be submitted to BOEM. The 'joint development and production plan' is not a DPP nor is it related in any way.[1]
§ 250.1401	Removes and reserves this section, since the headings of all the sections are already listed in the Table of Contents.
§§ 250.1455(b)(2) and 250.1463(b)(2).	Revises §§ 250.1455(b)(2) and 250.1463(b)(2) by changing the cross references from ''§§ 250.1490 through 250.1497'' to ''30 CFR part 550, Subpart N.'' These changes are necessary because the 30 CFR part 250 sections currently referenced do not apply and are being removed through this rulemaking.
§§ 250.1490 through 250.1497	Removes §§ 250.1490 through 250.1497 and the two undesignated center headings, ''Bonding Requirements'', and ''Financial Solvency Requirements.'' These former Minerals Management Service provisions do not apply to BSEE. These sections are instead contained in BOEM's regulations at §§ 550.1490 through 550.1497.
§ 250.1609(b)	Corrects ''timelapse'' to read ''time lapse''.
§ 250.1920(b)(5), (e)	Corrects portions of the SEMS final rule published April 5, 2013 (78 FR 20423), which amended the original 2010 SEMS rule (75 FR 63610). Corrects the 2013 amendments to paragraph (b)(5), which inadvertently made that paragraph confusing, to reflect BSEE's original intent. Also reinserts paragraph (e), which was included in § 250.1920 in the 2010 final SEMS rule but which was inadvertently removed in the 2013 amendments to the 2010 rule (*see* 78 FR 20423, 20442). This insertion remedies that inadvertent removal.
§ 251.15	Corrects the OMB Control Number from ''1010–0141'' to ''1014–0025'', and changes the information collection title to the title that is submitted to OMB.
§ 252.2 (5)	Corrects ''oilspill'' to read ''oil spill''.
30 CFR part 254	In various places, throughout this Part, replaces the words ''Regional Supervisor'' with ''Chief, OSPD'' or ''Chief, Oil Spill Preparedness Division''; also changes ''plan'' or ''response plan'' to ''OSRP''.
§ 254.2	Removes obsolete paragraph (c).
§ 254.6	Adds definitions of ''Chief, OSPD'' to mean the Chief, BSEE Oil Spill Preparedness Division or designee and of ''OSRP'' to mean an Oil Spill Response Plan. Also revises the definition of ''spill management team'' to reflect the revised acronyms.
§ 254.7	Revises this section to reflect accurate OSPD contacts and addresses.
§ 254.9	Corrects the OMB Control Number from ''1010–0091'' to ''1014–0007'' and revises the ''Herndon, VA'' address to reflect the new address in ''Sterling, VA''.

Current citation	Description of revision
30 CFR part 256	Removes various ''[Reserved]'' citations as well as numerous undesignated center headings that are no longer needed and are confusing since they have no regulatory text.
§ 256.7(j)	Adds cross references to BOEM regulations at Chapter V.
§ 280.25(a)(2)	Replaces the word ''our'' with the word ''the''.
§ 280.28(a)	Inserts the words ''Bureau of Ocean Energy Management'' before ''Regional Director'' for clarity.
§ 282.0	Amends the existing paragraph by: designating it as paragraph ''(a)''; correcting the OMB control number from ''1010–0081'' to ''1014–0021''; and adding new paragraph (b) to provide the new address for submitting comments on information collections to BSEE.
§ 282.3	Corrects ''overylying'' to read ''overlying''.
§ 282.13(d), (e)(2)	Adds the words ''to the Bureau of Ocean Energy Management'' for clarification; changes the word ''shall'' to either ''will'' or ''must''. Changes order of sentences for clarity.
§ 282.14(c)	Revises ''$10,000'' to read ''$40,000'' in accordance with 43 U.S.C. 1350.
§ 282.27(d)(2)	Adds the word ''BSEE'' where applicable; changes ''60 days'' to ''90 days'' to be consistent with 30 CFR 250.133; changes ''10 hours'' to ''12 hours''.
30 CFR part 290	Revises the authority citations for Part 290 from ''5 U.S.C. 301 *et seq.;* 43 U.S.C. 1331'' to ''5 U.S.C. 305; 43 U.S.C. 1334''.
§ 290.4(b)(1)	Provides a correct Web site address for the BSEE *Fees for Services* page (application fees) for electronic payments.
30 CFR part 291	Revises ''Office of Policy Analysis'' to read ''Office of Policy and Analysis'' throughout this section in six locations.
§ 291.1(a), (e)	Corrects the OMB Control Number from ''1010–0172'' to ''1014–0012''; revises the ''Herndon, VA'' address to reflect the new address in ''Sterling, VA''.
§ 291.107(b)(1)	Revises the Office of Policy and Analysis phone number from ''(202)-208–3530)'' to ''(202) 208–1901)''.
§ 291.108(a)	Provides a correct Web site address for the BSEE *Fees for Services* page (application fees) for electronic payments.

[1] The ''joint development and production plan''/''Competitive Reservoir Development Program'' is a reservoir management tool used after the BSEE Regional Supervisor determines a reservoir to be a ''competitive reservoir'' that requires competing operators to operate in a manner that ensures the reserves are optimally and efficiently produced in accordance with BSEE's conservation mandate (*e.g.,* restricting well production rates and/or reservoir withdrawal rates, limiting the number of new wells that can be drilled).

Procedural Matters

Regulatory Planning and Review (E.O.s 12866 and 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this final rule is not significant because it will not raise novel legal or policy issues.

E.O. 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 (E.O.) 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. This rulemaking is consistent with the principles of E.O. 13563.

Regulatory Flexibility Act

The Department of the Interior (DOI) certifies that this final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Small Business Regulatory Enforcement Fairness Act

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of BSEE, call 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Allegations of discrimination/retaliation filed with the Small Business Administration will be investigated for appropriate action.

This final rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

a. Will not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The requirements will apply to all entities operating on the OCS.

Unfunded Mandates Reform Act of 1995

This final rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The final rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications. The rulemaking is not a governmental action capable of interfering with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this final rule does not have federalism implications. This final rule will not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this final rule will not affect that role. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

Under the criteria in E.O. 13175 and DOI's Policy on Consultation with Indian Tribes (Secretarial Order 3317, Amendment 2, December 31, 2013), we evaluated this final rule and determined that it has no substantial direct effects on federally recognized Indian tribes.

Paperwork Reduction Act (PRA) of 1995

This final rule does not contain new information collection requirements, and a submission under the PRA is not required. Therefore, an information collection request is not being submitted to OMB for review and approval under the PRA (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act of 1969

This final rule does not constitute a major Federal action significantly affecting the quality of the human environment. BSEE has evaluated this rule under the criteria of the National Environmental Policy Act (NEPA) and the Department's regulations implementing NEPA. This rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental Categorical Exclusion in that this rule is ''of an administrative, financial, legal, technical, or procedural nature. . . .'' Further, BSEE has analyzed this rule to determine if it meets any of the extraordinary circumstances that would require an environmental assessment or an environmental impact statement as set forth in 43 CFR 46.215 and has concluded that this rule does not meet any of the criteria for extraordinary circumstances.

Data Quality Act

In developing this final rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C § 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Nation's Energy Supply (E.O. 13211)

This final rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

List of Subjects

30 CFR Part 203

Indians—lands, Oil and gas exploration, Outer Continental Shelf, Sulphur.

30 CFR Part 250

Administrative practice and procedure, Oil and gas and sulphur exploration, Outer Continental Shelf, Reporting and recordkeeping requirements.

30 CFR Part 251

Freedom of information, Oil and gas exploration, Outer Continental Shelf, Reporting and recordkeeping requirements, Research.

30 CFR Part 252

Freedom of information, Intergovernmental relations, Oil and gas exploration, Outer Continental Shelf, Reporting and recordkeeping requirements.

30 CFR Part 254

Intergovernmental relations, Oil and gas exploration, Oil pollution, Outer Continental Shelf, Pipelines, Reporting and recordkeeping requirements.

30 CFR Part 256

Administrative practice and procedure, Environmental protection, Government contracts, Intergovernmental relations, Oil and gas exploration, Outer Continental Shelf, Reporting and recordkeeping requirements, Surety bonds.

30 CFR Part 280

Outer Continental Shelf, Reporting and recordkeeping requirements, Research.

30 CFR Part 282

Administrative practice and procedure, Environmental protection, Government contracts, Intergovernmental relations, Mineral royalties, Outer Continental Shelf, Penalties, Reporting and recordkeeping requirements, Surety bonds.

30 CFR Part 290

Administrative practice and procedure.

30 CFR Part 291

Administrative practice and procedure.

Dated: May 16, 2016.

Amanda C. Leiter,

Acting Assistant Secretary—Land and Minerals Management.

For the reasons stated in the preamble, the Bureau of Safety and Environmental Enforcement (BSEE) amends 30 CFR parts 203, 250, 251, 252, 254, 256, 280, 282, 290, and 291 as follows:

PART 203—RELIEF OR REDUCTION IN ROYALTY RATES

■ 1. The authority citation for part 203 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.;* 25 U.S.C. 396a *et seq.;* 25 U.S.C. 2101 *et seq.;* 30 U.S.C. 181 *et seq.;* 30 U.S.C. 351 *et seq.;* 30 U.S.C. 1001 *et seq.;* 30 U.S.C. 1701 *et seq.;* 31 U.S.C. 9701; 42 U.S.C. 15903–15906; 43 U.S.C. 1301 *et seq.;* 43 U.S.C. 1331 *et seq.;* 43 U.S.C. 1334.; and 43 U.S.C. 1801 *et seq.*

■ 2. In part 203, revise all references to ''381 Elden Street, Herndon, VA 20170'' to read ''45600 Woodland Road, Sterling, VA 20166''.

§ 203.3 [Amended]

■ 3. Revise § 203.3(b) to read as follows:

§ 203.3 Do I have to pay a fee to request royalty relief?

* * * * *

(b) You must file all payments electronically through the *Fees for Services* page on the BSEE Web site at *http://www.bsee.gov,* and you must include a copy of the Pay.gov confirmation receipt page with your application or assessment.

§ 203.5 [Amended]

■ 4. Amend § 203.5(a) by removing ''1010–0071'' and adding in its place ''1014–0005''.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 5. The authority citation for part 250 is revised to read as follows:

Authority: 31 U.S.C. 9701, 43 U.S.C. 1334.

■ 6. In Part 250, revise all references to''381 Elden Street, Herndon, VA 20170'' to read ''45600 Woodland Road, Sterling, VA 20166''.

§ 250.102 [Amended]

■ 7. Amend § 250.102(b) by revising the table, to read as follows:

§ 250.102 What does this part do?

* * * * *

(b) * * *

For information about . . .	Refer to . . .
(1) Applications for permit to drill,	30 CFR part 250, subpart D.
(2) Development and Production Plans (DPP),	30 CFR part 550, subpart B.
(3) Downhole commingling,	30 CFR part 250, subpart K.
(4) Exploration Plans (EP),	30 CFR part 550, subpart B.
(5) Flaring,	30 CFR part 250, subpart K.
(6) Gas measurement,	30 CFR part 250, subpart L.
(7) Off-lease geological and geophysical permits,	30 CFR part 551.
(8) Oil spill financial responsibility coverage,	30 CFR part 553.
(9) Oil and gas production safety systems,	30 CFR part 250, subpart H.
(10) Oil spill response plans,	30 CFR part 254.
(11) Oil and gas well-completion operations,	30 CFR part 250, subpart E.
(12) Oil and gas well-workover operations,	30 CFR part 250, subpart F.
(13) Decommissioning Activities,	30 CFR part 250, subpart Q.
(14) Platforms and structures,	30 CFR part 250, subpart I.
(15) Pipelines and Pipeline Rights-of-Way,	30 CFR part 250, subpart J and 30 CFR part 550, subpart J.
(16) Sulphur operations,	30 CFR part 250, subpart P.
(17) Training,	30 CFR part 250, subpart O.
(18) Unitization,	30 CFR part 250, subpart M.
(19) Safety and Environmental Management Systems (SEMS),	30 CFR part 250, subpart S.

§ 250.114 [Amended]

■ 8. Amend § 250.114(a) by adding, after the phrase ''Division 2'', the parenthetical phrase ''(as incorporated by reference in § 250.198)''.

■ 9. Add an undesignated center heading, before § 250.118 to read ''GAS STORAGE OR INJECTION''.

■ 10. Revise § 250.126 to read as follows:

§ 250.126 Electronic payment instructions.

(a) You must file all payments electronically through the Fees for Services page on the BSEE Web site at *http://www.bsee.gov.* This includes, but is not limited to, all OCS applications, permits, or any filing fees. You must include a copy of the Pay.gov confirmation receipt page with your application, permit, or filing fee.

(b) If you submitted an application or permit through eWell, you must use the interactive payment feature in that system, which directs you through Pay.gov to make a payment. It is recommended that you keep a copy of your payment confirmation receipt in the event that any questions arise regarding your transaction.

§ 250.193 [Amended]

■ 11. Amend § 250.193(e)(2)(i)(C) by removing ''Herndon, VA'' and adding in its place ''Washington, DC''.

§ 250.198 [Amended]

■ 12. Amend § 250.198, by revising paragraphs (d), (e) introductory text, (g) introductory text, (i) introductory text, (j) introductory text, (k) introductory text, and (m) introductory text to read as follows:

§ 250.198 Documents incorporated by reference.

* * * * *

(d) You may inspect these documents at the Bureau of Safety and Environmental Enforcement, 45600 Woodland Rd, Sterling, VA 20166; phone: 1–844–259–4779; or 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/code_of_federal_regulations/ibr_locations.html.*

* * * * *

(e) American Concrete Institute (ACI), ACI Standards, 38800 Country Club Drive, Farmington Hills, MI 48331–3439: *http://www.concrete.org;* phone: 248–848–3700:

* * * * *

(g) American National Standards Institute (ANSI), ANSI/ASME Codes, *http://www.webstore.ansi.org;* phone: 212–642–4900; and/or American Society of Mechanical Engineers (ASME), 22 Law Drive, P.O. Box 2900, Fairfield, NJ 07007–2900; *http://www.asme.org;* phone: 1–800–843–2763:

* * * * *

(i) American Society for Testing and Materials (ASTM), ASTM Standards, 100 Bar Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; *http://www.astm.org;* phone: 1–877–909–2786:

* * * * *

(j) American Welding Society (AWS), AWS Codes, 8669 NW 36 Street, #130, Miami, FL 33126; *http://www.aws.org;* phone: 800–443–9353:

* * * * *

(k) National Association of Corrosion Engineers (NACE) International, NACE Standards, Park Ten Place, Houston, TX 77084; *http://www.nace.org;* phone: 281–228–6200:

* * * * *

(m) International Organization for Standardization (ISO), 1, ch. de la Voie-Creuse, CP 56, CH–1211, Geneva 20, Switzerland; *www.iso.org;* phone: 41–22–749–01–11:

* * * * *

§ 250.405 [Amended]

■ 13. Amend § 250.405, in the introductory text, by removing the words ''air take'' and adding in their place ''air intake''.

§ 250.610 [Amended]

■ 14. Revise § 250.610 to read as follows:

§ 250.610 Diesel engine air intakes.

You must equip diesel engine air intakes with a device to shut down the diesel engine in the event of runaway. Diesel engines that are continuously attended must be equipped with remotely operated, manual, or automatic shutdown devices. Diesel engines that are not continuously attended must be equipped with automatic shutdown devices.

§ 250.611 [Amended]

■ 15. Revise § 250.611 to read as follows:

§ 250.611 Traveling-block safety device.

You must equip all units being used for well-workover operations that have both a traveling block and a crown block with a safety device that is designed to prevent the traveling block from striking the crown block. You must check the device for proper operation weekly and after each drill-line slipping operation. You must enter the results of the operational check in the operations log.

§ 250.713 [Amended]

■ 16. Amend § 250.713(b) by adding after the phrase ''or DOCD submitted to BOEM,'' the phrase ''for that well location and conditions,''.

§ 250.803 [Amended]

■ 17. Amend § 250.803(b)(1) introductory text, by adding, after the phrase ''(ASME) Boiler and Pressure Vessel Code'', the parenthetical phrase ''(as incorporated by reference in § 250.198)''.

§ 250.806 [Amended]

■ 18. Amend § 250.806(c) by removing ''MS–4020'' and adding in its place ''VAE–OORP'', and by removing ''381 Elden Street, Herndon, Virginia 20170–4817'' and adding in its place ''45600 Woodland Road, Sterling, VA 20166''.

§ 250.901 [Amended]

■ 19. Amend § 250.901(a)(24) by adding, after the phrase ''Offshore Structures Associated with Petroleum Production'', the parenthetical phrase ''(as incorporated by reference in § 250.198)''.

§ 250.904 [Amended]

■ 20. Amend § 250.904(b) by removing ''≤''and adding in its place ''>''.

§ 250.908 [Amended]

■ 21. Amend § 250.908(a), in the table under ''Then . . .'', by removing the word ''analysis'' and adding in its place ''fatigue analysis'' in paragraph (a)(1), and by removing the word ''maximum'' wherever it appears and adding in its place ''minimum''.

§ 250.920 [Amended]

■ 22. Amend § 250.920(b) by removing ''operational loading, or inadequate deck height your platform'' and adding in its place ''operational loading, inadequate deck height, or''.

■ 23. Amend § 250.1000, paragraphs (c)(3)(i) and (iv), (c)(4), (c)(12)(ii), and (c)(13)(i) and (ii), to read as follows:

§ 250.1000 General requirements.

* * * * *

(c) * * *

(3) * * *

(i) Each producing operator must, if practical, durably mark all of its above-water transfer points as of the date a pipeline begins service.

* * * * *

(iv) If adjoining producing and transporting operators cannot agree on a transfer point, the BSEE Regional Supervisor and the appropriate Department of Transportation (DOT) pipeline official may jointly determine the transfer point.

(4) The transfer point serves as a regulatory boundary. An operator may request that the BSEE Regional Supervisor grant an exception to this requirement for an individual facility or area. The Regional Supervisor, in consultation with the appropriate DOT pipeline official and affected parties, may grant the request.

* * * * *

(12) * * *

(ii) The Regional Supervisor will decide, on a case-by-case basis, whether to grant the operator's request. In considering each petition, the Regional Supervisor will consult with the appropriate DOT pipeline official.

(13) * * *

(i) The operator's request must be in the form of a written petition to the appropriate DOT pipeline official and the BSEE Regional Supervisor.

(ii) The BSEE Regional Supervisor and the appropriate DOT pipeline official will decide how to act on this petition.

* * * * *

§ 250.1015 [Amended]

■ 24. Amend § 250.1015 by removing paragraph (e).

§ 250.1018 [Amended]

■ 25. Amend § 250.1018 by removing paragraph (c).

■ 26. Amend § 250.1165 by removing the last sentence of paragraph (b) and adding two sentences in its place to read as follows:

§ 250.1165 What must I do for enhanced recovery operations?

* * * * *

(b) * * * The proposed plan must include, for each project reservoir, a geologic and engineering overview and any additional information required by the BSEE Regional Supervisor. You also must submit Form BOEM–0127 to BOEM along with the supporting data specified in BOEM regulations, 30 CFR part 550, subpart K.

* * * * *

■ 27. Amend § 250.1302 by revising the first sentence of paragraph (a), and paragraphs (c) and (d), to read as follows:

§ 250.1302 What if I have a competitive reservoir on a lease?

(a) The Regional Supervisor may require you to conduct development and production operations in a competitive reservoir under either a joint Competitive Reservoir Development Program submitted to BSEE or a unitization agreement. * * *

* * * * *

(c) If you conduct drilling or production operations in a reservoir determined competitive by the BSEE Regional Supervisor, you and the other affected lessees must submit for approval a joint Competitive Reservoir Development Program. You must submit the joint Competitive Reservoir Development Program within 90 days after the Regional Supervisor makes a final determination that the reservoir is competitive. The joint Competitive Reservoir Development Program must provide for the development and/or production of the reservoir. You may submit supplemental Competitive Reservoir Development Programs for the Regional Supervisor's approval.

(d) If you and the other affected lessees cannot reach an agreement on a joint Competitive Reservoir Development Program, submitted to BSEE within the approved period of time, each lessee must submit a separate Competitive Reservoir Development Program to the Regional Supervisor. The Regional Supervisor will hold a hearing to resolve differences in the separate Competitive Reservoir Development Programs. If the differences in the separate programs are not resolved at the hearing and the Regional Supervisor determines that unitization is necessary under § 250.1301(b), BSEE will initiate unitization under § 250.1304.

§ 250.1401 [Removed and Reserved]

■ 28. Remove and reserve § 250.1401.

■ 29. Amend § 250.1455 by revising paragraph (b)(2) to read as follows:

§ 250.1455 Does my request for a hearing on the record affect the penalties?

* * * * *

(b) * * *

(2) To stay the accrual of penalties, you must post a bond or other surety instrument, or demonstrate financial solvency, using the standards and requirements as prescribed in BOEM's regulations, 30 CFR part 550, subpart N. The posted amount must cover the unpaid principal and interest due for the Notice of Noncompliance, plus the amount of any penalties accrued before the date a stay becomes effective.

* * * * *

■ 30. Amend § 250.1463 by revising paragraph (b)(2) to read as follows:

§ 250.1463 Does my request for a hearing on the record affect the penalties?

* * * * *

(b) * * *

(2) To stay the accrual of penalties, you must post a bond or other surety instrument, or demonstrate financial solvency, using the standards and requirements as prescribed in BOEM's

regulations, 30 CFR part 550, subpart N. The posted amount must cover the unpaid principal and interest due for the Notice of Noncompliance, plus the amount of any penalties accrued before the date a stay becomes effective.

* * * * *

■ 31. Remove the undesignated heading, directly above § 250.1490, ''BONDING REQUIREMENTS''.

§§ 250.1490 and 250.1491 [Removed]

■ 32. Remove §§ 250.1490 and 250.1491.

■ 33. Remove the undesignated heading, directly above § 250.1495, ''FINANCIAL SOLVENCY REQUIREMENTS''.

§§ 250.1495, 250.1496, and 250.1497 [Removed]

■ 34. Remove §§ 250.1495, 250.1496, and 250.1497.

§ 250.1609 [Amended]

■ 35. Amend § 250.1609(b) by removing ''timelapse'' and adding in its place ''time lapse''.

■ 36. Amend § 250.1920 by revising paragraph (b)(5) and by adding paragraph (e) to read as follows:

§ 250.1920 What are the auditing requirements for my SEMS program?

* * * * *

(b) * * *

(5) Section 12.5 Audit Frequency. You must have your SEMS program audited by an ASP within 2 years after initial implementation and every 3 years thereafter. The 3-year auditing cycle begins on the start date of each comprehensive audit (including the initial implementation audit) and ends on the start date of your next comprehensive audit.

* * * * *

(e) BSEE may verify that you undertook the corrective actions and that these actions effectively address the audit findings.

PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

■ 37. The authority citation for part 251 continues to read as follows:

Authority: 31 U.S.C. 9701, 43 U.S.C. 1334.

§ 251.15 [Amended]

■ 38. Revise § 251.15 to read as follows:

§ 251.15 Authority for information collection.

The Office of Management and Budget has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq.* and assigned OMB control number 1014–0025 as it pertains to Application for Permit to Drill (APD, Form BSEE–0123), and Supplemental APD Information Sheet (Form BSEE–0123S). The title of this information collection is ''30 CFR Part 250, *Application for Permit to Drill (APD, Revised APD) Supplemental APD Information Sheet, and all supporting documents.*''

PART 252—OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

■ 39. The authority citation for part 252 continues to read as follows:

Authority: OCS Lands Act, 43 U.S.C. 1331 *et seq.,* as amended, 92 Stat. 629; Freedom of Information Act, 5 U.S.C. 552; § 252.3 also issued under Pub. L. 99–190 making continuing appropriations for Fiscal Year 1986, and for other purposes.

§ 252.2 [Amended]

■ 40. Amend § 252.2, in paragraph (5) of the definition of *Affected State,* by removing ''oilspill'' and adding in its place ''oil spill''.

PART 254—OIL–SPILL RESPONSE REQUIREMENTS FOR FACILITIES LOCATED SEAWARD OF THE COAST LINE

■ 41. The authority citation for part 254 continues to read as follows:

Authority: 33 U.S.C. 1321.

§ 254.1 [Amended]

■ 42. Amend § 254.1 by revising the section heading and paragraphs (a), (b), (d), and (e) to read as follows:

§ 254.1 Who must submit an oil spill response plan (OSRP)?

(a) If you are the owner or operator of an oil handling, storage, or transportation facility, and it is located seaward of the coast line, you must submit an oil spill response plan (OSRP) to BSEE for approval. Your OSRP must demonstrate that you can respond quickly and effectively whenever oil is discharged from your facility. Refer to § 254.6 for the definitions of *oil, facility,* and *coast line* if you have any doubts about whether to submit a plan.

(b) You must maintain a current OSRP for an abandoned facility until you physically remove or dismantle the facility or until the Chief, Oil Spill Preparedness Division (OSPD) notifies you in writing that a plan is no longer required.

* * * * *

(d) If you are in doubt as to whether you must submit a plan for an offshore facility or pipeline, you should check with the Chief, OSPD.

(e) If your facility is located landward of the coast line, but you believe your facility is sufficiently similar to OCS facilities that it should be regulated by BSEE, you may contact the Chief, OSPD, offer to accept BSEE jurisdiction over your facility, and request that BSEE seek from the agency with jurisdiction over your facility a relinquishment of that jurisdiction.

■ 43. Revise § 254.2 to read as follows:

§ 254.2 When must I submit an OSRP?

(a) You must submit, and BSEE must approve, an OSRP that covers each facility located seaward of the coast line before you may use that facility. To continue operations, you must operate the facility in compliance with the OSRP.

(b) Despite the provisions of paragraph (a) of this section, you may operate your facility after you submit your OSRP while BSEE reviews it for approval. To operate a facility without an approved OSRP, you must certify in writing to the Chief, OSPD that you have the capability to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge. The certification must show that you have ensured by contract, or other means approved by the Chief, OSPD, the availability of private personnel and equipment necessary to respond to the discharge. Verification from the organization(s) providing the personnel and equipment must accompany the certification. BSEE will not allow you to operate a facility for more than 2 years without an approved OSRP.

■ 44. Revise § 254.3 to read as follows:

§ 254.3 May I cover more than one facility in my OSRP?

(a) Your OSRP may be for a single lease or facility or a group of leases or facilities. All the leases or facilities in your plan must have the same owner or operator (including affiliates) and must be located in the same BSEE Region (see definition of Regional OSRP in § 254.6).

(b) Regional OSRPs must address all the elements required for an OSRP in subpart B, or subpart D of this part, as appropriate.

(c) When developing a Regional OSRP, you may group leases or facilities subject to the approval of the Chief, OSPD, for the purposes of:

(1) Calculating response times;

(2) Determining quantities of response equipment;

(3) Conducting oil-spill trajectory analyses;

(4) Determining worst case discharge scenarios; and

(5) Identifying areas of special economic and environmental importance that may be impacted and the strategies for their protection.

(d) The Chief, OSPD, may specify how to address the elements of a Regional OSRP. The Chief, OSPD, also may require that Regional OSRPs contain additional information if necessary for compliance with appropriate laws and regulations.

■ 45. Revise § 254.4 to read as follows:

§ 254.4 May I reference other documents in my OSRP?

You may reference information contained in other readily accessible documents in your OSRP. Examples of documents that you may reference are the National Contingency Plan (NCP), Area Contingency Plan (ACP), BSEE or BOEM environmental documents, and Oil Spill Removal Organization (OSRO) documents that are readily accessible to the Chief, OSPD. You must ensure that the Chief, OSPD, possesses or is provided with copies of all OSRO documents you reference. You should contact the Chief, OSPD, if you want to know whether a reference is acceptable.

■ 46. Amend § 254.5 by revising paragraphs (a), (b), and (d) to read as follows:

§ 254.5 General OSRP requirements.

(a) The OSRP must provide for response to an oil spill from the facility. You must immediately carry out the provisions of the OSRP whenever there is a release of oil from the facility. You must also carry out the training, equipment testing, and periodic drills described in the OSRP, and these measures must be sufficient to ensure the safety of the facility and to mitigate or prevent a discharge or a substantial threat of a discharge.

(b) The OSRP must be consistent with the National Contingency Plan and the appropriate Area Contingency Plan(s).

* * * * *

(d) In addition to the requirements listed in this part, you must provide any other information the Chief, OSPD, requires for compliance with appropriate laws and regulations.

■ 47. Amend § 254.6 by adding in alphabetical order the definitions for ''*Chief, OSPD*'' and ''*OSRP*'', and by revising the definition of ''*Spill management team*'', to read as follows:

§ 254.6 Definitions.

* * * * *

Chief, OSPD means the Chief, BSEE Oil Spill Preparedness Division or designee.

* * * * *

OSRP means an Oil Spill Response Plan.

* * * * *

Spill management team means the trained persons identified in an OSRP who staff the organizational structure to manage spill response.

* * * * *

■ 48. Revise § 254.7 to read as follows:

§ 254.7 How do I submit my OSRP to the BSEE?

You must submit the number of copies of your OSRP that the appropriate BSEE regional office requires. If you prefer to use improved information technology such as electronic filing to submit your plan, ask the Chief, OSPD, for further guidance.

(a) Send OSRPs for facilities located seaward of the coast line of Alaska to: Bureau of Safety and Environmental Enforcement, Oil Spill Preparedness Division, Attention: Senior Analyst, 3801 Centerpoint Drive, Suite #500, Anchorage, AK 99503–5823.

(b) Send OSRPs for facilities in the Gulf of Mexico or Atlantic Ocean to: Bureau of Safety and Environmental Enforcement, Oil Spill Preparedness Division, Attention: GOM Section Supervisor, 1201 Elmwood Park Boulevard, New Orleans, LA 70123–2394.

(c) Send OSRPs for facilities in the Pacific Ocean (except seaward of the coast line of Alaska) to: Bureau of Safety and Environmental Enforcement, Oil Spill Preparedness Division, Attention: Senior Analyst, 760 Paseo Camarillo, Suite 201, Camarillo, CA 93010–6002.

§ 254.9 [Amended]

■ 49. Amend § 254.9 in paragraph (a), by removing ''1010–0091'' and adding in its place ''1014–0007'' and in paragraph (d), by removing ''381 Elden Street, Herndon, VA 20170'' and adding in its place ''45600 Woodland Road, Sterling, VA 20166''.

§ 254.20 [Amended]

■ 50. Amend § 254.20 by removing ''spill-response plans'' and adding in its place ''OSRPs''.

■ 51. Amend 254.21 by revising the section heading and paragraphs (a), (b) introductory text, and (b)(1) to read as follows:

§ 254.21 How must I format my OSRP?

(a) You must divide your OSRP for OCS facilities into the sections specified in paragraph (b) of this section and explained in the other sections of this subpart. The OSRP must have an easily found marker identifying each section. You may use an alternate format if you include a cross reference table to identify the location of required sections. You may use alternate contents if you can demonstrate to the Chief, OSPD that they provide for equal or greater levels of preparedness.

(b) Your OSRP must include:

(1) Introduction and OSRP contents.

* * * * *

§ 254.22 [Amended]

■ 52. Amend § 254.22, in the section heading, introductory text, and paragraphs (a), (c), and (d), by removing ''plan'' and adding in its place ''OSRP''.

§ 254.23 [Amended]

■ 53. Amend § 254.23, in the introductory text, by removing ''response plan'' and adding in its place ''OSRP''.

§ 254.25 [Amended]

■ 54. Amend § 254.25, in the first sentence, by removing ''plan'' and adding in its place ''OSRP''.

■ 55. Revise § 254.30 to read as follows:

§ 254.30 When must I revise my OSRP?

(a) You must review your OSRP at least every 2 years and submit all resulting modifications to the Chief, OSPD. If this review does not result in modifications, you must inform the Chief, OSPD, in writing that there are no changes.

(b) You must submit revisions to your OSRP for approval within 15 days whenever:

(1) A change occurs which significantly reduces your response capabilities;

(2) A significant change occurs in the worst case discharge scenario or in the type of oil being handled, stored, or transported at the facility;

(3) There is a change in the name(s) or capabilities of the oil spill removal organizations cited in the OSRP; or

(4) There is a significant change to the Area Contingency Plan(s).

(c) The Chief, OSPD, may require that you resubmit your OSRP if the OSRP has become outdated or if numerous revisions have made its use difficult.

(d) The Chief, OSPD, will periodically review the equipment inventories of OSRO's to ensure that sufficient spill removal equipment is available to meet the cumulative needs of the owners and operators who cite these organizations in their OSRPs.

(e) The Chief, OSPD, may require you to revise your OSRP if significant inadequacies are indicated by:

(1) Periodic reviews (described in paragraph (d) of this section);

(2) Information obtained during drills or actual spill responses; or

(3) Other relevant information the Chief, OSPD, obtained.

§ 254.41 [Amended]

■ 56. Amend § 254.41(d) by removing ''response plan'' and adding in its place ''OSRP''.

■ 57. Amend § 254.42 as follows:

■ a. Revise paragraphs (a), (b)(2), and (e).

■ b. Amend paragraphs (f) and (h), by removing ''Regional Supervisor'' and adding in its place ''Chief, OSPD,'' and amend paragraph (i) by removing ''Regional Supervisor'' and adding in its place ''Chief, OSPD.''.

§ 254.42 Exercises for your response personnel and equipment.

(a) You must exercise your entire OSRP at least once every 3 years (triennial exercise). You may satisfy this requirement by conducting separate exercises for individual parts of the OSRP over the 3-year period; you do not have to exercise your entire OSRP at one time.

(b) * * *

(2) An annual deployment exercise of response equipment identified in your OSRP that is staged at onshore locations. You must deploy and operate each type of equipment in each triennial period. However, it is not necessary to deploy and operate each individual piece of equipment.

* * * * *

(e) All records of spill-response exercises must be maintained for the complete 3-year exercise cycle. Records should be maintained at the facility or at a corporate location designated in the OSRP. Records showing that OSROs and oil spill removal cooperatives have deployed each type of equipment also must be maintained for the 3-year cycle.

* * * * *

§ 254.43 [Amended]

■ 58. Amend § 254.43(a) by removing ''response plan'' and adding in its place ''OSRP''.

§ 254.44 [Amended]

■ 59. Amend § 254.44(a) by removing ''response plan'' and adding in its place ''OSRP''.

§ 254.45 [Amended]

■ 60. Amend § 254.45(a) by removing ''response plan'' and adding in its place ''OSRP''.

§ 254.46 [Amended]

■ 61. Amend § 254.46(b)(2) by removing ''Regional Supervisor'' and adding in its place ''Chief, OSPD''.

§ 254.47 [Amended]

■ 62. Amend § 254.47(d) by removing ''Regional Supervisor'' and adding in its place ''Chief, OSPD,''.

§ 254.51 [Amended]

■ 63. Amend § 254.51, in the section heading by removing ''response plan'' and adding in its place ''OSRP'', and in the text by removing ''this plan'' and adding in its place ''this OSRP''.

§ 254.52 [Amended]

■ 64. Amend § 254.52, in the section heading by removing ''response plan'' and adding in its place ''OSRP'', and in the text by removing ''plan'' and adding in its place ''OSRP''.

§ 254.53 [Amended]

■ 65. Amend § 254.53, in the section heading by removing ''response plan'' and adding in its place ''OSRP'', and in paragraph (a) introductory text by removing ''plan'' and adding in its place ''OSRP''.

§ 254.54 [Amended]

■ 66. Amend § 254.54, by removing ''response plan'' and adding in its place ''OSRP'' and by removing ''Regional Supervisor'' and adding in its place ''Chief, OSPD,''.

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

■ 67. The authority citation for part 256 continues to read as follows:

Authority: 31 U.S.C. 9701, 42 U.S.C. 6213, 43 U.S.C. 1334, Pub. L. 109–432.

§ 256.0 and §§ 256.2 through 256.5 [Removed]

■ 68. Remove reserved § 256.0 and reserved §§ 256.2 through 256.5.

■ 69. Amend § 256.7 by adding paragraph (j) to read as follows:

§ 256.7 Cross references.

* * * * *

(j) For Bureau of Ocean Energy Management (BOEM) regulations, see 30 CFR chapter V.

§§ 256.8 through 256.12 [Removed]

■ 70. Remove reserved §§ 256.8 through 256.12.

Subparts B Through I [Removed]

■ 71. Remove reserved subparts B Through I.

Subparts J Through L [Redesignated as Subparts B through D]

■ 72. Redesignate subparts J through L as subparts B through D respectively.

§§ 256.62 through 256.68, § 256.76, and § 256.80 [Removed]

■ 73. Remove reserved §§ 256.62 through 256.68, § 256.76, and § 256.80.

Subparts M and N [Removed]

■ 74. Remove reserved subparts M and N.

PART 280—PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR ON THE OUTER CONTINENTAL SHELF

■ 75. The authority citation for part 280 continues to read as follows:

Authority: 43 U.S.C. 1334.

§ 280.25 [Amended]

■ 76. Amend § 280.25, paragraph (a)(2), by removing the word ''our'' and adding in its place ''the''.

§ 280.28 [Amended]

■ 77. Amend § 280.28, paragraph (a), by adding ''Bureau of Ocean Energy Management'' before ''Regional Director''.

PART 282—OPERATIONS IN THE OUTER CONTINENTAL SHELF FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR

■ 78. The authority citation for part 282 continues to read as follows:

Authority: 43 U.S.C. 1334.

■ 79. Amend § 282.0 by designating the existing paragraph as paragraph (a), by removing in that paragraph the number ''1010–0081'' and adding in its place ''1014–0021'', and by adding new paragraph (b) to read as follows:

§ 282.0 Authority for information collection.

* * * * *

(b) Send comments regarding any aspect of the collection of information under this part, including suggestions for reducing the burden, to: Information Collection Clearance Officer, Bureau of Safety and Environmental Enforcement, 45600 Woodland Road, Sterling, VA 20166.

§ 282.3 [Amended]

■ 80. Amend § 282.3, in the definition of *Geological sample,* by removing ''overylying'' and adding in its place ''overlying''.

■ 81. Amend § 282.13 by revising paragraphs (d) and (e)(2) to read as follows:

§ 282.13 Suspension of production or other operations.

* * * * *

(d) The Director may, at any time within the period prescribed for a suspension or temporary prohibition issued pursuant to paragraph (b)(2) of this section, require the lessee to submit a Delineation, Testing, or Mining Plan to the Bureau of Ocean Energy Management for approval in accordance with the requirements for the approval of such plans in part 582 of this title.

(e) * * *

(2) When the Director determines that measures are necessary, on the basis of the results of the studies conducted in accordance with paragraph (e)(1) of this section and other information available to and identified by the Director, the lessee will be required to take appropriate measures to mitigate, avoid, or minimize the damage or potential damage on which the suspension or temporary prohibition is based. In choosing between alternative mitigation measures, the Director will balance the cost of the required measures against the reduction or potential reduction in damage or threat of damage or harm to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the National security or defense, or to the marine, coastal, or human environment. When deemed appropriate by the Director, the lessee must submit to the Bureau of Ocean Energy Management a revised Delineation, Testing, or Mining Plan that incorporates the mitigation measures required by the Director.

* * * * *

§ 282.14 [Amended]

■ 82. Amend § 282.14(c) by revising ''$10,000'' to read ''$40,000''.

§ 282.27 [Amended]

■ 83. Revise § 282.27(d)(2) to read as follows:

§ 282.27 Conduct of operations.

* * * * *

(d) * * *

(2) A lessee shall, on request by the Director, furnish food, quarters, and transportation for BSEE representatives to inspect its facilities. Upon request, you will be reimbursed by BSEE for the actual costs that you incur as a result of providing transportation to BSEE representatives. In addition, you will be reimbursed for the actual costs that you incur for providing food and quarters for a BSEE representative's stay of more than 12 hours. You must submit an invoice for reimbursement within 90 days of the inspection.

* * * * *

PART 290—APPEAL PROCEDURES

■ 84. Revise the authority citation for part 290 to read as follows:

Authority: 5 U.S.C. 305; 43 U.S.C. 1334.

■ 85. Revise § 290.4(b)(1) to read as follows:

§ 290.4 How do I file an appeal?

* * * * *

(b) * * *

(1) You must pay electronically through the Fees for Services page on the BSEE Web site at *http://www.bsee.gov,* and you must include a copy of the Pay.gov confirmation receipt page with your Notice of Appeal.

* * * * *

PART 291—OPEN AND NONDISCRIMINATORY ACCESS TO OIL AND GAS PIPELINES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT

■ 86. The authority citation for part 291 continues to read as follows:

Authority: 31 U.S.C. 9701, 43 U.S.C. 1334.

■ 87. Amend part 291, in §§ 291.103 introductory text, 291.106(a), 291.107(a) and (b)(1), and 291.109(a)(1) and (b), by revising ''Office of Policy Analysis'' to read ''Office of Policy and Analysis''.

§ 291.1 [Amended]

■ 88. Amend § 291.1 in paragraph (a), by removing ''1010–0172'' and adding in its place ''1014–0012'' and in paragraph (e), by removing ''381 Elden Street, Herndon, VA 20170'' and adding in its place ''45600 Woodland Road, Sterling, VA 20166''.

§ 291.107 [Amended]

■ 89. Amend § 291.107, paragraph (b)(1), by removing ''(202)–208–3530);'' and adding in its place ''(202) 208–1901);''.

■ 90. Amend § 291.108 by revising paragraph (a) to read as follows:

§ 291.108 How do I pay the processing fee?

(a) You must pay the processing fee electronically through the Fees for Services page on the BSEE Web site at *http://www.bsee.gov,* and you must include a copy of the Pay.gov confirmation receipt page with your complaint.

* * * * *

[FR Doc. 2016–12487 Filed 6–3–16; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2015–1052]

RIN 1625–AA08; AA00

Special Local Regulations and Safety Zones; Recurring Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is updating the special local regulations and permanent safety zones in the Coast Guard Sector Northern New England Captain of the Port Zone for annual recurring marine events. When enforced, these special local regulations and safety zones will restrict vessels from portions of water areas during certain annually recurring events. The special local regulations and safety zones are intended to expedite public notification and ensure the protection of the maritime public and event participants from the hazards associated with certain maritime events.

DATES: This rule is effective June 6, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–USCG–2015–1052 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Chief Marine Science Technician Chris Bains, Waterways Management Division at Coast Guard Sector Northern New England, telephone (207) 347–5003, or email *Chris.D.Bains@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
SLR Special Local Regulation
U.S.C. United States Code
COTP Captain of the Port

II. Background Information and Regulatory History

On February 25, 2016, the Coast Guard published an NPRM in the **Federal Register** titled Special Local

Regulations and Safety Zone; Recurring Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone, 81 FR 9380, proposing to update SLR and safety zones. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. No public comments or request for a public meeting were received during the NPRM process. Swim events, fireworks displays, and marine events are held on an annual recurring basis on the navigable waters within the Coast Guard Sector Northern New England COTP Zone. In the past, the Coast Guard has established special local regulations, regulated areas, and safety zones for these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from the hazards associated with these events. In the past year, events were assessed for their likelihood to recur in subsequent years or to discontinue, and were added to or deleted from the tables accordingly. In addition, minor changes to existing events were made to ensure the accuracy of event details.

The purpose of this rulemaking is to reduce administrative overhead, expedite public notification of events, and ensure the protection of the maritime public during marine events in the Sector Northern New England area.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. The comment period for the NPRM associated with the Special Local Regulations and Safety Zone; Recurring Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone expired on April 25, 2016. The first events are scheduled to occur June 18, 2016. Thus, there is now insufficient time for a 30 day effective period before the need to enforce this safety zone and SLR. Delaying the enforcement of this safety zone and SLR to allow a 30 day effective period will be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

III. Legal Authority and Need for Rule

The Coast Guard issues this rulemaking under authority in 33 U.S.C. 1231. This rule will update the tables of annual recurring events in the existing regulation for the Coast Guard Sector Northern New England COTP Zone. The tables provide the event name, sponsor, and type, as well as approximate times, dates, and locations of the events. Advanced public notification of specific times, dates, regulated areas, and enforcement periods for each event will be provided through appropriate means, which may include, the Local Notice to Mariners, Broadcast Notice to Mariners, and a Notice of Enforcement published in the **Federal Register** at least 30 days prior to the event date. If an event does not have a date and time listed in this regulation, then the precise dates and times of the enforcement period for that event will be announced through a Local Notice to Mariners and, if time permits, a Notice of Enforcement in the **Federal Register.**

IV. Discussion of Comments, Changes to the Rule

As noted above, we received no comments to the NPRM published February 25, 2016. The single change from the NPRM is the addition of dates to the Lake Champlain Dragon Boat Race held in Burlington, VT. The Coast Guard has added two dates in July, as well as an additional date in August to the table of Special Local regulations in 33 CFR 100.120

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

We expect the economic impact of this rule to be minimal. Although this regulation may have some impact on the public, the potential impact will be minimized for the following reason: the Coast Guard is only modifying an existing regulation to account for new information.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the regulated waters may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism

principles and preemption requirements described in Executive Order. 13132.

Also, this rule does not have tribal implications under Executive Order. 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have 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. This rule involves water activities including swimming events and fireworks displays. They maybe categorically excluded from further review under paragraph 34(g)(Safety Zones) and (34)(h)(Special Local Regulations) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist supporting this is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects

33 CFR Part 100

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

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In § 100.120, revise the table to read as follows:

§ 100.120 Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone.

* * * * *

TABLE TO § 100.120

5.0	May occur May through September
5.1 Tall Ships Visiting Portsmouth	• Event Type: Regatta and Boat Parade. • Sponsor: Portsmouth Maritime Commission, Inc. • Date: A four day event from Friday through Monday.[1] • Time (Approximate): 9:00 a.m. to 8:00 p.m. each day. • Location: The regulated area includes all waters of Portsmouth Harbor, New Hampshire in the vicinity of Castle Island within the following points (NAD 83): 43°03′11″ N., 070°42′26″ W. 43°03′18″ N., 070°41′51″ W. 43°04′42″ N., 070°42′11″ W. 43°04′28″ N., 070°44′12″ W. 43°05′36″ N., 070°45′56″ W. 43°05′29″ N., 070°46′09″ W. 43°04′19″ N., 070°44′16″ W. 43°04′22″ N., 070°42′33″ W.
6.0	JUNE
6.1 Bar Harbor Blessing of the Fleet	• Event Type: Regatta and Boat Parade. • Sponsor: Town of Bar Harbor, Maine. • Date: A one day event between the 15th of May and the 15th of June.[1] • Time (Approximate): 12:00 p.m. to 1:30 p.m. • Location: The regulated area includes all waters of Bar Harbor, Maine within the following points (NAD 83): 44°23′32″ N., 068°12′19″ W. 44°23′30″ N., 068°12′00″ W. 44°23′37″ N., 068°12′00″ W. 44°23′35″ N., 068°12′19″ W.
6.2 Charlie Begin Memorial Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Boothbay Harbor Lobster Boat Race Committee.

TABLE TO § 100.120—Continued

	• Date: A one day event in June.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of John's Island within the following points (NAD 83): 43°50′04″ N., 069°38′37″ W. 43°50′54″ N., 069°38′06″ W. 43°50′49″ N., 069°37′50″ W. 43°50′00″ N., 069°38′20″ W.
6.3 Rockland Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Rockland Harbor Lobster Boat Race Committee. • Date: A one day event in June.[1] • Time (Approximate): 9:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Breakwater Light within the following points (NAD 83): 44°05′59″ N., 069°04′53″ W. 44°06′43″ N., 069°05′25″ W. 44°06′50″ N., 069°05′05″ W. 44°06′05″ N., 069°04′34″ W.
6.4 Windjammer Days Parade of Ships	• Event Type: Tall Ship Parade. • Sponsor: Boothbay Region Chamber of Commerce. • Date: A one day event in June.[1] • Time (Approximate): 12:00 p.m. to 5:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of Tumbler's Island within the following points (NAD 83): 43°51′02″ N., 069°37′33″ W. 43°50′47″ N., 069°37′31″ W. 43°50′23″ N., 069°37′57″ W. 43°50′01″ N., 069°37′45″ W. 43°50′01″ N., 069°38′31″ W. 43°50′25″ N., 069°38′25″ W. 43°50′49″ N., 069°37′45″ W.
6.5 Bass Harbor Blessing of the Fleet Lobster Boat Race.	• Event Type: Power Boat Race. • Sponsor: Tremont Congregational Church. • Date: A one day event in June.[1] • Time (Approximate): 10:00 a.m. to 2:00 p.m. • Location: The regulated area includes all waters of Bass Harbor, Maine in the vicinity of Lopaus Point within the following points (NAD 83): 44°13′28″ N., 068°21′59″ W. 44°13′20″ N., 068°21′40″ W. 44°14′05″ N., 068°20′55″ W. 44°14′12″ N., 068°21′14″ W.
6.6 Long Island Lobster Boat Race	• Event Type: Power Boat Race. • Sponsor: Long Island Lobster Boat Race Committee. • Date: A one day event in June.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Casco Bay, Maine in the vicinity of Great Ledge Cove and Dorseys Cove off the northwest coast of Long Island, Maine within the following points (NAD 83): 43°41′59″ N., 070°08′59″ W. 43°42′04″ N., 070°09′10″ W. 43°41′41″ N., 070°09′38″ W. 43°41′36″ N., 070°09′30″ W.
7.0	JULY
7.1 Burlington 3rd of July Air Show	• Event Type: Air Show. • Sponsor: Dan Marcotte Airshows. • Date: A one day event held near July 4th.[1] • Time (Approximate): 8:30 p.m. to 9:00 p.m. • Location: The regulated area includes all waters of Lake Champlain, Burlington, VT within the following points (NAD 83): 44°28′51″ N., 073°14′21″ W. 44°28′57″ N., 073°13′41″ W. 44°28′05″ N., 073°13′26″ W. 44°27′59″ N., 073°14′03″ W

TABLE TO § 100.120—Continued

7.2 Moosabec Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Moosabec Boat Race Committee. • Date: A one day event held near July 4th.[1] • Time (Approximate): 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Jonesport, Maine within the following points (NAD 83): 44°31′21″ N., 067°36′44″ W. 44°31′36″ N., 067°36′47″ W. 44°31′44″ N., 067°35′36″ W. 44°31′29″ N., 067°35′33″ W.
7.3 The Great Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Franklin County Chamber of Commerce. • Date: A one day event on a Sunday between the 15th of August and the 15th of September.[1] • Time (Approximate): 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Saint Albans Bay within the following points (NAD 83): 44°47′18″ N., 073°10′27″ W. 44°47′10″ N., 073°08′51″ W.
7.4 Searsport Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Searsport Lobster Boat Race Committee. • Date: A one day in July.[1] • Time (Approximate): 9:00 a.m. to 4:00 p.m. • Location: The regulated area includes all waters of Searsport Harbor, Maine within the following points (NAD 83): 44°26′50″ N., 068°55′20″ W. 44°27′04″ N., 068°55′26″ W. 44°27′12″ N., 068°54′35″ W. 44°26′59″ N., 068°54′29″ W.
7.5 Stonington Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Stonington Lobster Boat Race Committee. • Date: A one day event in July.[1] • Time (Approximate): 8:00 a.m. to 3:30 p.m. • Location: The regulated area includes all waters of Stonington, Maine within the following points (NAD 83): 44°08′55″ N., 068°40′12″ W. 44°09′00″ N., 068°40′15″ W. 44°09′11″ N., 068°39′42″ W. 44°09′07″ N., 068°39′39″ W.
7.6 Mayor's Cup Regatta	• Event Type: Sailboat Parade. • Sponsor: Plattsburgh Sunrise Rotary. • Date: A one day event in July.[1] • Time (Approximate): 10:00 a.m. to 4:00 p.m. • Location: The regulated area includes all waters of Cumberland Bay on Lake Champlain in the vicinity of Plattsburgh, New York within the following points (NAD 83): 44°41′26″ N., 073°23′46″ W. 44°40′19″ N., 073°24′40″ W. 44°42′01″ N., 073°25′22″ W.
7.7 The Challenge Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Lake Champlain Maritime Museum. • Date: A one day event in July.[1] • Time (Approximate): 11:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Button Bay State Park within the following points (NAD 83): 44°12′25″ N., 073°22′32″ W. 44°12′00″ N., 073°21′42″ W. 44°12′19″ N., 073°21′25″ W. 44°13′16″ N., 073°21′36″ W.
7.8 Yarmouth Clam Festival Paddle Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Maine Island Trail Association. • Date: A one day event in July.[1] • Time (Approximate): 8:00 a.m. to 4:00 p.m. • Location: The regulated area includes all waters in the vicinity of the Royal River outlet and Lane's Island within the following points (NAD 83): 43°47′47″ N, 070°08′40″ W.

TABLE TO § 100.120—Continued

	43°47′50″ N, 070°07′13″ W. 43°47′06″ N, 070°07′32″ W. 43°47′17″ N, 070°08′25″ W.
7.9 Maine Windjammer Lighthouse Parade	• Event Type: Wooden Boat Parade. • Sponsor: Maine Windjammer Association. • Date: A one day event in July.[1] • Time (Approximate): 1:00 p.m. to 3:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Harbor Breakwater within the following points (NAD 83): 44°06′14″ N., 069°03′48″ W. 44°05′50″ N., 069°03′47″ W. 44°06′14″ N., 069°05′37″ W. 44°05′50″ N., 069°05′37″ W.
7.10 Friendship Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Friendship Lobster Boat Race Committee. • Date: A one day event during a weekend between the 15th of July and the 15th of August.[1] • Time (Approximate): 9:30 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Friendship Harbor, Maine within the following points (NAD 83): 43°57′51″ N., 069°20′46″ W. 43°58′14″ N., 069°19′53″ W. 43°58′19″ N., 069°20′01″ W. 43°58′00″ N., 069°20′46″ W.
7.11 Harpswell Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Harpswell Lobster Boat Race Committee. • Date: A one day event between the 15th of July and the 15th of August.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes waters of Middle Bay near Harpswell, Maine within the following points (NAD 83): 43°44′15″ N., 070°02′06″ W. 43°44′59″ N., 070°01′21″ W. 43°44′51″ N., 070°01′05″ W. 43°44′06″ N., 070°01′49″ W.
8.0	AUGUST
8.1 Eggemoggin Reach Regatta	• Event Type: Wooden Boat Parade. • Sponsor: Rockport Marine, Inc. and Brookline Boat Yard. • Date: A one day event on a Saturday between the 15th of July and the 15th of August.[1] • Time (Approximate): 11:00 a.m. to 7:00 p.m. • Location: The regulated area includes all waters of Eggemoggin Reach and Jericho Bay in the vicinity of Naskeag Harbor, Maine within the following points (NAD 83): 44°15′16″ N., 068°36′26″ W. 44°12′41″ N., 068°29′26″ W. 44°07′38″ N., 068°31′30″ W. 44°12′54″ N., 068°33′46″ W.
8.2 Southport Rowgatta Rowing and Paddling Boat Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Boothbay Region YMCA. • Date: A one day event in August.[1] • Time (Approximate): 8:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Sheepscot Bay and Boothbay, on the shore side of Southport Island, Maine within the following points (NAD 83): 43°50′26″ N., 069°39′10″ W. 43°49′10″ N., 069°38′35″ W. 43°46′53″ N., 069°39′06″ W. 43°46′50″ N., 069°39′32″ W. 43°49′07″ N., 069°41′43″ W. 43°50′19″ N., 069°41′14″ W. 43°51′11″ N., 069°40′06″ W.
8.3 Winter Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Winter Harbor Chamber of Commerce. • Date: A one day event in August.[1] • Time (Approximate): 9:00 a.m. to 3:00 p.m.

TABLE TO § 100.120—Continued

	• Location: The regulated area includes all waters of Winter Harbor, Maine within the following points (NAD 83): 44°22′06″ N., 068°05′13″ W. 44°23′06″ N., 068°05′08″ W. 44°23′04″ N., 068°04′37″ W. 44°22′05″ N., 068°04′44″ W.
8.4 Lake Champlain Dragon Boat Festival	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Dragonheart Vermont. • Date: A two day event held in July and a two day event in August. • Time (Approximate): 8:00 a.m. to 6:00 p.m. • Location: The regulated area includes all waters of Burlington Bay within the following points (NAD 83): 44°28′49″ N., 073°13′22″ W. 44°28′41″ N., 073°13′36″ W. 44°28′28″ N., 073°13′31″ W. 44°28′38″ N., 073°13′18″ W.
8.5 Merritt Brackett Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Town of Bristol, Maine. • Date: A one day event in August.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Pemaquid Harbor, Maine within the following points (NAD 83): 43°52′16″ N., 069°32′10″ W. 43°52′41″ N., 069°31′43″ W. 43°52′35″ N., 069°31′29″ W. 43°52′09″ N., 069°31′56″ W.
8.6 Multiple Sclerosis Regatta	• Event Type: Regatta and Sailboat Race. • Sponsor: Maine Chapter, Multiple Sclerosis Society. • Date: A one day event in August.[1] • Time (Approximate): 10:00 a.m. to 4:00 p.m. • Location: The regulated area for the start of the race includes all waters of Casco Bay, Maine in the vicinity of Peaks Island within the following points (NAD 83): 43°40′24″ N., 070°14′20″ W. 43°40′36″ N., 070°13′56″ W. 43°39′58″ N., 070°13′21″ W. 43°39′46″ N., 070°13′51″ W.
8.7 Multiple Sclerosis Harborfest Lobster Boat/Tugboat Races	• Event Type: Power Boat Race. • Sponsor: Maine Chapter, National Multiple Sclerosis Society. • Date: A one day event in August.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Maine State Pier within the following points (NAD 83): 43°40′25″ N., 070°14′21″ W. 43°40′36″ N., 070°13′56″ W. 43°39′58″ N., 070°13′21″ W. 43°39′47″ N., 070°13′51″ W.
9.0	SEPTEMBER
9.1 Pirates Festival Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Eastport Pirates Festival. • Date: A one day event in September.[1] • Time (Approximate): 11:00 a.m. to 6:00 p.m. • Location: The regulated area includes all waters in the vicinity of Eastport Harbor, Maine within the following points (NAD 83): 44°54′14″ N., 066°58′52″ W. 44°54′14″ N., 068°58′56″ W. 44°54′24″ N., 066°58′52″ W. 44°54′24″ N., 066°58′56″ W

[1] Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 4. In § 165.171, revise the table to read as follows:

§ 165.171 Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone.

* * * * *

TABLE TO § 165.171

5.0	MAY
5.1 Ride into Summer	• Event Type: Fireworks Display. • Sponsor: Gardiner Maine Street. • Date: One night event between the 15th of May and the 15th of June.[1] • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of the Gardiner Waterfront, Gardiner, Maine in approximate position (NAD 83): 44°13′52″ N., 069°46′08″ W.
6.0	JUNE
6.1 Rotary Waterfront Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Gardiner Rotary. • Date: Two night event on a Wednesday and Saturday in June.[1] • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of the Gardiner Waterfront, Gardiner, Maine in approximate position (NAD 83): 44°13′52″ N., 069°46′08″ W.
6.2 LaKermesse Fireworks	• Event Type: Fireworks Display. • Sponsor: Ray Gagne. • Date: One night event in June.[1] • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: Biddeford, Maine in approximate position (NAD 83): 43°29′37″ N., 070°26′47″ W.
6.3 Windjammer Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Boothbay Harbor Region Chamber of Commerce • Date: One night event in June.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position (NAD 83): 43°50′38″ N., 069°37′57″ W.
7.0	JULY
7.1 Vinalhaven 4th of July Fireworks	• Event Type: Firework Display. • Sponsor: Vinalhaven 4th of July Committee. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Grime's Park, Vinalhaven, Maine in approximate position (NAD 83): 44°02′34″ N., 068°50′26″ W.
7.2 Burlington Independence Day Fireworks	• Event Type: Firework Display. • Sponsor: City of Burlington, Vermont • Date: One night event in July.[1] • Time (Approximate): 9:00 p.m. to 11:00 p.m. • Location: From a barge in the vicinity of Burlington Harbor, Burlington, Vermont in approximate position (NAD 83): 44°28′31″ N., 073°13′31″ W.
7.3 Camden 3rd of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Camden, Rockport, Lincolnville Chamber of Commerce. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Camden Harbor, Maine in approximate position (NAD 83): 44°12′32″ N., 069°02′58″ W.
7.4 Bangor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Bangor 4th of July Fireworks. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Bangor Waterfront, Bangor, Maine in approximate position (NAD 83): 44°47′27″ N., 068°46′31″ W.
7.5 Bar Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Bar Harbor Chamber of Commerce. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Bar Harbor Town Pier, Bar Harbor, Maine in approximate position (NAD 83): 44°23′31″ N., 068°12′15″ W.
7.6 Boothbay Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Boothbay Harbor. • Date: One night event in July.[1]

TABLE TO § 165.171—Continued

	• Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position (NAD 83): 43°50′38″ N., 069°37′57″ W.
7.7 Colchester 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Colchester, Recreation Department. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Bayside Beach and Malletts Bay in Colchester, Vermont in approximate position (NAD 83): 44°32′44″ N., 073°13′10″ W.
7.8 Eastport 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Eastport 4th of July Committee. • Date: One night event in July.[1] • Time (Approximate): 9:00 p.m. to 9:30 p.m. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position (NAD 83): 44°54′25″ N., 066°58′55″ W.
7.9 Ellis Short Sand Park Trustee Fireworks	• Event Type: Fireworks Display. • Sponsor: William Burnham. • Date: One night event in July.[1] • Time (Approximate): 8:30 p.m. to 11:00 p.m. • Location: In the vicinity of York Beach, Maine in approximate position (NAD 83): 43°10′27″ N., 070°36′26″ W.
7.10 Hampton Beach 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Hampton Beach Village District. • Date: One night event in July.[1] • Time (Approximate): 8:30 p.m. to 11:00 p.m. • Location: In the vicinity of Hampton Beach, New Hampshire in approximate position (NAD 83): 42°54′40″ N., 070°36′25″ W.
7.11 Jonesport 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Jonesport 4th of July Committee. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Beals Island, Jonesport, Maine in approximate position (NAD 83): 44°31′18″ N., 067°36′43″ W.
7.12 Lubec Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Lubec, Maine. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Lubec Public Boat Launch in approximate position (NAD 83): 44°51′52″ N., 066°59′06″ W.
7.13 Main Street Heritage Days 4th of July Fireworks	• Event Type: Fireworks Display • Sponsor: Main Street Inc. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Reed and Reed Boat Yard, Woolwich, Maine in approximate position (NAD 83): 43°54′56″ N., 069°48′16″ W.
7.14 Portland Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Department of Parks and Recreation, Portland, Maine. • Date: One night event in July.[1] • Time (Approximate): 8:30 p.m. to 10:30 p.m. • Location: In the vicinity of East End Beach, Portland, Maine in approximate position (NAD 83): 43°40′16″ N., 070°14′44″ W.
7.15 St. Albans Day Fireworks	• Event Type: Fireworks Display. • Sponsor: St. Albans Area Chamber of Commerce. • Date: One night event in July.[1] • Time (Approximate): 9:00 p.m. to 10:00 p.m. • Location: From the St. Albans Bay dock in St. Albans Bay, Vermont in approximate position (NAD 83): 44°48′25″ N., 073°08′23″ W.
7.16 Stonington 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Deer Isle–Stonington Chamber of Commerce. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Two Bush Island, Stonington, Maine in approximate position (NAD 83): 44°08′57″ N., 068°39′54″ W.
7.17 Southwest Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Sharon Gilley. • Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: Southwest Harbor, Maine in approximate position (NAD 83): 44°16′25″ N., 068°19′21″ W.
7.18 Prentice Hospitality Group Fireworks	• Event Type: Fireworks Display. • Sponsor: Prentice Hospitality Group.

TABLE TO § 165.171—Continued

		• Date: One night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: Chebeague Island, Maine in approximate position (NAD 83): 43°45′12″ N., 070°06′27″ W.
7.19	Shelburne Triathlons	• Event Type: Swim Event. • Sponsor: Race Vermont. • Date: Up to three Saturdays throughout July and August.[1] • Time (Approximate): 7:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Shelburne Beach in Shelburne, Vermont within a 400 yard radius of the following point (NAD 83): 44°21′45″ N., 075°15′58″ W.
7.20	St. George Days Fireworks	• Event Type: Fireworks. • Sponsor: Town of St. George. • Date: One night event in July.[1] • Time (Approximate): 8:30 p.m. to 10:30 p.m. • Location: The regulated area includes all waters of Inner Tenants Harbor, ME, in approximate position (NAD 83): 43°57′42″ N., 069°12′47″ W.
7.21	Tri for a Cure Swim Clinics and Triathlon	• Event Type: Swim Event. • Sponsor: Maine Cancer Foundation. • Date: A multi-day event held throughout July.[1] • Time (Approximate): 8:30 a.m. to 11:30 a.m. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Spring Point Light within the following points (NAD 83): 43°39′01″ N., 070°13′32″ W. 43°39′07″ N., 070°13′29″ W. 43°39′06″ N., 070°13′41″ W. 43°39′01″ N., 070°13′36″ W.
7.22	Richmond Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Richmond, Maine. • Date: A one day event in July.[1] • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: From a barge in the vicinity of the inner harbor, Tenants Harbor, Maine in approximate position (NAD 83): 44°08′42″ N., 068°27′06″ W.
7.23	Colchester Triathlon	• Event Type: Swim Event. • Sponsor: Colchester Parks and Recreation Department. • Date: A one day event in July.[1] • Time (Approximate): 7:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of Malletts Bay on Lake Champlain, Vermont within the following points (NAD 83): 44°32′18″ N., 073°12′35″ W. 44°32′28″ N., 073°12′56″ W. 44°32′57″ N., 073°12′38″ W.
7.24	Peaks to Portland Swim.	• Event Type: Swim Event. • Sponsor: Cumberland County YMCA. • Date: A one day event in July.[1] • Time (Approximate): 5:00 a.m. to 1:00 p.m. • Location: The regulated area includes all waters of Portland Harbor between Peaks Island and East End Beach in Portland, Maine within the following points (NAD 83): 43°39′20″ N., 070°11′58″ W. 43°39′45″ N., 070°13′19″ W. 43°40′11″ N., 070°14′13″ W. 43°40′08″ N., 070°14′29″ W. 43°40′00″ N., 070°14′23″ W. 43°39′34″ N., 070°13′31″ W. 43°39′13″ N., 070°11′59″ W.
7.25	Friendship Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Friendship. • Date: A one day event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Town Pier, Friendship Harbor, Maine in approximate position (NAD 83): 43°58′23″ N., 069°20′12″ W.
7.26	Bucksport Festival and Fireworks	• Event Type: Fireworks Display. • Sponsor: Bucksport Bay Area Chamber of Commerce. • Date: A one day event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Verona Island Boat Ramp, Verona, Maine, in approximate position (NAD 83): 44°34′90″ N., 068°47′28″ W.
7.27	Nubble Light Swim Challenge	• Event Type: Swim Event.

TABLE TO § 165.171—Continued

	• Sponsor: Nubble Light Challenge. • Date: A one day event in July.[1] • Time (Approximate): 9:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters around Cape Neddick, Maine and within the following coordinates (NAD 83): 43°10′28″ N., 070°36′26″ W. 43°10′34″ N., 070°36′06″ W. 43°10′30″ N., 070°35′45″ W. 43°10′17″ N., 070°35′24″ W. 43°09′54″ N., 070°35′18″ W. 43°09′42″ N., 070°35′37″ W. 43°09′51″ N., 070°37′05″ W.
7.28 Paul Coulombe Anniversary Fireworks	• Event Type: Fireworks Display. • Sponsor: Paul Coulombe. • Date: A one day event in July.[1] • Time: 8:00 p.m. to 11:30 p.m. • Location: In the vicinity of Pratt Island, Southport, ME, in approximate position (NAD 83): 43°48′44″ N., 069°41′11″ W.
7.29 Castine 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Randy Sterns. • Date: One night event in July.[1] • Time (Approximate): 9:00 p.m. to 10:30 p.m. • Location: In the vicinity of the town dock in the Castine Harbor, Castine, Maine in approximate position (NAD 83): 44°23′10″ N., 068°47′28″ W.
8.0	AUGUST
8.1 Sprucewold Cabbage Island Swim	• Event Type: Swim Event. • Sponsor: Sprucewold Association. • Date: A one day event in August.[1] • Time (Approximate): 1:00 p.m. to 6:00 p.m. • Location: The regulated area includes all waters of Linekin Bay between Cabbage Island and Sprucewold Beach in Boothbay Harbor, Maine within the following points (NAD 83): 43°50′37″ N., 069°36′23″ W. 43°50′37″ N., 069°36′59″ W. 43°50′16″ N., 069°36′46″ W. 43°50′22″ N., 069°36′21″ W.
8.2 Westerlund's Landing Party Fireworks	• Event Type: Fireworks Display. • Sponsor: Portside Marina. • Date: A one day event in August.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Westerlund's Landing in South Gardiner, Maine in approximate position (NAD 83): 44°10′19″ N., 069°45′24″ W.
8.3 Y-Tri Triathlon	• Event Type: Swim Event. • Sponsor: Plattsburgh YMCA. • Date: A one day event in August.[1] • Time (Approximate): 9:00 a.m. to 10:00 a.m. • Location: The regulated area includes all waters of Treadwell Bay on Lake Champlain in the vicinity of Point Au Roche State Park, Plattsburgh, New York within the following points (NAD 83): 44°46′30″ N., 073°23′26″ W. 44°46′17″ N., 073°23′26″ W. 44°46′17″ N., 073°23′46″ W. 44°46′29″ N., 073°23′46″ W.
8.4 York Beach Fire Department Fireworks	• Event Type: Fireworks Display. • Sponsor: York Beach Fire Department. • Date: A one day event in August.[1] • Time (Approximate): 8:30 p.m. to 11:30 p.m. • Location: In the vicinity of Short Sand Cove in York, Maine in approximate position (NAD 83): 43°10′27″ N., 070°36′25″ W.
8.5 Rockland Breakwater Swim	• Event Type: Swim Event. • Sponsor: Pen-Bay Masters. • Date: A one day event in August.[1] • Time (Approximate): 7:30 a.m. to 1:30 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of Jameson Point within the following points (NAD 83): 44°06′16″ N., 069°04′39″ W. 44°06′13″ N., 069°04′36″ W. 44°06′12″ N., 069°04′43″ W. 44°06′17″ N., 069°04′44″ W.

TABLE TO § 165.171—Continued

	44°06′18″ N., 069°04′40″ W.
8.6 Tri for Preservation	• Event Type: Swim Event. • Sponsor: Tri-Maine Productions. • Date: A one day event in August.[1] • Time (Approximate): 7:30 a.m. to 9:00 a.m. • Location: In the vicinity of Crescent Beach State Park in Cape Elizabeth, Maine in approximate position (NAD 83): 43°33′46″ N., 070°13′48″ W. 43°33′41″ N., 070°13′46″ W. 43°33′44″ N., 070°13′40″ W. 43°33′47″ N., 070°13′46″ W.
8.7 North Hero Air Show	• Event Type: Air Show. • Sponsor: North Hero Fire Department. • Date: A one day event in August.[1] • Time (Approximate): 10:00 a.m. to 5:00 p.m. • Location: In the vicinity of Shore Acres Dock, North Hero, Vermont in approximate position (NAD 83): 44°48′24″ N., 073°17′02″ W. 44°48′22″ N., 073°16′46″ W. 44°47′53″ N., 073°16′54″ W. 44°47′54″ N., 073°17′09″ W.
8.8 Islesboro Crossing Swim	• Event Type: Swim Event. • Sponsor: Lifeflight Foundation. • Date: A one day event in August.[1] • Time: (Approximate): 6:00 a.m. to 11:00 a.m. • Location: West Penobscot Bay from Ducktrap Beach, Lincolnville, ME to Grindel Point, Islesboro, ME, in approximate position (NAD 83): 44°17′44″ N., 069°00′11″ W. 44°16′58″ N., 068°56′35″ W.
8.9 Paul Columbe Party Fireworks	• Event Type: Fireworks Display. • Sponsor: Paul Columbe. • Date: A one day event in August.[1] • Time (Approximate): 9:00 p.m. to 10:30 p.m. • Location: From a barge in the vicinity of Pratt Island, Southport, Maine in approximate position (NAD 83): 43°48′69″ N., 069°41′18″ W.
9.0	SEPTEMBER
9.1 Windjammer Weekend Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Camden, Maine. • Date: A one night event in September.[1] • Time (Approximate): 8:00 p.m. to 9:30 p.m. • Location: From a barge in the vicinity of Northeast Point, Camden Harbor, Maine in approximate position (NAD 83): 44°12′10″ N., 069°03′11″ W.
9.2 Eastport Pirate Festival Fireworks	• Event Type: Fireworks Display. • Sponsor: Eastport Pirate Festival. • Date: A one night event in September.[1] • Time (Approximate): 7:00 p.m. to 10:00 p.m. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position (NAD 83): 44°54′17″ N., 066°58′58″ W.
9.3 The Lobsterman Triathlon	• Event Type: Swim Event. • Sponsor: Tri-Maine Productions. • Date: A one day event in September.[1] • Time (Approximate): 8:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters in the vicinity of Winslow Park in South Freeport, Maine within the following points (NAD 83): 43°47′59″ N., 070°06′56″ W. 43°47′44″ N., 070°06′56″ W. 43°47′44″ N., 070°07′27″ W. 43°47′57″ N., 070°07′27″ W.
9.4 Eliot Festival Day Fireworks	• Event Type: Fireworks Display. • Sponsor: Eliot Festival Day Committee. • Date: A one night event in September.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Eliot Town Boat Launch, Eliot, Maine in approximate position (NAD 83): 43°08′56″ N., 070°49′52″ W.
9.5 Lake Champlain Swimming Race	• Event Type: Swim Event. • Sponsor: Christopher Lizzaraque. • Date: A one day event in September.[1]

TABLE TO § 165.171—Continued

	• Time (Approximate): 9:00 a.m. to 3 p.m. • Location: Essex Beggs Point Park, Essex, NY, to Charlotte Beach, Charlotte, VT within the following points (NAD 83): 44°18′32″ N., 073°20′52″ W. 44°20′03″ N., 073°16′53″ W.

[1] Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

Dated: May 16, 2016.

M.A. Baroody,

Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2016–13334 Filed 6–3–16; 8:45 a.m.]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0344]

RIN 1625–AA09

Drawbridge Operation Regulation; Kennebec River, Richmond and Dresden, ME

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the existing drawbridge operation regulation for the Route-197 Bridge (Maine-Kennebec Bridge), across Kennebec River between Richmond and Dresden, Maine. The drawbridge was replaced with a fixed bridge in 2015 and the operating regulation is no longer applicable or necessary.

DATES: This rule is effective June 6, 2016.

ADDRESSES: To view documents in this preamble as being available in the docket, go to *http://www.regulations.gov,* Type [USCG–2016–0344]. In the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jim Rousseau, Project Officer, First Coast Guard District Bridge Branch, Coast Guard, telephone 617–223–8619, email *james.l.rousseau2@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
SNPRM Supplemental notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Route-197-Bridge, that once required draw operations in 33 CFR 117.525(b) was removed from the Kennebec River and replaced with a fixed bridge in 2015. Therefore, the regulation is no longer applicable and should be removed from publication. It is unnecessary to publish an NPRM because this regulatory action does not place any restrictions on mariners but rather removes restrictions that have no further use or value.

We are issuing this rule under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The bridge has been fixed bridge for 4 months and this rule merely requires an administrative change to the Code of Federal Regulations, in order to omit a regulatory requirement that is no longer applicable or necessary. The modification has already taken place and the removal of the regulation will not affect mariners currently operating on this waterway. Therefore, a delayed effective date is unnecessary.

III. Legal Authority and Need for Rule

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

The Route-197 Bridge (Maine Kennebec Bridge) was removed and replaced with a fixed bridge in 2015. The elimination of this drawbridge necessitates the removal of the drawbridge operation regulation, 33 CFR 117.525, that pertains to the former drawbridge.

IV. Discussion of the Final Rule

The Coast Guard is changing the regulation in 33 CFR 117.525 by removing restrictions and the regulatory burden related to the draw operations for this bridge that is no longer a drawbridge. The change removes the paragraph (b) of the regulation governing the Route-197 Bridge since the bridge has been replace with a fixed bridge. This change does not affect waterway or land traffic. This change does not affect nor does it alter the operating schedule in 33 CFR 117.525 that govern the remaining active drawbridge on the Kennebec River.

V. Regulatory Analysis

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the fact that the bridge was removed from the waterway and no longer operates as a drawbridge. The removal of the operation schedule from 33 CFR part 117 will have no effect on the movement of waterway or land traffic.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small

entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

For the reasons stated in section V.A above this final rule would not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Revise § 117.525 to read as follows:

§ 117.525 Kennebec River.

The draw of the Carlton Bridge, mile 14.0, between Bath and Woolwich shall operate as follows:

(a) From May 15 through September 30 the draw shall open on signal; except that, from 5 p.m. to 8 a.m., the draw shall open on signal if a two-hour notice is given by calling the number posted at the bridge.

(b) From October 1 through May14 the draw shall open on signal; except that, from 5 p.m. to 8 a.m., the draw shall open on signal after a twenty-four hours notice is given from 8 a.m. to 5 p.m., on Saturday and Sunday, after an eight-hour notice is given by calling the number posted at the bridge.

Dated: May 20, 2016.

L.L. Fagan,

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

[FR Doc. 2016–13346 Filed 6–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0298]

Safety Zones; Multiple Fireworks in Captain of the Port New York Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones within the Captain of the Port New York Zone on the specified dates and times. This action is necessary to ensure the safety of vessels and spectators from hazards associated with fireworks displays. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP).

DATES: The regulation for the safety zones described in 33 CFR 165.160 will be enforced on the dates and times listed in the table below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of

enforcement, call or email Petty Officer First Class Ronald Sampert U.S. Coast Guard; telephone 718–354–4197, email *ronald.j.sampert@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.160 on the specified dates and times as indicated in Table 1 below. This regulation was published in the **Federal Register** on November 9, 2011 (76 FR 69614).

TABLE 1

1. IPO Celebration, Liberty Island Safety Zone, 33 CFR 165.160(2.1) ...	• Launch site: A barge located in approximate position 40°41′16.5″ N. 074°02′23″ W. (NAD 1983) located in Federal Anchorage 20–C, about 360 yards east of Liberty Island. This Safety Zone is a 360-yard radius from the barge. • Date: April 27, 2016. • Time: 9:00 p.m.–10:30 p.m.
2. 71st Anniversary WW2 Fireworks Display, Pier 84 Hudson River Safety Zone, 33 CFR 165.160(5.9).	• Launch site: A barge located in approximate position 40°45′56.9″ N. 074°00′25.4″ W. (NAD 1983), approximately 380 yards west of Pier 84, Manhattan, New York. This Safety Zone is a 360-yard radius from the barge. • Date: May 8, 2016. • Time: 8:00 p.m.–9:30 p.m.
3. Shackman Associates, Liberty Island Safety Zone, 33 CFR 165.160(2.1).	• Launch site: A barge located in approximate position 40°41′16.5″ N. 074°02′23″ W. (NAD 1983) located in Federal Anchorage 20–C, about 360 yards east of Liberty Island. This Safety Zone is a 360-yard radius from the barge. • Date: May 25, 2016. • Time: 8:55 p.m.—10:05 p.m.
4. The Bronx Tourism Council, Orchard Beach Safety Zone, 33 CFR 165.160(3.9).	• Launch site: All waters of Long Island Sound in an area bound by the following points: 40°51′43.5″ N. 073°47′36.3″ W. thence to 40°52′12.2″ N. 073°47′13.6″ W. thence to 40°52′02.5″ N. 073°46′47.8″ W. thence to 40°51′32.3″ N. 073°47′09.9″ W. (NAD 1983), thence to the point of origin. • Date: June 30, 2016. • Time: 8:50 p.m.—10:20 p.m.

Under the provisions of 33 CFR 165.160, vessels may not enter the safety zones unless given permission from the COTP or a designated representative. Spectator vessels may transit outside the safety zones but may not anchor, block, loiter in, or impede the transit of other vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice of enforcement is issued under authority of 33 CFR 165.160(a) and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that a safety zone need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the safety zone.

Dated: April 20, 2016.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2016–13340 Filed 6–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0375]

RIN 1625–AA00

Safety Zone; Milwaukee Harbor, Milwaukee, Wisconsin

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone in Milwaukee Harbor, Milwaukee, Wisconsin for annual fireworks displays in the Captain of the Port Lake Michigan zone at specified times from June 11, 2016 until September 10, 2016. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after fireworks displays. During the aforementioned periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan.

DATES: The regulations in 33 CFR 165.935 will be enforced at specified times from June 11, 2016 through September 10, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email CWO Mark Stevens, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7188, email *mark.l.stevens@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.935, Safety Zone, Milwaukee Harbor, Milwaukee, Wisconsin, at the following times for the following events:

(1) *Pridefest fireworks display* on June 11, 2016 from 9:15 p.m. until 10:15 p.m.;

(2) *Polish Fest fireworks display* on June 18, 2016 from 10:15 p.m. until 11:15 p.m.;

(3) *Summerfest fireworks display* on June 29, 2016 from 9:15 p.m. until 10:15 p.m.;

(4) *Festa Italiana fireworks display* on each day of July 22, 23, and 24, 2016 from 9:45 p.m. until 10:30 p.m.;

(5) *German Fest fireworks display* on each day of July 29 and 30, 2016 from 10:15 p.m. until 11:15 p.m.;

(6) *Irish Fest fireworks display* on August 21, 2016 from 9:45 p.m. until 10:30 p.m.;

(7) *Indian Summer fireworks display* on September 10, 2016 from 9:45 p.m. until 10:45 p.m.

This safety zone will encompass the waters of Lake Michigan within Milwaukee Harbor including the Harbor Island Lagoon enclosed by a line connecting the following points: Beginning at 43°02′00″ N., 087°53′53″ W.; then south to 43°01′44″ N., 087°53′53″ W.; then east to 43°01′44″ N., 087°53′25″ W.; then north to 43°02′00″ N., 087°53′25″ W.; then west to the point of origin (NAD 83). As specified in 33 CFR 165.935, all vessels must obtain permission from the Captain of the Port Lake Michigan or a designated representative to enter, move within, or exit the safety zone when it is enforced. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.935, Safety Zone; Milwaukee Harbor, Milwaukee, Wisconsin, and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or a representative may be contacted via Channel 16, VHF–FM.

Dated: May 23, 2016.

A.B. Cocanour,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2016–13339 Filed 6–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0318]

RIN 1625–AA00

Safety Zone; Upper New York Bay, Liberty Island, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 100-yard radius of each participating swimmer during the Lady Liberty Sharkfest Swim. The safety zone is needed to protect the maritime public and event participants from the hazards associated with swim events taking place in a high vessel traffic area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port New York.

DATES: This rule is effective from 7:00 a.m. until 9:30 a.m. on July 16, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0318 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 R.J. Sampert, Waterways Management Division, U.S. Coast Guard; telephone 718–354–4197, email *ronald.j.sampert@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because it would be impractical and contrary to the public interest. The event sponsor was late in submitting the marine event application. This late submission did not give the Coast Guard enough time to publish an NPRM and receive comments, making that impracticable and contrary to the public interest in immediate action to ensure the safety of the event participants, patrol vessels, spectator craft and other vessels transiting the event area.

For the same reasons, we are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port New York (COTP) has determined that potential hazards associated with swim events occurring in high traffic areas of the Upper New York Harbor on July 16, 2016 will be a safety concern for anyone within a 100-yard radius of swimmers. This rule is needed to protect maritime public and event participants from the hazards associated with the swim event until the conclusion of the event.

IV. Discussion of the Rule

This rule establishes a safety zone from at 7:00 a.m. until 9:30 a.m. on July 16, 2016. The safety zone will cover all navigable waters within 100 yards of participating swimmers for the Lady Liberty Sharkfest Swim. The duration of the zone is intended to protect maritime public and event participants from the hazards associated with swim events taking place in a high vessel traffic area. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive order related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Upper New York Harbor in vicinity of Ellis and Liberty Islands for 2.5 hours and during a time of day when vessel traffic is normally low. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately 2.5 hours that will prohibit entry within 100 yards of participating swimmers for the Lady Liberty Sharkfest Swim. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0318 to read as follows:

§ 165.T01–0318 Safety Zone; Upper New York Harbor, New York, NY.

(a) *Location.* The following area is a safety zone: All waters of the Upper New York Harbor, from surface to bottom, within a 100 yard radius of each participating swimmer during the Lady Liberty Sharkfest Swim.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF channel 16 or by phone at (718) 354–4353 (Sector New York Command Center). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 7:00 a.m. until 9:30 a.m. on July 16, 2016.

Dated: May 15, 2016.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 2016–13341 Filed 6–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–1079]

RIN 1625–AA00

Safety Zones; Sector Upper Mississippi River Annual and Recurring Safety Zones Update

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with requests for comments.

SUMMARY: The Coast Guard is amending and updating its annual and recurring safety zones that take place in the Coast Guard Sector Upper Mississippi River area of responsibility (AOR). This regulation informs the public of regularly scheduled events that require additional safety measures through establishing a safety zone. Through this interim rule the current list of recurring safety zones is updated with revisions, additional events, and removal of events that no longer take place; and we are requesting comments on additional changes necessary to update the permanent list of recurring safety zones in Sector Upper Mississippi River's AOR. When these safety zones are enforced, vessel traffic is restricted from specified areas. Additionally, this one rulemaking project serves to provide notice of the known recurring safety zones throughout the year.

DATES: This rule is effective June 11, 2016. Comments and related material must be received by the Coast Guard on or before June 27, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–1079 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Sean Peterson, Chief of Prevention, U.S. Coast Guard; telephone 314–269–2332, email *Sean.M.Peterson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AOR Area of Responsibility
CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On April 8, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Sector Upper Mississippi River Annual and Recurring Safety Zones Update (81 FR 20592). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 9, 2016, we received information from event sponsors providing updated locations for 2 of the events listed in the NPRM. Therefore, we are requesting comments through this interim rule related to these two location changes before issuing a final rule. These changes are discussed further below.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Though we are not providing a full 30 day notice period, the Coast Guard did provide notice and opportunity to comment through the NPRM process and is now providing five days notice before the first updated recurring safety zone enforcement is required the weekend of June 11–12. It is impracticable to provide a full 30-days notice because this rule must be effective June 11, 2016.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) Upper Mississippi River has determined that potential hazards associated with the recurring events will cause safety concerns. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zones, before, during, and after the scheduled events.

IV. Discussion of Comments, Changes, and the Interim Rule

As noted above, during the comment period for our NPRM that published April 8, 2016, we received information from event sponsors updating the location for two events. This information lead to the need to propose changes to the location details for two of the recurring safety zones listed in the NPRM. Therefore, there are two new proposed changes to the regulatory text of this rule that are different from the proposed rule in the NPRM. The first corrects the location of event number 14; Prairie du Chien Area Chamber Fireworks, taking place annually on one day during the second weekend of July. The location listed in the proposed rule was Upper Mississippi River mile marker 633.8 to 634.2; the correct location for this event is Upper Mississippi River mile marker 635.2 to 635.7. The second corrects the location of event number 31; Hermann 4th of July event taking place one day over the 4th of July weekend. The location listed in the proposed rule was Missouri River mile marker 99.0 to 98.0; the correct location for this event is Missouri River mile marker 97.0 to 98.0.

All other changes, removals, and additions proposed under the NPRM remain the same as listed in the proposed rule. This interim rule establishes recurring safety zones to restrict vessel transit into and through specified areas to protect spectators, mariners, and other persons and property from potential hazards presented during certain events taking place in Sector Upper Mississippi River's AOR. This interim rule amends, updates, and replaces Table 2 in 33 CFR 165.801, and requests comments on two additional changes as discussed above before issuing a final rule. No vessel or person will be permitted to enter the safety zones without first obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This rule establishes safety zones limiting access to certain areas under 33 CFR 165 within Sector Upper Mississippi River's AOR. The effect of this proposed rulemaking will not be significant because these safety zones are limited in scope and duration. Additionally, the public is given advance notification through local forms of notice, the **Federal Register**, and/or Notices of Enforcement and thus will be able to plan operations around the safety zones in advance. Deviation from the safety zones established through this rulemaking may be requested from the COTP Upper Mississippi River or a designated representative and requests will be considered on a case-by-case basis.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing safety zones limiting access to certain area under 33 CFR part 165 within Sector Upper Mississippi River's AOR. It is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

Documents mentioned in this interim rule or the preceding NPRM as being available in the docket, and all public

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Amend § 165.801 by revising Table 2 to read as follows:

§ 165.801 Annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones.

* * * * *

TABLE 2 OF § 165.801—SECTOR UPPER MISSISSIPPI RIVER ANNUAL AND RECURRING SAFETY ZONES

Date	Sponsor/name	Sector Upper Mississippi River location	Safety zone
1. 1 day—4th weekend of July	Marketing Minneapolis LLC/Target Aquatennial Fireworks.	Minneapolis, MN	Upper Mississippi River mile marker 853.2 to 854.2.
2. 1 day—4th of July weekend	Radio Dubuque/Radio Dubuque Fireworks and Air show.	Dubuque, IA	Upper Mississippi River mile marker 581.0 to 583.0.
3. 1 day—2nd weekend of June	City of Champlin/Father Hennepin Fireworks Display.	Champlin, MN	Upper Mississippi River mile marker 870.5 to 872.0.
4. 1 day—4th of July weekend	Downtown Main Street/Mississippi Alumination.	Red Wing, MN	Upper Mississippi River mile marker 790.8 to 791.2.
5. 1 day—4th of July weekend	Tan-Tar-A Resort/Tan-Tar-A 4th of July Fireworks.	Lake of the Ozarks, MO.	Lake of the Ozarks mile marker 025.8 to 026.2.
6. 1 day—1st weekend of September	Tan-Tar-A Resort/Tan-Tar-A Labor Day Fireworks.	Lake of the Ozarks, MO.	Lake of the Ozarks mile marker 025.8 to 026.2.
7. 1 day—Last Sunday in May	Tan-Tar-A Resort/Tan-Tar-A Memorial Day fireworks.	Lake of the Ozarks, MO.	Lake of the Ozarks mile marker 025.8 to 026.2.
8. 1 day—4th of July weekend	Lake City Chamber of Commerce/Lake City 4th of July Fireworks.	Lake City, MN	Upper Mississippi River mile marker 772.4 to 772.8.
9. 1 day—4th of July weekend	Greater Muscatine Chamber of Commerce/Muscatine 4th of July.	Muscatine, IA	Upper Mississippi River mile marker 455.0 to 456.0.
10. 1 day—Last weekend in June/First weekend in July.	Friends of the River Kansas City/KC Riverfest.	Kansas City, KS	Missouri River mile marker 364.8 to 365.2.
11. 1 day—4th of July weekend	Louisiana Chamber of Commerce/Louisiana July 4th Fireworks.	Louisiana, MO	Upper Mississippi River mile marker 282.0 to 283.0.
12. 1 day—4th of July weekend	Guttenberg Development and Tourism/Stars and Stripes River Day.	Guttenberg, IA	Upper Mississippi River mile marker 615.0 to 615.5.
13. 4 days—1st or 2nd week of July	Riverfest, Inc./La Crosse Riverfest	La Crosse, WI	Upper Mississippi River mile marker 697.5 to 698.5 (Wisconsin).
14. 1 day—2nd weekend in July	Prairie du Chien Area Chamber of Commerce/Prairie du Chien Area Chamber Fireworks.	Prairie du Chien, WI.	Upper Mississippi River mile marker 635.2 to 635.7.
15. 1 day—4th of July weekend	JMP Radio/Red White and Boom Peoria.	Peoria, IL	Illinois River mile marker 162.5 to 162.1.
16. 1 day—Last weekend in June/First weekend in July.	Hudson Boosters/Hudson Booster Days.	Hudson, WI	St. Croix River mile marker 016.8 to 017.2.
17. 2 days—4th of July weekend	City of St. Charles/St. Charles Riverfest.	St. Charles, MO	Missouri River mile marker 028.2 to 028.8.
18. 1 day—4th of July weekend	Minneapolis Park and Recreation Board/Red, White, and Boom Minneapolis.	Minneapolis, MN	Upper Mississippi River mile marker 853.5 to 854.5.
19. 1 day—4th of July weekend	Davenport One Chamber/Red White and Boom.	Davenport, IA	Upper Mississippi River mile marker 482.0 to 482.7.
20. 2 days—3rd weekend of July	Amelia Earhart Festival Committee/Amelia Earhart Festival.	Kansas City, KS	Missouri River mile marker 422.0 to 424.5.
21. 1 day—4th of July weekend	Alton Exposition Commission/Mississippi Fireworks Festival.	Alton, IL	Upper Mississippi River mile marker 202.5 to 203.0.
22. 1 day—3rd Sunday in June	Burlington Steamboat Days/Burlington Steamboat Days.	Burlington, IA	Upper Mississippi River mile marker 403.5 to 404.5.
23. 1 day—Last Sunday in May	Lodge of the Four Seasons/Lodge of the Four Seasons Memorial Day Fireworks.	Lake of the Ozarks, MO.	Lake of the Ozarks mile marker 013.8 to 014.2.
24. 1 day—First weekend of September	Lodge of the Four Seasons/Labor Day Fireworks.	Lake of the Ozarks, MO.	Lake of the Ozarks mile marker 013.8 to 014.2.
25. 1 day—4th of July weekend	Lodge of the Four Seasons/Lodge of the Four Seasons 4th of July.	Lake of the Ozarks, MO.	Lake of the Ozarks mile marker 013.8 to 014.2.
26. 2 days—3rd weekend in July	Hasting Riverboat Days/Rivertown Days.	Hasting, MN	Upper Mississippi River mile marker 813.7 to 815.2.

TABLE 2 OF § 165.801—SECTOR UPPER MISSISSIPPI RIVER ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Upper Mississippi River location	Safety zone
27. 1 day—Sunday of Father's Day weekend.	Winona Steamboat Days/Winona Steamboat Days Fireworks.	Winona, MN	Upper Mississippi River mile marker 725.4 to 725.7.
28. 3 days—4th of July weekend	Fair of St. Louis/Fair St. Louis	St. Louis, MO	Upper Mississippi River mile marker 179.2 to 180.0.
29. 1 day—Last weekend in June/First weekend in July.	Bellevue Heritage Days/Bellevue Heritage Days.	Bellevue, IA	Upper Mississippi River mile marker 556.0 to 556.5.
30. 1 day—4th of July weekend	Main Street Parkway Association/Parkville 4th of July Fireworks.	Parkville, MO	Missouri River mile marker 378.0 to 377.5.
31. 1 day—4th of July weekend	Hermann Chamber of Commerce/Hermann 4th of July.	Hermann, MO	Missouri River mile marker 097.0 to 098.0 (Missouri).
32. 1 day—4th of July weekend	Grafton Chamber of Commerce/Grafton Chamber 4th of July Fireworks.	Grafton, IL	Illinois River mile marker 001.5 to 000.5 (Illinois).
33. 1 day—4th of July weekend	Salute to America Foundation, Inc./Salute to America.	Jefferson City, MO	Missouri River mile marker 143.5 to 143.0 (Missouri).
34. 1 day—4th of July weekend	McGregor/Marquette Chamber Commerce/Independence Day Celebration.	McGregor, IA	Upper Mississippi River mile marker 635.7 to 634.2.
35. 2 days—2nd weekend in August	Tug Committee/Great River Tug	Port Byron, IL	Upper Mississippi River mile marker 497.2 to 497.6 (Illinois).
36. 1 day—4th of July weekend	City of Stillwater/St. Croix Events/Stillwater 4th of July.	Stillwater, MN	St. Croix River mile marker 022.9 to 023.5 (Minnesota).
37. 2 days—3rd weekend of September	Riverside Chamber of Commerce/Riverfest.	Riverside, MO	Missouri River mile marker 371.8 to 372.2.
38. 4 days—3rd week of July	St. Croix Events/Lumberjack Days	Stillwater, MN	St. Croix River mile marker 022.9 to 023.5 (Minnesota).
39. 2 days—Weekend that precedes Labor Day Weekend.	Lake of the Ozarks Shootout, Inc./Lake of the Ozarks Shootout.	Lake of the Ozarks, MO.	Lake of the Ozarks mile marker 032.5 to 034.5.
40. 2 days—1st weekend of September	City of Keithsburg/Keithsburg Fireworks Display.	Keithsburg, IL	Upper Mississippi River mile marker 427.5 to 427.3.
41. 1 day—4th of July weekend	City of East Moline/City of East Moline Fireworks.	East Moline, IA	Upper Mississippi River mile marker 490.2 to 489.8.
42. 2nd Weekend in August	Lansing Lion's Club/Lansing Fish Days Fireworks.	Lansing, IA	Upper Mississippi River mile marker 662.8–663.9.
43. 3rd Weekend in August	River Action/Floatzilla	Rock Island, Illinois	Upper Mississippi River mile marker 479.0–486.0.
44. 1 day—Weekend before Thanksgiving.	Main Street Parkway Association/Parkville Christmas on the River.	Parkville, MO	Missouri River mile marker 377.5 to 378.0.
45. 2 days—A weekend in September ..	St. Louis Drag Boat Association/New Athens Drag Boat Race.	New Athens, IL	Kaskaskia River mile marker 119.7 to 120.3.
46. 1 day—4th of July weekend	City of Marquette/Marquette Independence Day Celebration.	Marquette, IA	Upper Mississippi River mile marker 634.2 to 635.7.

* * * * *

Dated: May 26, 2016.

M.L. Malloy,

Captain, U.S. Coast Guard, Captain of the Port Upper Mississippi River.

[FR Doc. 2016–13239 Filed 6–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0297]

RIN 1625–AA00

Safety Zone; Raritan Bay, Perth Amboy, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Raritan Bay near Perth Amboy, NJ for a fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays. This rule is intended to restrict all vessels from a portion of Raritan Bay during the fireworks event unless authorized by the Captain of the Port (COTP) New York or a designated representative.

DATES: This rule is effective from 8:45 p.m. until 10:30 p.m. on July 1, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0297 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email, Marine Science Technician Daniel Vazquez, U.S. Coast Guard; Telephone (718) 354–4154, email *daniel.vazquez@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the

Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The event sponsor was late in submitting the marine event application. This late submission did not give the Coast Guard enough time to publish an NPRM followed by a final rule before the effective date, thus making the publication of a NPRM impracticable. The event sponsor advised that the event is in correlation with a festival bringing together Perth Amboy and South Amboy, NJ to honor Independence Day. Any change to the date of the event would cause economic hardship on the event sponsor, negatively impacting other activities being held in conjunction with the event.

The location of the event is centrally located between both Perth Amboy and South Amboy which is more advantageous for the event spectators and sponsors. In addition, it has less of an impact on vessel traffic within Raritan Bay because it is out of the major shipping lanes.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, a delay or cancellation is contrary to the public's interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. This temporary safety zone is necessary to ensure the safety of spectators and vessels from hazards associated with the fireworks display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on the waters of Raritan Bay near Perth Amboy, NJ. All persons and vessels shall comply with the instructions of the COTP New York or a designated representative during the enforcement of the temporary safety zone. Entering into, transiting through, or anchoring within the temporary safety zone is prohibited unless authorized by the COTP New York or a designated representative.

Based on the inherent hazards associated with fireworks, the COTP New York has determined that fireworks launches in close proximity to water crafts pose a significant risk to public safety and property. The combination of increased number of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, and debris, especially burning debris falling on passing or spectator vessels, has the potential to result in serious injuries or fatalities. This temporary safety zone will restrict vessels from a portion of Raritan Bay around the location of the fireworks launch platform before, during, and immediately after the fireworks display.

The Coast Guard determined that this regulated area will not have a significant impact on vessel traffic due to its temporary nature and limited size and the fact that vessels are allowed to transit the navigable waters outside of the regulated area.

Consistent with 33 CFR 165.7, the Coast Guard will notify the public and local mariners of this safety zone through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners, and Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive order related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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

The Coast Guard's implementation of this temporary safety zone will be of short duration and is designed to minimize the impact to vessel traffic on the navigable waters. This temporary safety zone will only be enforced for approximately 135 minutes. Due to the location, vessels will be able to transit around the safety zone in a safe manner.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREA

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

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

■ 2. Add § 165.T01–0522 to read as follows:

§ 165.T01–0522 Safety Zone; Raritan Bay, Perth Amboy, NJ.

(a) *Regulated area.* The following area is a temporary safety zone: All navigable waters of Raritan Bay within a 300-yard radius of the fireworks barge located in approximate position 40°29′28″ N, 074°15′45″ W, in the vicinity of Perth Amboy, NJ, approximately 1,110 yards southeast of Ferry Point, Perth Amboy, NJ.

(b) *Effective and enforcement period.* This rule will be effective and enforced from 8:45 p.m. until 10:30 p.m. on July 1, 2016.

(c) *Definitions.* The following definitions apply to this section:

(1) *Designated representative.* A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port New York (COTP), to act on his or her behalf. A designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official patrol vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(d) *Regulations.* (1) The general regulations contained in § 165.23, as well as the following regulations, apply.

(2) No vessels, except for fireworks barge and accompanying vessels, will be allowed to transit the safety zone without the permission of the COTP.

(3) All persons and vessels shall comply with the instructions of the COTP or a designated representative. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(4) Vessel operators desiring to enter or operate within the regulated area shall contact the COTP or a designated representative via VHF channel 16 or 718–354–4353 (Sector New York command center) to obtain permission to do so.

(5) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, unless authorized by COTP or a designated representative.

(6) The COTP or a designated representative may delay or terminate any marine event in this subpart at any time it is deemed necessary to ensure the safety of life or property.

Dated: May 15, 2016.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2016–13338 Filed 6–3–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0005; FRL–9947–23–Region 10]

Finding of Attainment and Approval of Attainment Plan for Klamath Falls, Oregon Fine Particulate Matter Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing the finding of attainment and approving the attainment plan submitted on December 12, 2012 by the Oregon Department of

Environmental Quality (ODEQ) for the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) for the Klamath Falls, Oregon nonattainment area. Based upon 2012–2014 quality-assured, quality-controlled, and certified ambient air monitoring data available in the EPA's Air Quality System (AQS), the area has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA determined that the attainment plan addressed the nonattainment planning requirements of the Clean Air Act (CAA) and provided for attainment of the $PM_{2.5}$ NAAQS. The attainment plan's strategy for controlling direct and precursor $PM_{2.5}$ emissions relied primarily on an episodic woodstove curtailment program and a program to change-out uncertified woodstoves.

DATES: This final rule is effective July 6, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2013–0005. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Planning Unit, Office of Air and Waste, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information please contact Justin Spenillo at (206) 553–6125, *spenillo.justin@epa.gov* or by using the EPA, Region 10 address.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background Information

On April 13, 2016, the EPA proposed to approve the attainment plan submitted by the ODEQ on December 12, 2012 and to make a finding of attainment for the Klamath Falls $PM_{2.5}$ area (81 FR 21814). An explanation of the CAA attainment planning requirements, a detailed analysis of the ODEQ's attainment plan submittal, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on May 13, 2016. The EPA received no comments on the proposal.

II. Final Action

The EPA is finalizing the finding of attainment and approving the attainment plan submitted by the ODEQ on December 12, 2012 for the Klamath Falls $PM_{2.5}$ area as meeting the requirements of the CAA. The finding of attainment does not constitute a redesignation to attainment. Redesignations require states to meet a number of criteria including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation. Additionally, the EPA is approving and incorporating by reference updated versions of supporting regulations, specifically sections of Oregon Administrative Rules, Division 240 and Division 262 that provide for the contingency measures required under the CAA. The EPA is finalizing a Clean Data Determination (CDD) that suspends the requirements for the area to submit an attainment demonstration, associated Reasonably Available Control Measures, Reasonable Further Progress, contingency measures, and any other SIP planning requirements related to the attainment of the 2006 $PM_{2.5}$ NAAQS, so long as the area continues to meet the standard. Although a CDD suspends the requirement for submission of certain attainment planning elements, it does not relieve the EPA of its responsibility to take action on a state's SIP submission. The EPA is fully approving the Klamath Falls nonattainment plan as meeting the requirements of the CAA. The EPA is also approving Exceptional Events on September 25, 2009; August 25, 28, and 31, 2012; and July 30 and August 5, 2013 and removing them from the data set used for regulatory purposes.

III. Incorporation by Reference

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

IV. Statutory and Executive Orders Review

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA).

List of Subjects in 40 CFR Part 52

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

Dated: May 24, 2016.

Dennis J. McLerran,

Regional Administrator, Region 10.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart MM—Oregon

■ 2. Section 52.1970:

■ a. In paragraph (c), Table 2—EPA Approved Oregon Administrative Rules (OAR) is amended by:

■ i. Adding a undesignated heading titled ''Klamath Falls Nonattainment Area Contingency Measures'' after the entry for ''240–0560'' and adding the entries ''240–0570'', ''240–0580'', ''240–0610'', ''240–0620'', and ''240–0630''; and

■ ii. Adding an entry ''262–1000'' after the entry for ''262–0900''; and

■ b. In paragraph (e), table titled ''State of Oregon Air Quality Control Program'' adding under ''Section 4'', a new entry ''4.62'' after the entry ''4.61''.

The additions read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR)

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Klamath Falls Nonattainment Area Contingency Measures				
240–0570	Applicability	12/11/2012	6/6/2016 [Insert **Federal Register** citation].	
240–0580	Existing Industrial Sources Control Efficiency	12/11/2012	6/6/2016 [Insert **Federal Register** citation].	
240–0610	Continuous Monitoring for Industrial Sources	12/11/2012	6/6/2016 [Insert **Federal Register** citation].	
240–0620	Contingency Measures: New Industrial Sources.	12/11/2012	6/6/2016 [Insert **Federal Register** citation].	
240–0630	Contingency Enhanced Curtailment of Use of Solid Fuel Burning Devices and Fireplaces.	12/11/2012	6/6/2016 [Insert **Federal Register** citation].	
*	*	*	*	*
262–1000	Wood Burning Contingency Measures for $PM_{2.5}$ Nonattainment Areas.	12/11/2012	6/6/2016 [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

(e) * * *

STATE OF OREGON AIR QUALITY CONTROL PROGRAM

SIP citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
	4.62, 12/12/2012	4.62, 6/6/2016 [Insert **Federal Register** citation].		4.62, Klamath Falls $PM_{2.5}$ Attainment Plan
*	*	*	*	*

[FR Doc. 2016–13031 Filed 6–3–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0793; FRL–9947–27–Region 9]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Arizona; Infrastructure Requirements To Address Interstate Transport for the 2008 Ozone NAAQS; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an omission in the final rule document published on May 19, 2016, announcing the Environmental Protection Agency's (EPA's) approval in part and disapproval in part of State Implementation Plan (SIP) revisions submitted by the Arizona Department of Environmental Quality to address the interstate transport requirements of Clean Air Act section 110(a)(2)(D)(i) with respect to the 2008 ozone national ambient air quality standard. The correction of this omission does not change the EPA's final action to approve in part and disapprove in part these SIP revisions.

DATES: This correcting amendment is effective on June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3856, *kelly.thomasp@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 22, 2016 (81 FR 15200), the EPA proposed to approve in part and to disapprove in part SIP revisions submitted by the Arizona Department of Environmental Quality (ADEQ) on December 27, 2012, and supplemented on December 3, 2015, to address the interstate transport requirements of Clean Air Act (CAA or Act) section 110(a)(2)(D)(i) with respect to the 2008 ozone National Ambient Air Quality Standard (NAAQS). More specifically, in the March 22, 2016 proposed rule, the EPA proposed to approve Arizona's SIP as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) prongs 1 and 2 and to disapprove Arizona's SIP with respect to the interstate transport requirements of CAA section 110(a)(2)(D)(i)(II) prong 4. *Id.,* at 15204. No comments were submitted on the EPA's March 22, 2016 proposed action. On May 19, 2016 (81 FR 31513), the EPA published a final rulemaking action announcing its approval in part and disapproval in part of the relevant SIP revisions as proposed on March 22, 2016. However, in its May 19, 2016 final rule, the EPA inadvertently omitted the regulatory text that codifies the final action taken therein. This document corrects that oversight.

The EPA has determined that this action falls under the ''good cause'' exemption in section 553(b)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary or contrary to the public interest. Public notice and comment for this action are unnecessary because the action codified herein was already subject to a 30-day comment period beginning with publication of the related proposed rule on March 22, 2016, and as noted above, no comments were submitted. Thus, no purpose would be served by additional public notice and comment.

The EPA also finds that there is good cause under APA section 553(d)(3) for the regulatory text added herein to become effective on the same date as the final rulemaking for which the regulatory text was inadvertently omitted. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule merely adds regulatory text codifying the partial approval and partial disapproval action that the EPA published on May 19, 2016, which is 30 days from the date on which this rule will become effective. The May 19, 2016 final rule thus provided sufficient notice and time for affected parties to take appropriate action to the extent any action is necessary to comply with the rule. For these reasons, the EPA finds good cause under APA section 553(d)(3) for the regulatory text codified herein and associated with the May 19, 2016 final rule to become effective on same date as the May 19, 2016 final rule becomes effective (*i.e.,* June 20, 2019).

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely adds regulatory text inadvertently omitted from a previous final rule and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies

that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely adds regulatory text inadvertently omitted from a previous final rule, and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely corrects an inadvertent omission of regulatory text for a previously published final rule, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 20, 2016. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the 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 August 5, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Oxides of nitrogen, Ozone, and Volatile organic compounds.

Dated: May 24, 2016.

Alexis Strauss,

Acting 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 D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(174) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(174) The following plan was submitted on December 3, 2015 by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) Arizona Department of Environmental Quality.

(*1*) SIP Revision: Clean Air Act Section 110(a)(2)(D), 2008 Ozone National Ambient Air Quality Standards (December 3, 2015).

■ 3. Section 52.123 is amended by revising paragraph (o) to read as follows:

§ 52.123 Approval status.

* * * * *

(o) *2008 8-hour ozone NAAQS:* The SIPs submitted on October 14, 2011, December 27, 2012, and December 3, 2015 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(i)(II), D(ii), (J) and (K) for all portions of the Arizona SIP.

* * * * *

[FR Doc. 2016–13160 Filed 6–3–16; 8:45 am]

BILLING CODE 6560–50–P

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

43 CFR Part 10000

Place of Business Location Change

AGENCY: Utah Reclamation Mitigation and Conservation Commission.

ACTION: Final rule.

SUMMARY: The Utah Reclamation Mitigation and Conservation Commission (Commission) is updating its regulations to reflect a change of agency location. The Commission has moved from 111 East Broadway, Suite 310 to 230 South 500 East, Suite 230 in Salt Lake City, Utah.

DATES: This rule is effective June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Diane Simmons at 801–524–3146, or email to *dsimmons@usbr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Utah Reclamation Mitigation and Conservation Commission is an independent Federal agency established by the Central Utah Project Completion Act of 1992. The Act set terms and conditions for completing the Central Utah Project, which diverts stores and delivers large quantities of water from numerous Utah rivers to meet the needs of central Utah's citizens. The Commission is responsible for planning, funding, and implementing projects that benefit fish, wildlife, and related recreation resources in order to offset impacts caused by the Central Utah Project, and other Federal water

reclamation projects in Utah. The Commission meets publicly to consider and act on agreements to carry out mitigation projects with various partners, including State and Federal natural resource agencies and non-profit groups. The Commission has relocated its place of business to 230 South 500 East, Suite 230 in Salt Lake City, Utah 84102–2045. This rule updates the agency location where it is referenced in 43 CFR 10000.7(a).

II. Procedural Requirements

A. Determination To Issue Final Rule Effective in Less Than 30 Days

The Commission has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rulemaking. Because updating the agency's address is a matter of ''agency organization, procedure, and practice,'' it is exempt from notice and comment rulemaking under 5 U.S.C. 553(b)(3)(A). The Commission has also determined that there is good cause to waive the requirement of publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d)(3). The public benefits from having the regulations reflect the agency's correct physical address so it has accurate information on how to contact the agency. The use of the incorrect address could result in correspondence not reaching the agency.

B. Review Under Procedural Statutes and Executive Orders

The Commission has determined that making changes to its regulations to reflect its correct address does not trigger any requirements under the procedural statutes and Executive Orders that govern rulemaking procedures.

List of Subjects in 43 CFR Part 10000

Organization and functions.

For the reasons set forth in the preamble, under the authority of 5 U.S.C. 552 and section 301(g)(3)(A) of the Central Utah Project Completion Act, amend part 10000 of Chapter III of title 43 of the Code of Federal Regulations as follows:

PART 10000—ORGANIZATION AND FUNCTIONS

■ 1. The authority citation for part 10000 continues to read as follows:

Authority: 5 U.S.C. 551 *et seq.;* 43 U.S.C. 620k(note); Sec. 301(g)(3)(A) of Public Law 102–575, 106 Stat. 4600, 4625.

■ 2. In § 10000.7, revise the first sentence of paragraph (a) to read as follows:

§ 10000.7 Place of business; service of process.

(a) The principle place of business and offices of the agency are located at 230 South 500 East, Suite 230, Salt Lake City, Utah 84102–2045. * * * * * * * * * *

Dated: May 26, 2016.

Mark A. Holden,

Executive Director.

[FR Doc. 2016–13215 Filed 6–3–16; 8:45 am]

BILLING CODE 4310–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 10–210; FCC 16–69]

Relay Services for Deaf Blind Individuals

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) extends the National Deaf Blind Equipment Distribution Program (NDBEDP) as a pilot program for one additional year. The NDBEDP provides up to $10 million annually to support programs that distribute communications equipment to low-income individuals who are deaf-blind. Extending the pilot program enables the NDBEDP to continue providing communications equipment to low-income individuals who are deaf-blind without interruption while the Commission considers whether to adopt rules to govern a permanent NDBEDP.

DATES: Effective July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Rosaline Crawford, Disability Rights Office, Consumer and Governmental Affairs Bureau, at phone: (202) 418–2075 or email: *Rosaline.Crawford@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order (*Order*), *Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* CG Docket No. 10–210, FCC 16–69, adopted on May 26, 2016, and released on May 27, 2016. The full text of this document will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The full text of this document can also be downloaded in Word or Portable Document Format (PDF) at: *https://www.fcc.gov/general/disability-rights-office-headlines.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Final Paperwork Reduction Act of 1995 Analysis

This *Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

1. In this *Order,* the Commission extends the National Deaf-Blind Equipment Distribution Program (NDBEDP), as a pilot program, for one additional year, until June 30, 2017. The NDBEDP provides up to $10 million annually to support programs that distribute communications equipment to low-income individuals who are deaf-blind. The NDBEDP has operated as a pilot program since July 2012 and is currently set to expire on June 30, 2016. Extending the pilot program for an additional year will enable the NDBEDP to continue providing communications equipment to low-income individuals who are deaf-blind without interruption while the Commission completes the proceeding that is underway to adopt rules to govern a permanent NDBEDP.

2. The Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), 47 U.S.C. 620, directed the Commission to establish rules to provide up to $10 million annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) to support programs that distribute communications equipment to low-income individuals who are deaf-blind. In accordance with this directive, the Commission established the NDBEDP as a two-year pilot program, with an option to extend this program for an additional year. The Consumer and Governmental Affairs Bureau (CGB or Bureau) launched the

NDBEDP as a pilot program on July 1, 2012. *Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Report and Order, published at 76 FR 26641, May 9, 2011. To implement the program, the Bureau certified 53 entities to participate in the NDBEDP—one entity to distribute communications equipment in each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands—and selected a national outreach coordinator to support the outreach and distribution efforts of these state programs. On February 7, 2014, the Bureau extended the pilot program for a third year, until June 30, 2015. *Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Order (CGB 2015). On May 27, 2015, the Commission released a Notice of Proposed Rulemaking to obtain additional input from the public on how best to design and administer a permanent NDBEDP. *Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Notice of Proposed Rulemaking, published at 80 FR 32885, June 10, 2015. In addition, the Commission simultaneously issued an Order that extended the pilot program for an additional year, until June 30, 2016. *Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Order, published at 80 FR 32857, June 10, 2015.

3. To ensure the uninterrupted administration of the NDBEDP until the conclusion of the rulemaking proceeding and the establishment of a permanent program for the delivery of communications equipment to low-income individuals who are deaf-blind, the Commission extends the existing NDBEDP pilot program rules for one additional year, until June 30, 2017. The Commission adopts this extension because it anticipates that this rulemaking proceeding and the implementation of new rules that may result will not be completed by June 30, 2016, when the rules governing the NDBEDP pilot program are scheduled to expire.

4. Many individuals who have received equipment and training under the NDBEDP have reported that this program has vastly improved their daily lives, significantly enhancing their ability to live independently and expanding their educational and employment opportunities. Extending the pilot program will serve the public interest because it will allow a seamless transition between the pilot and permanent programs. This extension will also provide greater programmatic certainty and stability to entities that are currently certified to participate in the NDBEDP in each of the 50 states plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

5. *Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals.* None.

6. The Commission will send a copy of the *Order,* including a copy of the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

Congressional Review Act

7. The Commission will not send a copy of the Order pursuant to the Congressional Review Act, because the Commission adopted no rules therein. *See* 5 U.S.C. 801(a)(1)(A). Rather than adopting rules, the Commission exercised its statutory authority to extend the NDBEDP as a pilot program by this *Order* for one additional year.

Ordering Clause

8. Pursuant to the authority contained in sections 1, 4(i), 4(j), and 719 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 620, the *Order is adopted.*

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–13221 Filed 6–3–16; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1849 and 1852

NASA Federal Acquisition Regulation Supplement

AGENCY: National Aeronautics and Space Administration.

ACTION: Technical amendments.

SUMMARY: NASA is making technical amendments to the NASA FAR Supplement (NFS) to provide needed editorial changes.

DATES: *Effective* June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Manuel Quinones, NASA, Office of Procurement, Contract and Grant Policy Division, via email at *manuel.quinones@nasa.gov,* or telephone (202) 358–2143.

SUPPLEMENTARY INFORMATION:

I. Background

As part of NASA's retrospective review of existing regulations pursuant to section 6 of Executive Order 13563, Improving Regulation and Regulatory Review, NASA conducted a review of it regulations and published a final rule in the **Federal Register** on March 12, 2015 (80 FR 12946). As published, this rule contains errors due to inadvertent omissions. A summary of changes follows:

- Subpart 1849.5 is removed in its entirety. Section 1849.5 titled *Contract Termination Clauses* contained a prescription at 1849.505–70 for which the associated clause at 1852.249–72 had been previously removed by a final rule published on March 12, 2015 (80 FR 12935).
- Section 1852.214–71 is revised to correct a paragraph designation.

List of Subject in 48 CFR Parts 1849 and 1852

Government procurement.

Manuel Quinones,

NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1849 and 1852 are amended as follows:

■ 1. The authority citation for parts 1849 and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1849—TERMINATION OF CONTRACTS

Subpart 1849.5 [Removed]

■ 2. Remove subpart 1849.5, consisting of sections 1849.505 and 1849.505–70.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.214–71 [Amended]

■ 3. Amend section 1852.214–71 introductory text by removing ''1814.201–670(c)'' and adding ''1814.201–670(b)'' in its place.

[FR Doc. 2016–13227 Filed 6–3–16; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 300

[Docket No. 160204078–6078–01]

RIN 0648–BF71

International Fisheries; Eastern Pacific Fisheries for Highly Migratory Species; Amend Regulations Implementing Inter-American Tropical Tuna Commission Resolution C–02–03

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

ACTION: Final rule.

SUMMARY: This final rule amends regulations to allow U.S. vessels authorized to fish under an alternative international fisheries management regime (*e.g.,* the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention), to fish in the Eastern Pacific Ocean (EPO) under the single-trip exception to the general rule that a vessel must be on the vessel register of the Inter-American Tropical Tuna Commission (IATTC) to fish for tuna in the Eastern Tropical Pacific Ocean (EPO). This rule is intended to conform U.S. implementing regulations to the IATTC resolution that they implement and remove an unnecessary restriction on the ability of U.S. vessels to use this exception.

DATES: This rule is effective on June 6, 2016.

ADDRESSES: You may view this document, identified by NOAA–NMFS–2016–0036, e-Rulemaking Portal at *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0036.*

FOR FURTHER INFORMATION CONTACT: Chris Fanning, NMFS, West Coast Region, 562–980–4198.

SUPPLEMENTARY INFORMATION: NMFS is issuing a final rule under the authority of the Tuna Conventions Act of 1950, as amended (TCA). 16 U.S.C. 951 *et seq.* As a party to the Convention for the Strengthening of the IATTC Established by the 1949 Convention between the United States of America and the Republic of Costa Rica and a member of the IATTC, the United States is obligated to implement the decisions of the IATTC, including resolutions governing the conservation of tuna and tuna-like species in the Convention Area. The Convention Area includes the waters bounded by the coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian. NMFS implements binding resolutions of the IATTC under authority of the TCA. The regulations at 50 CFR 300.22(b)(1) implement Resolution C–02–03 (*Resolution on the Capacity of the Tuna Fleet Operating in the Eastern Pacific Ocean (Revised)*) adopted by the IATTC in June 2002. This rule makes a minor, technical revision to those regulations to be more consistent with the resolution and facilitate fishing by U.S. vessels in the EPO.

Paragraph 12 of Resolution C–02–03 provides opportunities for up to 32 U.S. vessels authorized to fish in other areas of the Pacific Ocean under an alternative international fisheries management regime to fish a single trip per year in the EPO even if the vessels are not listed on the IATTC's Vessel Register. Vessels shall be authorized to fish in the EPO provided that the fishing activity of any such vessels in the EPO is limited to a single trip not to exceed 90 days in one calendar year, the vessels do not possess a Dolphin Mortality Limit pursuant to the Agreement on the International Dolphin Conservation Program, and the vessels carry an approved observer. The current regulations implementing Resolution C–02–03, issued on April 12, 2005 (70 FR 19004), explicitly reference South Pacific Tuna Treaty (SPTT) licenses as the only licenses that qualify vessels for the single-trip exception. At the time of the 2005 final rule, the SPTT was the predominant ''alternative international fisheries management regime'' that provided for the authorization of fishing by U.S. purse seine vessels in the western Pacific Ocean. The WCPF Convention entered into force for the United States in 2007.

Under regulations implementing the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC), vessels used to commercially fish highly migratory species on the high seas in the WCPF Convention Area must be permitted to do so by NMFS (see 50 CFR 300.212). Because of the large overlap between the WCPFC Convention Area and the SPTT Area, vessels that fish under the SPTT also are typically permitted by NMFS under 50 CFR 300.212 to fish on the high seas in the WCPF Convention Area. These vessels are subject to regulations implementing conservation and management measures adopted by the WCPFC, the organization that carries out the management regime established under the WCPF Convention.

SPTT licenses were not issued for the period starting January 1, 2016, through early March 2016, and it is unclear if they will be issued beyond 2016. Because of the wording of the implementing regulations, U.S. vessels could not use the single-trip EPO exception during the period of non-issuance of SPTT licenses. This final rule amends 50 CFR 300.22(b)(1) to allow U.S. vessels authorized to fish in areas of the Pacific Ocean other than the EPO under another alternative international fisheries management regime (*e.g.,* the WCPFC) to fish under the single-vessel exception.

This rule also revises 50 CFR 216.24(b)(6)(iii)(C) to: remove and replace the reference to ''South Pacific Tuna Treaty'' to conform to § 300.22(b) described above, and correct two cross-references to § 300.22(b). Also in that paragraph, the reference to the Southwest Regional Administrator, NMFS, is changed to ''Administrator, West Coast Region'' to reflect the merger of the former Southwest Region into a new West Coast Region and assumption of the responsibilities of the former Southwest Regional Administrator by the new West Coast Regional Administrator.

Classification

The NMFS Assistant Administrator has determined that this rule is consistent with the Tuna Conventions Act, as amended, and other applicable laws.

Administrative Procedure Act

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this action. Replacing ''South Pacific Tuna Treaty'' in the regulations with the exact wording from IATTC Resolution C–02–03 ''alternative international tuna purse seine fisheries management regime'' is a minor, technical correction that reflects the original intention of the regulation. The same vessels operating in the Western Pacific that were intended to be able to use the single-trip exception under the original wording would have access to the exception under the revised wording, and no vessels are added or removed from eligibility. Furthermore, because the purse seine fishery for tuna is active now in the Eastern Pacific, the existing reference to ''South Pacific Tuna Treaty'' in the absence of the issuance of SPTT licenses is an impediment to lawful fishing by U.S. vessels under Resolution C–02–03. Therefore, providing prior notice and opportunity for public comment on this

action would be unnecessary and contrary to the public interest. For the same reasons, under 5 U.S.C. 553(d)(3) NMFS finds good cause to waive the requirement to delay for 30 days the effectiveness of this rule.

Executive Order 12866

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

Regulatory Flexibility Act

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

List of Subjects

50 CFR Part 216

Administrative practice and procedure, Exports, Fish, Imports, Indians, Labeling, Marine mammals.

50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: May 31, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 216 and 300 are amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. In § 216.24, revise paragraph (b)(6)(iii)(C) to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations by tuna purse seine vessels in the eastern tropical Pacific Ocean.

* * * * *

(b) * * *

(6) * * *

(iii) * * *

(C) The owner or managing owner of a purse seine vessel that is permitted and authorized under an alternative international tuna purse seine fisheries management regime in the Pacific Ocean must submit the vessel assessment fee, as established by the IATTC or other approved observer program, to the Administrator, West Coast Region, prior to obtaining an observer and entering the ETP to fish. Consistent with § 300.22(b)(1) of this title, this class of purse seine vessels is not required to be listed on the Vessel Register under § 300.22(b)(4) of this title in order to purse seine for tuna in the ETP during a single fishing trip per calendar year of 90 days or less. Payment of the vessel assessment fee must be consistent with the fee for active status on the Vessel Register under § 300.22(b)(4)(i) of this title.

* * * * *

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 3. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.,* 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 5501 *et seq.,* 16 U.S.C. 2431 *et seq.,* 31 U.S.C. 9701 *et seq.*

■ 4. In § 300.22, revise paragraph (b)(1) to read as follows:

§ 300.22 Eastern Pacific fisheries recordkeeping and written reports.

* * * * *

(b) * * *

(1) *Exception.* Once per year, a vessel that is permitted and authorized under an alternative international tuna purse seine fisheries management regime in the Pacific Ocean may exercise an option to fish with purse seine gear to target tuna in the Convention Area without being listed on the Vessel Register and without being categorized as active under paragraph (b)(4)(i) of this section, for a fishing trip that does not exceed 90 days in duration. No more than 32 of such trips are allowed each calendar year. After the commencement of the 32nd such trip, the Regional Administrator shall announce, in the **Federal Register** and by other appropriate means, that no more such trips are allowed for the remainder of the calendar year. Under § 216.24(b)(6)(iii)(C) of this title, vessel assessment fees must be paid for vessels exercising this option.

* * * * *

[FR Doc. 2016–13216 Filed 6–3–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 151117999–6440–02]

RIN 0648–BF56

Fisheries Off West Coast States; West Coast Salmon Fisheries; 2016 Management Measures; Correction

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

ACTION: Final rule; correction.

SUMMARY: On May 2, 2016, NMFS published a final rule to implement fishery management measures for the 2016 ocean salmon fisheries off the coast of the states of Washington, Oregon, and California under the jurisdiction of the Pacific Fisheries Management Council (Council). This correction changes the minimum size table for the commercial salmon fishery from Point Arena to Pigeon Point, CA, and the description of the tribal area and boundaries for the treaty Indian fisheries for the Quileute Nation; these were incorrect in the original rule.

DATES: This correction is effective June 6, 2016, until the effective date of the 2017 management measures, which will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206–526–4323.

SUPPLEMENTARY INFORMATION:

Need for Correction

On May 2, 2016, NMFS published a final rule (81 FR 26157) that implemented the fishery management measures for the 2016 ocean salmon fisheries off the coasts of the states of Washington, Oregon, and California under the jurisdiction of the Council. Subsequent to filing this rule with the Office of the Federal Register, two typographical errors were noted.

On page 26164, the table under the subheading ''B. Minimum Size,'' for the area ''Point Arena to Pigeon Point,'' two time periods are listed that incorrectly exclude the date September 1. This is inconsistent with the management measures described in the related text within the rule. Additionally, these size restrictions are intended to be consistent with the commercial salmon fisheries managed by the State of California. This rule corrects the table to be consistent with the management measures described in the text of the final rule, and as adopted and recommended by

the Council and as implemented by the State of California.

On page 26169, in the first column, under the subheading ''C.1. Tribe and Area Boundaries,'' in the fourth paragraph, an incorrect latitude was provided for the Queets River. This latitude is intended to be consistent with usual and accustomed fishing areas established by a recent court ruling (*United States* v. *Washington*, 2:09–sp–00001–RSM (W.D. Wash. Sept. 3, 2015)). This latitude is listed correctly elsewhere in the rule, and should be consistent throughout the rule to avoid confusion. This rule corrects the latitude for the Queets River to be consistent with the rest of the management measures and the currently defined usual and accustomed fishing area for the Quileute Nation.

The states, tribes, and Pacific Fishery Management Council staff have been notified of these corrections. These corrections have been made in the fishery booklet provided to the public by NMFS West Coast Region. Therefore, these corrections are anticipated by the public and the regulatory agencies and their implementation will cause no harm.

Correction

In the **Federal Register** of May 2, 2016 (81 FR 26157), make the following corrections:

1. On page 26164, under the subheading ''B. Minimum Size,'' the table for minimum size limits in the 2016 commercial salmon fisheries is corrected in its entirety to read as follows:

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon, OR	28.0	21.5	.....	.....	None.
Cape Falcon to OR/CA border	28.0	21.5	.....	.....	None.
OR/CA border to Humboldt South Jetty	28.0	21.5	.....	.....	None.
Horse Mountain to Point Arena	27.0	20.5	.....	.....	None.
Point Arena to Pigeon Point:					
Prior to September 1	27.0	20.5	.....	.....	None.
September 1 and thereafter	26.0	19.5	.....	.....	None.
Pigeon Point to U.S./Mexico border	27.0	20.5	.....	.....	None.

Metric equivalents: 28.0 in = 71.1 cm, 27.0 in = 68.6 cm, 26.0 in = 66.0 cm, 21.5 in = 54.6 cm, 20.5 in = 52.1 cm, 19.5 in = 49.5 cm, 16.0 in = 40.6 cm, and 12.0 in = 30.5 cm.

2. On page 26169, first column, under the subheading ''C.1. Tribe and Area Boundaries,'' the fourth paragraph is corrected to read as follows:

QUILEUTE—That portion of the FMA between 48°10′00″ N. lat. (Cape Alava.) and 47°31′42″ N. lat. (Queets River) and east of 125°44′00″ W. long.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries (AA) finds there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be unnecessary and contrary to public interest. Notice and comment are unnecessary and contrary to the public interest because this action corrects inadvertent errors in regulations for a fishery that opened on May 1, and immediate notice of the error and correction is necessary to prevent confusion among participants in the fishery that could result from the existing conflict between state and tribal regulations and the final rule. This error was noticed by NMFS on April 29, 2016, after the final rule had been filed with the Office of the Federal Register. To effectively correct the error, this correction must be done as soon as possible, as the tribal fisheries commenced May 1. There is not sufficient time for a notice and comment rulemaking as the fishery has begun. In addition, this action makes only minor changes that the states and tribes are already aware of.

This correction will not affect the results of analyses conducted to support management decisions in the salmon fishery nor change the total catch of salmon. No change in operating practices in the fishery is required. For the same reasons, the AA has determined that good cause exists to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d). Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

This final rule is not significant under Executive Order 12866.

Authority: 16 U.S.C. 773–773k; 1801 *et seq.*

Dated: May 23, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–13233 Filed 6–3–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 108
Monday, June 6, 2016

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR PART 630

RIN 3206–AN31

Disabled Veteran Leave and Other Miscellaneous Changes

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is issuing proposed regulations to implement the Wounded Warriors Federal Leave Act of 2015, which establishes a new leave category, to be known as ''disabled veteran leave,'' available during a 12-month period beginning on the first day of employment to be used by an employee who is a veteran with a service-connected disability rated at 30 percent or more for purposes of undergoing medical treatment for such disability. In addition, we are proposing to rescind two obsolete regulations.

DATES: Comments must be received on or before July 6, 2016.

ADDRESSES: You may submit comments, identified by RIN number ''3206–AN31,'' using either of the following methods:

Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.

Email: pay-leave-policy@opm.gov.

FOR FURTHER INFORMATION CONTACT: Doris Rippey by telephone at (202) 606–2858 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing proposed regulations to implement the Wounded Warriors Federal Leave Act of 2015 (Public Law 114–75, November 5, 2015) (hereafter referred to as ''the Act''). The Act adds section 6329 to title 5, United States Code, which establishes a new leave category, to be known as ''disabled veteran leave.'' This new leave category is an entitlement for any employee who is a veteran with a service-connected disability rated at 30 percent or more to use disabled veteran leave during a 12-month period beginning on the first day of employment for the purposes of undergoing medical treatment for such disability. Disabled veteran leave available to an eligible employee may not exceed 104 hours for a regular full-time employee. Disabled veteran leave not used during this 12-month period may not be carried over to subsequent years and will be forfeited. By law, disabled veteran leave is available only to covered employees who are hired on or after November 5, 2016.

Section 2(d) of the Act gives OPM authority to regulate the disabled veteran leave provision. The regulations on disabled veteran leave will be located in subpart M of part 630 (Absence and Leave) of title 5, Code of Federal Regulations. They will replace the regulations currently found in subpart M, Reservist Leave Bank Program. The Reservist Leave Bank Program was authorized by Public Law 102–25, April 6, 1991. Under that program, OPM established a leave bank that distributed annual leave to returning Federal employees who were called to active duty in the U.S. Armed Forces during the Persian Gulf War. Employees were allowed to contribute unused accrued annual leave to the leave bank during an open season, which ran from July 13, 1991, until August 10, 1991. The authority is no longer needed, since Federal agencies were required to distribute the donated annual leave by the end of November 1991.

OPM is also proposing to rescind 5 CFR 630.310, Scheduling of annual leave by employees determined necessary for Year 2000 computer conversion efforts. The regulations at 5 CFR 630.310 provided that year 2000 computer conversion efforts were deemed an exigency of the public business for the purpose of restoring annual leave to any employee who forfeited annual leave under 5 U.S.C. 6304 at the beginning of leave year 2000 because the agency determined the employee's services were required during the Year 2000 computer conversion. The forfeited annual leave was deemed to have been scheduled in advance for the purpose of 5 U.S.C. 6304(d)(1)(B) and § 630.308. This authority is no longer needed because the regulations at 5 CFR 630.310(a) provided that the exigency of the public business for Year 2000 computer conversion efforts terminated on January 31, 2000.

Background

There are several pieces of legislative history that provide additional information on the intent of Congress when enacting the Wounded Warriors Federal Leave Act of 2015, including—

- The Congressional Record for the House, H6268–H6269, September 28, 2015;
- The Congressional Record for the Senate, S6085–S6088, July 28, 2015;
- House Report 114–180, Wounded Warriors Federal Leave Act of 2015 (a report issued by the House Committee on Oversight and Governmental Reform to accompany H.R. 313, ordered to be printed June 25, 2015); and
- Senate Report 114–89, Wounded Warriors Federal Leave Act of 2015 (a report issued by the Senate Committee on Homeland Security and Governmental Affairs to accompany S. 242, ordered to be printed July 23, 2015).

These reports and records provide insight into Congressional intent when drafting and ultimately enacting the Wounded Warrior Act of 2015. When preparing these proposed regulations, OPM referred to these reports and records to assist in understanding Congressional intent.

Effective Date

Section 2(c) of the Act provides that its amendments will apply to employees hired on or after the date that is 1 year after the date of enactment of the Act. Since the Act was enacted on November 5, 2015, the effective date is November 5, 2016. Therefore, if an employee is hired on or after November 5, 2016, and is otherwise eligible, the employee may be granted disabled veteran leave during the 12-month eligibility period that begins on the employee's first day of employment, which can occur no earlier than November 5, 2016.

New Subpart M in 5 CFR Part 630

In order to implement the Act, OPM is proposing to replace Subpart M, Reservist Leave Bank, in part 630 (Absences and Leave) of title 5, Code of Federal Regulations, with a new Subpart M, Disabled Veteran Leave. A section-

by-section explanation of the proposed regulations follows.

§ 630.1301—Purpose and Authority

Section 630.1301 addresses the purpose of the proposed regulations—*i.e.,* to implement the new section 6329 in title 5, United States Code. It also notes that OPM is relying on its regulatory authority in section 2(d) of the Act.

§ 630.1302—Applicability

Section 630.1302 provides that subpart M applies to an employee who is a veteran with a service-connected disability rating of 30 percent or more, subject to the conditions specified in subpart M. It also notes that subpart M does not apply to employees of the United States Postal Service or the Postal Regulatory Commission, since they are covered by regulations issued by the Postmaster General. Section 630.1302 also states that subpart M applies only to an employee whose is hired on or after November 5, 2016.

§ 630.1303—Definitions

Section 630.1303 provides definitions of terms for purposes of subpart M.

The term ''12-month period'' in 5 U.S.C. 6329(a) is not defined in law. In the regulations, we are using the term ''12-month eligibility period'' and making clear that it refers to the continuous 12-month period that begins on the first day of employment. We are also making clear in the definition that, if an employee was eligible (or is later determined to have been eligible) for disabled veteran leave while previously employed by the United States Postal Service or the Postal Regulatory Commission and subsequently commences employment covered by subpart M, the 12-month eligibility period is the period that began on the first day of employment with the United States Postal Service or the Postal Regulatory Commission (as determined under regulations issued by the Postmaster General to implement 5 U.S.C. 6329).

The 12-month eligibility period is fixed based on the ''first day of employment,'' which triggers the start of the 12-month clock. (See discussion of the definition of ''first day of employment'' below.) There is only one 12-month eligibility period for any employee during his or her Federal civilian career, since there is only one ''first'' day of employment. The date of the first day of employment may be established retroactively after the Veterans Benefits Administration has made a disability rating determination, which could mean that the employee was not able to use disabled veteran leave during part or all of the 12-month eligibility period. In that case, the employee will be allowed to retroactively substitute disabled veteran leave for other leave used for medical treatment of a qualifying service-connected disability, as provided in proposed § 630.1306(c).

We provide that the term *agency* refers to an agency of the Federal Government. When the term is used in the context of an agency making determinations or taking actions, it means management officials of an employing agency authorized to make a given determination or take a given action.

We define *employee* to have the same meaning as that term in 5 U.S.C. 2105, consistent with 5 U.S.C. 6329(d)(1). Since employees of the United States Postal Service and the Postal Regulatory Commission are not covered by subpart M, we do not mention them in the definition of ''employee'' even though they are included under section 6329(d)(1). (Under section 2105(e), an employee of the United States Postal Service or the Postal Regulatory Commission is generally deemed not to be considered an ''employee'' for purposes of title 5, except as otherwise provided by law. Section 6329(d)(1) is such a statutory exception.)

Under 5 U.S.C. 2105(c), an employee of a nonappropriated fund instrumentality (NAFI) under the jurisdiction of the armed forces (Army, Navy, Air Force, Marines, Coast Guard) that is conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel in the armed forces is ''deemed not an employee'' for the purpose of laws administered by OPM, except for certain listed exceptions. Section 6329 is not covered by any listed exception. Since the Act defines the term ''employee'' to be an employee as defined in 5 U.S.C. 2105 and since OPM administers section 6329, NAFI employees identified in section 2105(c) are not covered by section 6329 and are not entitled to disabled veteran leave under that section.

Section 6239(a) provides that disabled veteran leave is available to an eligible employee during the 12-month period ''beginning on the first day of employment.'' By regulation, we are defining the terms *employment* and *first day of employment.*

We are defining *employment* to mean service as an ''employee'' (as defined in 5 U.S.C. 2105) during which the employee is covered by a leave system under which leave is charged for periods of absence. Since section 6329 is designed to provide a paid ''leave'' benefit to employees, it is clear that the benefit applies only to employees performing service covered by a leave system. Section 6329(a) states that the periods during which disabled veteran leave is used are periods ''for which sick leave could regularly be used.'' Also, the House and Senate committee reports describe the benefit as needed by employees who have insufficient paid leave and must currently use unpaid leave or take advanced sick leave that must be repaid at some point in the future. Accordingly, we are regulating that the ''employment'' that triggers entitlement to disabled veteran leave is service under a leave system. This would exclude service in which an employee has an intermittent work schedule or service by certain leave-exempt Presidential appointees.

We also note in the definition of *employment* that it excludes service in a position in which an employee (as defined in 5 U.S.C. 2105) is not covered by 5 U.S.C. 6329 due to application of another statutory authority, such as service as an employee of the Federal Aviation Administration (FAA) or the Transportation Security Administration (TSA).

In order to define *first day of employment,* it is necessary to give context to the word ''first''. We interpret section 6329(a) as using the term ''first'' relative to the time the employee attains status as a veteran with a qualifying service-connected disability. Under current law, the effective date is based on various factors, but in most cases it is either the date after the date of military discharge (for those who file within 1 year of that discharge date) or the date of receipt of the application, both of which occur prior to the date of the rating determination. That effective date may be before or after the date an employee is hired to perform service in a civilian position in the Federal Government that is covered employment under this subpart. If the effective date is before such hiring date, the first day of employment as an eligible veteran with a qualifying service-connected disability is the employee's hiring date. If the effective date is after the hiring date, the first day employment as an eligible veteran with a qualifying service-connected disability is the effective date of the disability rating. (As discussed earlier, by law, section 6329 applies only to employees who are hired on or after November 5, 2016. See section 6329(c).)

Since the *first day of employment* (incorporating the definition of ''employment'' in § 630.1303) is based on when the employee first has status as

a veteran with a qualifying service-connected disability during a period of employment, that first day is the later of (1) the date the employee is hired (*i.e.,* hiring date) or (2) the effective date of the qualifying disability rating. Accordingly, this ''later of'' approach is reflected in the proposed definition of *first day of employment.*

The term *hired* is being defined to mean one of several actions: (1) Initial appointment, (2) a qualifying reappointment, or (3) return to civilian duty following a break in civilian duty (with continuous civilian leave status) to perform military service. The term ''hired'' is used in the definition of ''first day of employment'' and in § 630.1302 (Applicability). Because there are several possible hiring actions and since there can be only one first day of employment, the definition of ''first day of employment'' speaks of the ''earliest date'' an employee is hired.

The legislative history of the Act indicates that Congress was focused on the most common scenario, addressing ''new'' employees who begin their Federal careers with zero hours of sick leave. (See House Report 114–180 and Senate Report 114–89.) However, the law itself does not exclude those with past Federal civilian service. Thus, OPM is not required to interpret ''first day of employment'' to mean a person's first ever appointment with the Federal Government. Some individuals could have small amounts of past Federal service before military service, and we do not believe that Congress would have intended to automatically disqualify them from receiving disabled veteran leave benefits. Thus, the proposed regulations would cover certain reappointments as triggering the first day of employment, which in turn triggers the 12-month eligibility period to use disabled veteran leave. At the same time, given that Congress intended the 104-hour leave benefit for those with an initial balance of zero sick leave hours, any sick leave restored to an employee's credit upon reappointment will be taken into account in determining the amount of disabled veteran leave that should be credited. (See proposed § 630.1305(d).)

While we are defining *first day of employment* to include the first ''reappointment'' following military service during which an individual incurred a qualifying disability, we are limiting the coverage of reappointments to those that occur after a 90-day break in employment (where ''employment'' is a defined term, as explained above). See the proposed definition of *qualifying reappointment.* This 90-day break-in-employment rule is consistent with similar 90-day rules OPM has adopted for determining when a ''newly appointed'' employee can be treated in the same way as a true first-time appointee. (See provisions in 5 U.S.C. 5333 and 5 CFR 531.211–531.212 regarding setting pay above step 1 for a newly appointed General Schedule employee. See also the provision in 5 U.S.C. 5753 and 5 CFR 575.102 regarding recruitment bonuses for a newly appointed employee.) The 90-day rule prevents employees from seeking a separation from Federal service merely to obtain a desired benefit. Civilian service with the Federal Government that is not ''employment'' covered by subpart M—such as FAA and TSA service—would be treated as a break in employment. Thus, for example, an individual who moves without a break in service between FAA and a position covered by subpart M could have a qualifying first day of employment under subpart M. However, as provided under § 630.1305(d), any sick leave transferred with the employee would offset the disabled veteran leave benefit. Further, if the employee already received an equivalent disabled veteran leave benefit under the FAA personnel authority, that could eliminate or reduce any entitlement to disabled veteran leave under subpart M, as provided under § 630.1305(e).

We are also proposing that the term *first day of employment* includes the date an employee returns to a civilian duty status after a break in civilian duty (with the employee in continuous civilian leave status) to perform military service. We believe that, for purposes of this leave benefit, such a return to civilian duty status following a leave of absence for military service can properly be considered an ''employment'' or ''hiring'' event, even though in one sense the individual retained continuous status as a civilian employee. Many Federal civilian employees go on leave to perform military service as reservists or members of the National Guard and, should they incur a qualifying service-connected disability, could have an insufficient balance of sick leave to meet their needs as a disabled veteran when they return to civilian duty. Given that the purpose of the Act is to assist disabled veterans, we believe it would be appropriate to ensure that such employees have sufficient paid leave by covering them under section 6329. However, the disabled veteran leave benefit would be offset by the amount of sick leave to the employee's credit at the time of the hiring event, as provided in § 630.1305(d).

As stated in our description of proposed § 630.1302 (Applicability), the provisions of section 6329 apply only to a qualifying employee hired on or after November 5, 2016. (See section 6329(c).) If a veteran with a qualifying service-connected disability is already a Federal employee as of November 4, 2016, that veteran would not qualify for disabled veteran leave unless he or she has a qualifying hiring event in the future.

Although many veterans may receive treatment for their service-connected disabilities by the Veterans Health Administration (VHA), others may seek treatment from other healthcare providers. Therefore, we define *health care provider* broadly, using the same broad definition used in OPM's regulations implementing the Family and Medical Leave Act. (See § 630.1202.)

Section 6329(a) requires that disabled veteran leave be used solely for the purpose of undergoing medical treatment of a qualifying service-connected disability. As a means of verification, section 6329(c) provides that an employee using disabled veteran leave must submit to the employing agency certification that the employee will (or has) used the leave for purposes of being furnished treatment for the disability. It further provides that OPM is authorized to prescribe the ''form and manner'' that this certification takes. While an employee's self-certification will always be required, we are proposing in § 630.1307 that the agency, at its discretion, may additionally require a medical certificate to support an employee's use of disabled veteran leave. We are defining *medical certificate* as a written statement signed by a health care provider certifying to the medical treatment of an employee for a qualifying service-connected disability. We are defining *medical treatment* as any activity carried out by, or prescribed by, a health care provider to treat an employee's qualifying service-connected disability.

Disabled veteran leave is only available to employees with a service-connected disability that meets the requirements of the statute, which provides that the disability is rated at 30 percent or more. We define *qualifying service-connected disability* for purposes of this subpart to mean a service-connected disability rated at 30 percent or more. The definition also makes clear that (1) a combined degree of disability of 30 percent or more that reflects the combined effect of multiple individual disabilities is a qualifying disability and (2) a temporary disability rating under 38 U.S.C. 1156 is considered a valid rating in applying

this definition for as long as such rating is in effect.

The definitions of the terms *service-connected* and *veteran* are provided in the statute at 5 U.S.C. 6329(d) and refer to the definitions of those terms at 38 U.S.C. 101. Since the statutory text may change in the future, we provide the reference to the definition in 38 U.S.C. 101, but do not provide the text of the definitions themselves. We are providing the current statutory text in this supplementary information to ensure that the reader fully understands who qualifies as a veteran with a service-connected disability under current law.

We are defining *service-connected* as having the meaning given the term at 38 U.S.C. 101(16). The text of the statute currently reads, ''The term 'service-connected' means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.''

The term *veteran* has the meaning given such term at 38 U.S.C. 101(2). The text of the statute currently reads, ''The term 'veteran' means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.''

Finally, we are proposing a definition of the term *military service,* which is based on the definition of *active military, naval, or air service* at 38 U.S.C. 101(24). This is the service that is a basis for a finding by the Veterans Benefits Administration that a veteran has a service-connected disability qualifying for benefits under title 38, United States Code. The term ''active military, naval, or air service'' is currently defined in 38 U.S.C. 101(24) as follows:

The term ''active military, naval, or air service'' includes—

- active duty;
- any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty; and
- any period of inactive duty training during which the individual concerned was disabled or died—
  - ○ from an injury incurred or aggravated in line of duty; or
  - ○ from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training.''

We note that the terms ''active duty for training'' and ''inactive duty training'' are defined in 38 U.S.C. 101(22) and (23), respectively, and that those definitions must be used in applying the definition of ''military service'' in subpart M. In administering disabled veteran leave, agencies do not need to know all the title 38 requirements. They can simply rely on a determination of the Veterans Benefits Administration that an individual is a veteran with a qualifying service-connected disability.

§ 630.1304—Eligibility

Section 630.1304(a) provides that an employee with a qualifying service-connected disability is eligible for disabled veteran leave under subpart M, which is available for use during the employee's 12-month eligibility period. For any employee, there will be only one such period under section 6329 during his or her career.

Section 630.1304(b) addresses the employee's responsibility to provide documentation from the Veterans Benefits Administration certifying the qualifying service-connected disability to the agency. This certification is used by the agency to determine an employee's eligibility for disabled veteran leave. Since disabled veteran leave is only available during an eligible employee's first 12 months after employment, it is important that agencies be able to identify as soon as possible whether an employee is entitled to the benefit. An agency can only do so if it has received the proper documentation/certification. Employees should, when possible, provide the necessary documentation upon employment. For those who have not yet received such certifying documentation from the Veterans Benefits Administration, the employee should provide it to the agency as soon as practicable after he or she receives it.

Section 630.1304(c) allows for the possibility that an employee may submit certifying documentation at a later time, including after a period of absence for medical treatment. In that case, disabled leave may be provided retroactively, as described in § 630.1306(c). A delay in the employee providing certifying documentation to the employing agency does not affect the dates of the 12-month eligibility period, since that period is fixed by statute based on the first day of employment.

Section 630.1304(d) addresses situations in which a veteran's condition(s) improves such that the employee's disability rating is reduced or discontinued resulting in the employee no longer having a qualifying service-connected disability. In such cases, it is the responsibility of the employee to notify the agency of the change in rating. Since the requirements of the statutory entitlement will no longer be met, the employee will no longer be entitled to disabled veteran leave as of the effective date of the change in rating. Any unused disabled veteran leave to such an employee's credit as of the effective date of the change in rating is forfeited. The rating change has only prospective effect. It does not invalidate the use of disabled veteran leave prior to the effective date of the rating change. (See also § 630.1308(b).)

§ 630.1305—Crediting Disabled Veteran Leave

Section 630.1305 addresses an agency's responsibilities regarding the crediting of disabled veteran leave.

For regular full-time employees, agencies must credit 104 hours of disabled veteran leave to the employee's disabled veteran leave account, except as otherwise provided in § 630.1305. We are proposing special crediting rules for employees with part-time, seasonal, or uncommon tours of duty, which are found in paragraphs (a)–(c) of 630.1305.

Section 6329(b)(1) states that disabled veteran leave ''may not exceed 104 hours.'' Based on the Act's legislative history, which stated that the intent of the statute was to provide disabled veterans ''with immediate access to up to 13 days for sick leave,'' it is clear that Congress was focused on regular full-time employees. (See page H6268 of the House Congressional Record, September 28, 2015.) The 104 hours was based on the amount of sick leave hours a regular full-time employee would normally accrue in a 12-month period (4 hours × 26 biweekly pay periods = 104 hours or 13 days). (See page 2 of House Committee Report 114–180 and page 2 of Senate Committee Report 114–89.) While full-time employees with a standard 40-hour weekly tour generally accrue 104 hours of sick leave in a leave year, that is not true for employees with part-time, seasonal, or uncommon tours of duty. (See 5 CFR 630.201 and 630.210 for a description of uncommon tours of duty that are more than 80 hours in a biweekly pay period.) These proposed regulations therefore provide that disabled veteran leave be proportionally adjusted for employees with part-time, seasonal, or uncommon tours of duty. For each type of schedule, a disabled veteran leave benefit would be derived to achieve a number of hours that is proportionally equivalent to 104 hours for a regular full-time employee. Under this approach, the value of the disabled veteran leave benefit as a percentage of projected total annual hours in the work schedule would be consistent across various types of schedules. This

approach is consistent with OPM's administration of annual and sick leave accrual for employees with different types of work schedules and ensures equitable treatment of employees.

Section 630.1305(d) addresses the offset of the 104-hour leave benefit (or proportional equivalent) for employees who have a balance of sick leave on the first day of employment that starts the 12-month eligibility period. Based on House and Senate committee reports, the intent of Congress was to provide 104 hours of disabled veteran leave to full-time employees who begin their Federal careers with a zero sick leave balance. Section 6329(b)(1) states that disabled veteran leave ''may not exceed 104 hours.'' It does not require the crediting of 104 hours.

As explained earlier, we have proposed regulating that certain employees who have past Federal civilian service may be eligible for disabled veteran leave. Such employees may have sick leave to their credit upon reemployment or return to civilian duty following military service. This specific circumstance was not anticipated or addressed in the House and Senate committee reports. Thus, OPM is using its regulatory authority to carry out section 6329 and its purposes by providing that any sick leave to the credit of such employees upon the first day of employment must be used to offset (reduce) the 104-hour disabled veteran leave benefit (or proportional equivalent). For example if a regular full-time employee is reemployed, qualifies for the disabled veteran leave benefit, and is recredited with 30 hours of sick leave, the employee's disabled veteran leave would be credited at 74 hours (104 hours minus 30 hours of recredited sick leave).

Section 630.1305(e) addresses the special circumstance in which a Federal agency and its employees are not subject to chapter 63 of title 5, United States Code, based on another statutory authority (*e.g.,* the authorities that apply to employees of the Federal Aviation Administration and the Transportation Security Administration). Thus, these employees are not subject to section 6329 and have no statutory entitlement to disabled veteran leave. Such agencies may decide to offer their employees a parallel benefit, which would not, however, be disabled veteran leave under section 6329. The proposed regulations provide that an employee who was previously employed by a noncovered agency with a parallel benefit must self-certify whether he or she received an equivalent (or better) leave benefit and the date eligibility commenced. If 12 months have elapsed since that eligibility commencing date, the employee will be considered to have received the full amount of an equivalent benefit and no benefit may be provided under subpart M. If the employee is still within the 12-month period that began on such commencing date, the employee must certify the number of hours of disabled veteran leave used at the former agency. Those hours would be used to offset the disabled veteran leave benefit provided under section 6329.

§ 630.1306—Requesting and Using Disabled Veteran Leave

Section 630.1306(a) provides, as required by 5 U.S.C. 6329, that disabled veteran leave may only be used for the medical treatment of an employee's qualifying service-connected disability. Disabled veteran leave must be distinguished from sick leave, which can be used if an employee is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth (see 5 CFR 630.401(a)(2)). Such use of sick leave does not require that the employee undergo any specific medical treatment related to the incapacity. However, the disabled veteran leave benefit requires the benefit to be used for medical treatment as it relates to the employee's qualifying service-connected disability. The proposed regulations provide that the medical treatment may include a period of rest, but only if the period of rest is specifically ordered by the health care provider as part of a prescribed course of treatment for the qualifying service-connected disability. This means that an employee could not, for example, contact his or her manager to request a day of disabled veteran leave to rest because the employee believes he or she is incapacitated due to the service-connected disability. In such a circumstance, sick leave would be the appropriate choice.

Section 630.1306(b) specifies the requirements for an employee's application to use disabled veteran leave. In compliance with the law, the application must include the employee's personal self-certification that the requested leave will be (or was) used for purposes of being furnished medical treatment for a qualifying service-connected disability. Section 630.1306(b) also lays out the requirement to request the leave in advance, unless the need for the leave is critical and not foreseeable.

Section 630.1306(c) addresses the ability to substitute the disabled veteran leave retroactively for other leave or paid time off that was used for treatment of a qualifying service-connected disability during the 12-month eligibility period. For various reasons, an employee may not have provided the required certification of his or her qualifying service-connected disability before a period of absence for medical treatment of such disability (*e.g.,* because the Veterans Benefits Administration's determination was pending). We believe the entitlement to disabled veteran leave should be preserved in such circumstances. Therefore, the proposed regulations allow an eligible employee to substitute disabled veteran leave retroactively for a period of absence (excluding a period of suspension or absence without leave (AWOL)) during the 12-month eligibility period that was used for medical treatment of the qualifying service-connected disability.

§ 630.1307—Medical Certification

Section 630.1307(a) provides that an agency may require an employee to provide to the agency a signed written medical certification issued by a health care provider to support each use of disabled veteran leave. Section 630.1307(b) describes what information a health care provider may be required to include in the medical certification. Section 630.1307(c) addresses the deadlines for submitting a medical certification and what action an agency may take if the medical certification is not submitted within the required timeframes.

§ 630.1308—Disabled Veteran Leave Forfeiture, Transfer, Reinstatement

Section 630.1308(a) provides that an employee forfeits any disabled veteran leave to his or her credit if it is not used during the 12-month eligibility period.

Section 630.1308(b) provides that, if, during the 12-month eligibility period, a change in an employee's disability rating causes the employee to no longer have a qualifying service-connected disability, any disabled veteran leave to the employee's credit must be forfeited.

Section 630.1308(c) addresses the transfer of disabled veteran leave when an employee transfers between agencies without a break in employment during the 12-month eligibility period.

Section 630.1308(d) addresses the recrediting of disabled veteran leave when an employee has an unused balance of disabled veteran leave at the time of a break in employment but returns to employment during the 12-month eligibility period. It also addresses the responsibilities of the losing agency to provide information to the gaining agency.

Section 630.1308(e) provides that an employee may not receive a lump-sum

payment for any unused disabled veteran leave under any circumstance.

Executive Order 13563 and Executive Order 12866

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 630

Government employees.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

Accordingly, OPM is proposing to amend part 630 of title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

■ 1. Revise the authority citation for part 630 to read as follows:

Authority: 5 U.S.C. 6311; § 630.205 also issued under Pub. L. 108–411, 118 Stat 2312; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410 and Pub. L. 108–411, 118 Stat 2312; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 105–18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23; and subpart M also issued under section 2(d) of Pub. L. 114–75, 129 Stat. 640.

§ 630.310 [Removed and Reserved]

■ 2. Remove and reserve § 630.310.

■ 3. Revise subpart M to read as follows:

Subpart M—Disabled Veteran Leave

Sec.

Subpart M—Disabled Veteran Leave

§ 630.1301 Purpose and authority.

This subpart implements 5 U.S.C. 6329, which establishes a leave category, to be known as ''disabled veteran leave,'' for an eligible employee who is a veteran with a service-connected disability rated at 30 percent or more. Such an employee is entitled to this leave for purposes of undergoing medical treatment for such disability. Disabled veteran leave must be used during the 12-month period beginning on the first day of employment following the military service during which the employee incurred such disability. OPM's authority to regulate section 6329 is found in section 2(d) of Public Law 114–75.

§ 630.1302 Applicability.

This subpart applies to an employee who is a veteran with a service-connected disability rated at 30 percent or more, subject to the conditions specified in this subpart. This subpart does not apply to employees of the United States Postal Service or the Postal Regulatory Commission who are subject to regulations issued by the Postmaster General under section 2(d)(2) of Public Law 114–75. This subpart applies only to an employee who is hired on or after November 5, 2016.

§ 630.1303 Definitions.

In this subpart:

12-month eligibility period means the continuous 12-month period that begins on the first day of employment. For an employee who was eligible (or later determined to have been eligible) for disabled veteran leave as an employee of the United States Postal Service or the Postal Regulatory Commission and who subsequently commences employment covered by this subpart, the 12-month eligibility period is the period that began on the first day of employment with the United States Postal Service or the Postal Regulatory Commission (as determined under regulations issued by the Postmaster General to implement 5 U.S.C. 6329).

Agency means an agency of the Federal Government. In the case of an agency in the Executive branch, it means an Executive agency as defined in 5 U.S.C. 105. When the term ''agency'' is used in the context of an agency making determinations or taking actions, it means management officials of the agency who are authorized by the agency head to make the given determination or take the given action.

Employee has the meaning given that term in 5 U.S.C. 2105.

Employment means service as an employee during which the employee is covered by a leave system under which leave is charged for periods of absence. This excludes service in a position in which the employee is not covered by 5 U.S.C. 6329 due to application of another statutory authority.

First day of employment means the first day of service that qualifies as employment that occurs on or after the later of—

(1) The earliest date an employee is hired after a period of military service during which the employee incurred a qualifying service-connected disability; or

(2) The effective date of the employee's qualifying service-connected disability, as determined by the Veterans Benefits Administration.

Health care provider has the meaning given that term in § 630.1202.

Hired means the action of—

(1) Receiving an initial appointment to a civilian position in the Federal Government in which the service qualifies as employment under this subpart;

(2) Receiving a qualifying reappointment to a civilian position in the Federal Government in which the service qualifies as employment under this subpart; or

(3) Returning to duty status in a civilian position in the Federal Government in which the service qualifies as employment under this subpart, when such return immediately followed a break in civilian duty (with the employee in continuous civilian leave status) to perform military service.

Medical certificate means a written statement signed by a health care provider certifying to the treatment of a veteran's qualifying service-connected disability.

Medical treatment means any activity carried out or prescribed by a health care provider to treat a veteran's qualifying service-connected disability.

Military service means ''active military, naval, or air service'' as that term is defined in 38 U.S.C. 101(24).

Qualifying reappointment means an appointment of a former employee of the Federal Government following a break in employment of at least 90 calendar days.

Qualifying service-connected disability means a veteran's service-connected disability rated at 30 percent or more by the Veteran Benefits Administration, including a combined degree of disability of 30 percent or more that reflects the combined effect of multiple individual disabilities, which resulted in the award of disability compensation under title 38, United

States Code. A temporary disability rating under 38 U.S.C. 1156 is considered a valid rating in applying this definition for as long as it is in effect.

Service-connected has the meaning given such term in 38 U.S.C. 101(16).

Veterans Benefits Administration means the Veterans Benefits Administration of the Department of Veterans Affairs.

Veteran has the meaning given such term in 38 U.S.C. 101(2).

§ 630.1304 Eligibility.

(a) An employee who is a veteran with a qualifying service-connected disability is entitled to disabled veteran leave under this subpart, which will be available for use during the 12-month eligibility period beginning on the first day of employment. For each employee, there is a single first day of employment.

(b) In order to be eligible for disabled veteran leave, an employee must provide to the agency documentation from the Veterans Benefits Administration certifying that the employee has a qualifying service-connected disability. The documentation should be provided to the agency—

(1) Upon the first day of employment, if the employee has already received such certifying documentation; or

(2) For an employee who has not yet received such certifying documentation from the Veterans Benefit Administration, as soon as practicable after the employee receives the certifying documentation.

(c) Notwithstanding paragraph (b) of this section, an employee may submit certifying documentation at a later time, including after a period of absence for medical treatment, as described in § 630.1306(c). The 12-month eligibility period is fixed based on the first day of employment and is not affected by the timing of when certifying documentation is provided.

(d) If an employee's service-connected disability rating is decreased or discontinued during the 12-month eligibility period such that the employee no longer has a qualifying service-connected disability—

(1) The employee must notify the agency of the effective date of the change in the disability rating; and

(2) The employee is no longer eligible for disabled veteran leave as of the effective date of the rating change.

§ 630.1305 Crediting disabled veteran leave.

(a) Upon receipt of the certifying documentation under § 630.1304, an agency must credit 104 hours of disabled veteran leave to a full-time, nonseasonal employee or a proportionally equivalent amount for employees with part-time, seasonal, or uncommon tours of duty, except as otherwise provided in this section.

(b) The proportional equivalent of 104 hours for a full-time employee is determined for employees with other schedules as follows:

(1) For an employee with a part-time work schedule, the 104 hours is prorated based on the number of hours in the part-time schedule (as established for leave charging purposes) relative to a full-time schedule (*e.g.,* 52 hours for a half-time schedule);

(2) For an employee with a seasonal work schedule, the 104 hours is prorated based on the total projected hours to be worked in an annual period of 52 weeks (based on the seasonal employee's seasonal work periods and full-time or part-time schedule during those periods) relative to a full-time work year of 2,080 hours (*e.g.,* 52 hours for a seasonal employee who works full-time for half a year); and

(3) For an employee with an uncommon tour of duty (as defined in § 630.201 and described in § 630.210), 104 hours is proportionally increased based on the number of hours in the uncommon tour relative to the hours in a regular full-time tour (*e.g.,* 187 hours for an employee with a 72-hour weekly uncommon tour of duty.)

(c) When an employee is converted to a different tour of duty for leave purposes, the employee's balance of unused disabled veteran leave must be converted to the proper number of hours based on the proportion of hours in the new tour of duty compared to the former tour of duty. For seasonal employees, hours must be annualized in determining the proportion.

(d) The amount of disabled veteran leave initially credited to an employee under paragraphs (a) and (b) of this section must be offset by the number of hours of sick leave an employee has credited to his or her account as of the first day of employment. For example, if an employee is being reappointed and having sick leave recredited upon such reappointment, the amount of disabled veteran leave must be reduced by the amount of such recredited sick leave. Similarly, if an employee is returning to civilian duty status after a period of leave for military service, that employee may have a balance of sick leave, which must be used to offset the disabled veteran leave.

(e)(1) An employee who was previously employed by an agency whose employees were not subject to 5 U.S.C. 6329 must certify, at the time the employee is hired in a position subject to 5 U.S.C. 6329, whether or not that former agency provided entitlement to an equivalent disabled veteran leave benefit to be used in connection with the medical treatment of a service-connected disability rated at 30 percent or more. The employee must certify the date he or she commenced the period of eligibility to use disabled veteran leave in the former agency.

(2) If 12 months have elapsed since the commencing date referenced in paragraph (e)(1) of this section, the employee will be considered to have received the full amount of an equivalent benefit and no benefit may be provided under this subpart.

(3) If the employee is still within the 12-month period that began on the commencing date referenced in paragraph (e)(1) of this section, the employee must certify the number of hours of disabled veteran leave used at the former agency. The gaining agency must offset the number of hours of disabled veteran leave to be credited to the employee by the number of such hours used by the employee at such agency, while making no offset under paragraph (d) of this section. If the employee had a different type of work schedule at the former agency, the hours used at the former agency must be converted before applying the offset, consistent with § 630.1305(c).

§ 630.1306 Requesting and using disabled veteran leave.

(a) An employee may use disabled veteran leave only for the medical treatment of a qualifying service-connected disability. The medical treatment may include a period of rest, but only if such period of rest is specifically ordered by the health care provider as part of a prescribed course of treatment for the qualifying service-connected disability.

(b)(1) An employee must file an application—written, oral, or electronic, as required by the agency—to use disabled veteran leave. The application must include a personal self-certification by the employee that the requested leave will be (or was) used for purposes of being furnished medical treatment for a qualifying service-connected disability. The application must also include the specific days and hours of absence required for the treatment. The application must be submitted within such time limits as the agency may require.

(2) An employee must request approval to use disabled veteran leave in advance unless the need for leave is critical and not foreseeable—*e.g.,* due to

a medical emergency or the unexpected availability of an appointment for surgery or other critical treatment. The employee must provide notice within a reasonable period of time appropriate to the circumstances involved. If the agency determines that the need for leave is critical and not foreseeable and that the employee is unable to provide advance notice of his or her need for leave, the leave may not be delayed or denied.

(c)(1) When an employee did not provide the agency with certification of a qualifying service-connected disability before having a period of absence for treatment of such disability, the employee is entitled to substitute approved disabled veteran leave retroactively for such period of absence (excluding periods of suspension or absence without leave (AWOL), but including leave without pay, sick leave, annual leave, compensatory time off, or other paid time off) in the 12-month eligibility period. Such retroactive substitution cancels the use of the original leave or paid time off and requires appropriate adjustments. In the case of retroactive substitution for a period when an employee used advanced annual leave or advanced sick leave, the adjustment is a liquidation of the leave indebtedness covered by the substitution.

(2) An agency may require an employee to submit the medical certification described in § 630.1307(a) before approving such retroactive substitution.

§ 630.1307 Medical certification.

(a) In addition to the employee's self-certification required under § 630.1306(b)(1), an agency may additionally require that the use of disabled veteran leave be supported by a signed written medical certification issued by a health care provider.

(b) When an agency requires a signed written medical certification by a health care provider, the agency may specify that the certification include—

(1) A statement by the health care provider that the medical treatment is for one or more service-connected disabilities of the employee rated at 30 percent or more;

(2) The date or dates of treatment or, if the treatment extends over several days, the beginning and ending dates of the treatment;

(3) If the leave was not requested in advance, a statement that the treatment required was of an urgent nature or there were other circumstances that made advanced scheduling not possible; and

(4) any additional information that is essential to verify the employee's eligibility.

(c)(1) An employee must provide any required written medical certification no later than 15 calendar days after the date the agency requests such medical certification, except as otherwise allowed under paragraph (c)(2) of this section.

(2) If the agency determines it is not practicable under the particular circumstances for the employee to provide the requested medical certification within 15 calendar days after the date requested by the agency despite the employee's diligent, good faith efforts, the employee must provide the medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the agency requests such documentation.

(3) An employee who does not provide the required evidence or medical certification within the specified time period is not entitled to use disabled veteran leave, and the agency may, as appropriate and consistent with applicable laws and regulations—

(i) Charge the employee as absent without leave (AWOL); or

(ii) Allow the employee to request that the absence be charged to leave without pay, sick leave, annual leave, or other forms of paid time off.

§ 630.1308 Disabled veteran leave forfeiture, transfer, reinstatement.

(a) Disabled veteran leave not used during the 12-month eligibility period may not be carried over to subsequent years and must be forfeited.

(b) If a change in the employee's disability rating during the 12-month eligibility period causes the employee to no longer have a qualifying service-connected disability (as described in § 630.1304(d)), any unused disabled veteran leave to the employee's credit as of the effective date of the rating change must be forfeited.

(c) When an employee with a positive disabled veteran leave balance transfers between positions in different agencies, or transfers from the United States Postal Service or Postal Regulatory Commission to a position in another agency, during the 12-month eligibility period, the agency from which the employee transfers must certify the number of unused disabled veteran leave hours available for credit by the gaining agency. The losing agency must also certify the expiration date of the employee's 12-month eligibility period to the gaining agency. Any unused disabled veteran leave will be forfeited at the end of that eligibility period. For the purpose of this paragraph, the term ''transfers'' means movement from a position in one agency (or the United States Postal Service or Postal Regulatory Commission) to a position in another agency without a break in employment of 1 workday or more in circumstances where service in both positions qualifies as employment under this subpart.

(d)(1) An employee covered by this subpart, or an employee of the United States Postal Service or Postal Regulatory Commission, with a balance of unused disabled veteran leave who has a break in employment of at least 1 workday during the employee's 12-month eligibility period, and later recommences employment covered by 5 U.S.C. 6329 within that same eligibility period, is entitled to a recredit of the unused balance.

(2) When an employee has a break in employment as described in paragraph (d)(1) of this section, the losing agency must certify the number of unused disabled veteran leave hours available for recredit by the gaining agency. The losing agency must also certify the expiration date of the employee's 12-month eligibility period. Any unused disabled veteran leave must be forfeited at the end of that eligibility period.

(3) In the absence of the certification described in paragraph (d)(2) of this section, the recredit of disabled veteran leave may also be supported by written documentation available to the employing agency in its official personnel records concerning the employee, the official records of the employee's former employing agency, copies of contemporaneous earnings and leave statement(s) provided by the employee, or copies of other contemporaneous written documentation acceptable to the agency.

(e) An employee may not receive a lump-sum payment for any unused disabled veteran leave under any circumstance.

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2638

RIN 3209–AA42

Executive Branch Ethics Program Amendments

AGENCY: Office of Government Ethics.

ACTION: Proposed rule.

SUMMARY: The Office of Government Ethics is proposing to amend the

regulation that sets forth the elements and procedures of the executive branch ethics program. This comprehensive revision of 5 CFR part 2638 is informed by the experience gained over the last several decades administering the program, and was developed in consultation with agency ethics officials, the inspector general community, the Office of Personnel Management, and the Department of Justice. The proposed regulation defines and describes the executive branch ethics program, delineates the responsibilities of various stakeholders, and enumerates key executive branch ethics procedures.

DATES: Comments are invited and must be received on or before August 5, 2016.

ADDRESSES: You may submit comments, in writing, on this proposed rule, identified by RIN 3209–AA42, by any of the following methods:

Email: usoge@oge.gov. Include the reference ''Proposed Amendment to the Executive Branch Ethics Program Regulation, 3209–AA42'' in the subject line of the message.

Fax: 202–482–9237.

Mail/Hand Delivery/Courier: Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917, Attention: Monica Ashar, Assistant Counsel.

Instructions: All submissions must include the agency name of the Office of Government Ethics and the Regulation Identifier Number (RIN), 3209–AA42, for this proposed rulemaking. All comments, including attachments and other supporting materials, will become part of the public record and be subject to public disclosure. Comments may be posted at *www.oge.gov.* Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Monica Ashar, Assistant Counsel; Telephone: 202–482–9300; TTY: 800–877–8339; FAX: 202–482–9237.

SUPPLEMENTARY INFORMATION:

A. Background and Analysis of Proposed Rule Changes

Title IV of the Ethics in Government Act of 1978 as amended (the Act), sets forth the responsibilities of the Director of the U.S. Office of Government Ethics in providing overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency. On January 9, 1981, a final rule was published which set forth the elements of an agency's ethics program, the responsibilities of an agency head with regard to that program, and the duties of a Designated Agency Ethics Official. It also established the formal advisory opinion service of the Office of Government Ethics. *See* 46 FR 2582–2587 (January 9, 1981). These provisions, which are now codified at subparts A through C of 5 CFR part 2638, have remained largely unchanged since they were first issued, despite having been developed when the executive branch-wide ethics program was in its infancy.

The next substantive addition to part 2638 occurred in 1990. The Office of Government Ethics Reauthorization Act of 1988, Public Law 100–598, granted the Director of the Office of Government Ethics the authority to order corrective action on the part of individuals and agencies, and to require certain reports from agencies. On January 18, 1990, the Office of Government Ethics issued interim regulations, as later modified by the final rule, which established procedures to correct deficiencies in executive branch ethics programs; to bring individual agency employees into compliance with rules, regulations, and executive orders relating to standards of conduct and conflicts of interest; and to specify requirements for executive agency reports. *See* 55 FR 1665–1670 (January 18, 1990) and 55 FR 21845–21847 (May 30, 1990). These procedures, which are codified at subparts D through F of part 2638, have remained unchanged since the final rule was issued 26 years ago.

That same year, the Office of Government Ethics issued a proposed new subpart G to require executive branch ethics programs to maintain ethics training programs for their employees. *See* 55 FR 38335–38337 (September 18, 1990). After the final rule was promulgated in 1992, the Office of Government Ethics made several revisions to the training regulations, based in part on feedback from agency ethics officials. *See* 62 FR 11307 (March 12, 1997). The most recent amendment occurred 16 years ago, and was done to rewrite the regulation in plain language. *See* 65 FR 7275–7281 (February 14, 2000).

The proposed revisions, which are described in further detail below, draw upon the collective experience of agency ethics officials across the executive branch and the Office of Government Ethics as the supervising ethics office. They reflect the extensive input that the executive branch ethics community provided throughout the drafting process. In short, they present a comprehensive picture of the executive branch ethics program, its responsibilities and its procedures, as reflected through 35 years of interpreting and implementing the Ethics in Government Act of 1978, as amended, as well as other applicable statutes, regulations, executive orders and authorities.

Mission and Responsibilities

The proposed subpart A, titled ''Mission and Responsibilities,'' presents an overarching view of the executive branch ethics program and establishes context for part 2638. It opens by setting forth the program's core principles: Its mission of preventing conflicts of interest, the breadth of conflicts prevention, and the scope of a conflicts-based program. Whereas the current regulation necessarily focuses on the granular operations of the executive branch ethics program, the proposed rule seeks also to articulate the core goals that guide the program's work.

Subpart A then expands upon the regulations that currently exist at subpart B and that have remained largely unchanged since their issuance in 1981. The existing provisions, collected under the heading ''Designated Agency Ethics Official,'' enumerate the responsibilities of the agency head, the duties of the Designated Agency Ethics Official (DAEO), and the delegation of those duties by the DAEO to one or more deputy agency ethics officials. However, as the Office of Government Ethics and agency ethics officials have experienced in the time since issuance of those provisions, there are several agency operations outside of the DAEO's control that are nonetheless critical to the success of an agency ethics program. Further, while the agency head is ultimately responsible for the ethics program, the structure of the existing subpart B serves to understate the agency head's role. The proposed subpart A improves upon the current regulation by identifying key constituencies individually and delineating their responsibilities.

Subpart A concludes by defining the role and responsibilities of the Office of Government Ethics as the supervising ethics office for the executive branch. It expands upon the provision presently located at § 2638.102 to provide a more comprehensive list of the authorities and functions of the agency. It also institutionalizes certain practices, such as convening quarterly meetings, that the Office of Government Ethics otherwise plans to continue indefinitely.

Procedures of the Executive Branch Ethics Program

The proposed subpart B centralizes the procedures of the executive branch ethics program. At present, these procedures are found in the existing subpart C (Formal Advisory Opinion Service), the existing subpart F (Executive Branch Agency Reports), and in several advisories that are available on the public-facing Web site of the Office of Government Ethics. These procedures concern the furnishing of information, records and reports to the Office of Government Ethics; the executive branch's collection of financial disclosure reports; and the issuance of formal advisory opinions and other written guidance by the Office of Government Ethics. Further, the proposed subpart B will include one new procedure, which pertains to ethics preparations for presidential transitions.

With respect to financial disclosure reports, §§ 2638.203 through 2638.205 establish the procedures that the executive branch ethics program will use to collect public and confidential financial disclosure reports. Part 2634 of this chapter addresses the substantive requirements of public and confidential financial disclosure, as well as the processes for individual agencies' review, maintenance, and, where applicable, release of financial disclosure reports.

Government Ethics Education

Subpart C further modernizes the ethics training regulations currently located at subpart G. This revision is one of several that have occurred since the training regulations were first issued in 1992. Most notably, it acknowledges the increased use of technology to fulfill existing training requirements and updates the current framework, which distinguishes between ''verbal training'' and ''written training,'' so that the key distinction will be between ''live training'' and ''interactive training.'' Interactive training may take a variety of forms, and training that satisfies the requirements for live training will also always satisfy the requirements for interactive training.

Additionally, it creates greater flexibility for agency ethics officials—who are in the best position to know their agencies' programs and operations—to tailor the content of the training to meet the needs of their employees. For example, for employees who are required to receive annual training, the current subpart C has required the agency's training to cover each of the principles of ethical conduct, each of the standards of ethical conduct, and each of the Federal conflict of interest statutes, in addition to any agency supplemental standards of conduct. The proposed rule distills this broad range of topics into four key topic areas and provides the DAEO with broad discretion to determine how much of the training to devote to each of these four topic areas. After covering these four required topic areas, as briefly or extensively as the circumstances warrant, an agency's training may focus on other government ethics topics that the DAEO deems relevant to the audience being trained.

As part of this modernization, subpart C also makes adjustments to the existing requirements for initial ethics orientation and annual training. At the same time, it introduces a new requirement to brief certain agency leaders around the time of appointment. This briefing must occur after confirmation but no later than 15 days after appointment, unless the DAEO grants a 15-day extension. A limited exception permits the DAEO to grant an individual an additional extension, but only in extraordinary circumstances. An individual's workload, meeting schedule, or travel schedule will normally not, without more, constitute extraordinary circumstances. Extraordinary circumstances necessitating an additional extension might include a natural or manmade disaster, an imminent threat to national security, the individual's physical incapacity, the individual's absence from the office in connection with the death of a family member, and other circumstances of a similarly disruptive magnitude.

Subpart C also introduces requirements for agencies to inform prospective employees, in any written employment offers, of the ethical obligations associated with the positions being offered, and to notify newly appointed supervisors of their unique role in the agency ethics program. By taking advantage of existing personnel systems for issuing written offers of employment and for training new supervisors, agencies can, with little additional effort, inform employees of their newly acquired ethical responsibilities. For example, the notice to new supervisors that is required under § 2638.306 could be provided to new supervisors either in the written notice that they are subject to the requirements of 5 CFR 412.202(b) or during the training they receive pursuant to 5 CFR 412.202(b).

Subpart C acknowledges that ethics officials may coordinate with other offices to fulfill certain programmatic requirements. For example, an agency's Office of Human Resources may be delegated the responsibility to inform prospective employees, in written employment offers, of their ethical obligations. With respect to the tracking of specified activities performed by offices that are not supervised by the DAEO, as described in § 2638.310, the Office of Government Ethics requires only that the DAEO receive a written summary of the established procedures, and a written confirmation that these procedures are being properly implemented. Where § 2638.310 applies, agencies need not track the completion of each particular action taken with respect to individual employees.

Finally, subpart C eliminates the formal requirement for agencies to develop training plans, which largely consist of inordinately detailed estimates of various categories of employees required to complete annual training in a particular year. In the experience of the Office of Government Ethics, these plans appear to contribute little to the success of agency training programs while requiring a disproportionately large effort from agency ethics officials. The requirement to engage in reasonable planning efforts still applies, but the Office of Government Ethics will no longer prescribe the form these efforts must take. *See* Executive Order 12674 of April 12, 1989, as modified by Executive Order 12731 of October 17, 1990.

Correction of Executive Branch Agency Ethics Programs

The proposed subpart D modifies the current subpart D, which establishes procedures for the correction of executive branch ethics programs. These procedures are implemented when there are indications that an agency ethics program is not in compliance with the requirements set forth in applicable government ethics laws and regulations. The proposed subpart D improves the current procedures by enumerating several informal actions that the Director may take in order to bring the agency into compliance. These informal procedures reflect the practice of the Office of Government Ethics over the past several decades. The Office of Government Ethics has found that informal resolution is often an appropriate and effective alternative to formal action because it involves agency ethics officials and other stakeholders in actively crafting and implementing a resolution. However, in the event that informal action does not resolve the deficiency, the Director will take formal

action with respect to the agency's ethics program, as required by the Act.

Corrective Action Involving Individual Employees

The proposed subpart E modifies the current subpart E, which contains procedures for addressing potential violations of noncriminal ethics laws and regulations by individual employees. These corrective action procedures, which were established in 1990, have generated considerable confusion among external stakeholders over the past 26 years. The proposed subpart E therefore seeks to clarify three fundamental elements. First, it clarifies the meaning and effect of subpart E, particularly with respect to the limits on the authority of the Office of Government Ethics to direct employees to take corrective action. Second, it emphasizes that, in practice, suspected violations of noncriminal government ethics laws or regulations are generally resolved without the need for formal action on the part of the Office of Government Ethics. Third, it makes clear that, as a matter of law, the formal procedures may be used only when no criminal law is or has been implicated.

General Provisions

The proposed subpart F, which comprises general provisions, largely incorporates subpart A of the current regulation. Additionally, the proposed subpart F provides a comprehensive list of key ethics dates and deadlines that are otherwise dispersed throughout this part and other statutes and regulations.

B. Matters of Regulatory Procedure

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this proposed rule would not have a significant economic impact on a substantial number of small entities because it primarily affects current and former Federal executive branch employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain information collection requirements that require approval of the Office of Management and Budget.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 5, subchapter II), this proposed rule would not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Executive Order 13563 and Executive Order 12866

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select the regulatory approaches that maximize net benefits (including 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 rulemaking has been designated as a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly this proposed rule has been reviewed by the Office of Management and Budget.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this proposed rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

List of Subjects in 5 CFR Part 2638

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

Approved: May 31, 2016.

Walter M. Shaub, Jr.,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics proposes to revise 5 CFR part 2638 to read as follows:

PART 2638—EXECUTIVE BRANCH ETHICS PROGRAM

Subpart A—Mission and Responsibilities

Sec.

Subpart B—Procedures of the Executive Branch Ethics Program

Subpart C—Government Ethics Education

Subpart D—Correction of Executive Branch Agency Ethics Programs

Subpart E—Corrective Action Involving Individual Employees

Subpart F—General Provisions

Authority: 5 U.S.C. App. 101–505; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

Subpart A—Mission and Responsibilities

§ 2638.101 Mission.

(a) *Mission.* The primary mission of the executive branch ethics program is

to prevent conflicts of interest on the part of executive branch employees.

(b) *Breadth.* The executive branch ethics program works to ensure that public servants make impartial decisions based on the interests of the public when carrying out the governmental responsibilities entrusted to them, serve as good stewards of public resources, and loyally adhere to the Constitution and laws of the United States. The program's mission includes preventing conflicts of interest that stem from: Financial interests; business or personal relationships; misuses of official position, official time, or public resources; and the receipt of gifts. The mission is focused on both conflicts of interest and the appearance of conflicts of interest.

(c) *Conflicts-based program.* The executive branch ethics program is a conflicts-based program, rather than a solely disclosure-based program. While transparency is an invaluable tool for promoting and monitoring ethical conduct, the executive branch ethics program requires more than transparency. This program seeks to ensure the integrity of governmental decision-making and to promote public confidence by preventing conflicts of interest. Taken together, the systems in place to identify and address conflicts of interest establish a foundation on which to build and sustain an ethical culture in the executive branch.

§ 2638.102 Government ethics responsibilities of employees.

Consistent with the fundamental principle that public service is a public trust, every employee in the executive branch plays a critical role in the executive branch ethics program. As provided in the Standards of Conduct at part 2635 of this chapter, employees must endeavor to act at all times in the public's interest, avoid losing impartiality or appearing to lose impartiality in carrying out official duties, refrain from misusing their offices for private gain, serve as good stewards of public resources, and comply with the requirements of government ethics laws and regulations, including any applicable financial disclosure requirements. Employees must refrain from participating in particular matters in which they have financial interests and, pursuant to § 2635.402(f) of this chapter, should notify their supervisors or ethics officials when their official duties create the substantial likelihood of such conflicts of interest. Collectively, the charge of employees is to make ethical conduct the hallmark of government service.

§ 2638.103 Government ethics responsibilities of supervisors.

Every supervisor in the executive branch has a heightened personal responsibility for advancing government ethics. It is imperative that supervisors serve as models of ethical behavior for subordinates. Supervisors have a responsibility to help ensure that subordinates are aware of their ethical obligations under the Standards of Conduct and that subordinates know how to contact agency ethics officials. Supervisors are also responsible for working with agency ethics officials to help resolve conflicts of interest and enforce government ethics laws and regulations, including those requiring certain employees to file financial disclosure reports. In addition, supervisors are responsible, when requested, for assisting agency ethics officials in evaluating potential conflicts of interest and identifying positions subject to financial disclosure requirements.

§ 2638.104 Government ethics responsibilities of agency ethics officials.

(a) *Appointment of a Designated Agency Ethics Official.* Each agency head must appoint a Designated Agency Ethics Official (DAEO). The DAEO is the employee with primary responsibility for directing the daily activities of the agency's ethics program and coordinating with the Office of Government Ethics.

(b) *Qualifications necessary to serve as DAEO.* The following are necessary qualifications of an agency's DAEO:

(1) The DAEO must be an employee at an appropriate level in the organization, such that the DAEO is able to coordinate effectively with officials in relevant agency components and gain access to the agency head when necessary to discuss important matters related to the agency's ethics program.

(2) The DAEO must be an employee who has demonstrated the knowledge, skills, and abilities necessary to manage a significant agency program, to understand and apply complex legal requirements, and to generate support for building and sustaining an ethical culture in the organization.

(3) On an ongoing basis, the DAEO must demonstrate the capacity to serve as an effective advocate for the executive branch ethics program, show support for the mission of the executive branch ethics program, prove responsive to the Director's requests for documents and information related to the ethics program, and serve as an effective liaison with the Office of Government Ethics.

(4) In any agency with 1,000 or more employees, any DAEO appointed after the effective date of this regulation must be an employee at the senior executive level or higher, unless the agency has fewer than 10 positions at that level.

(c) *Responsibilities of the DAEO.* Acting directly or through other officials, the DAEO is responsible for taking actions authorized or required under this subchapter, including the following:

(1) Serving as an effective liaison to the Office of Government Ethics;

(2) Maintaining records of agency ethics program activities;

(3) Promptly and timely furnishing the Office of Government Ethics with all documents and information requested or required under subpart B of this part;

(4) Providing advice and counseling to prospective and current employees regarding government ethics laws and regulations, and providing former employees with advice and counseling regarding post-employment restrictions applicable to them;

(5) Carrying out an effective government ethics education program under subpart C of this part;

(6) Taking appropriate action to resolve conflicts of interest and the appearance of conflicts of interest, through recusals, directed divestitures, waivers, authorizations, reassignments, and other appropriate means;

(7) Consistent with § 2640.303 of this chapter, consulting with the Office of Government Ethics regarding the issuance of waivers pursuant to 18 U.S.C. 208(b);

(8) Carrying out an effective financial disclosure program, by:

(i) Establishing such written procedures as are appropriate relative to the size and complexity of the agency's financial disclosure program for the filing, review, and, when applicable, public availability of financial disclosure reports;

(ii) Requiring public and confidential filers to comply with deadlines and requirements for financial disclosure reports under part 2634 of this chapter and, in the event of noncompliance, taking appropriate action to address such noncompliance;

(iii) Imposing late fees in appropriate cases involving untimely filing of public financial disclosure reports;

(iv) Making referrals to the Inspector General or the Department of Justice in appropriate cases involving knowing and willful falsification of financial disclosure reports or knowing and willful failure to file financial disclosure reports;

(v) Reviewing financial disclosure reports, with an emphasis on preventing conflicts of interest;

(vi) Consulting, when necessary, with financial disclosure filers and their supervisors to evaluate potential conflicts of interest;

(vii) Timely certifying financial disclosure reports and taking appropriate action with regard to financial disclosure reports that cannot be certified; and

(viii) Using the information disclosed in financial disclosure reports to prevent and resolve potential conflicts of interest.

(9) Assisting the agency in its enforcement of ethics laws and regulations when agency officials:

(i) Make appropriate referrals to the Inspector General or the Department of Justice;

(ii) Take disciplinary or corrective action; and

(iii) Employ other means available to them.

(10) Upon request of the Office of Inspector General, providing that office with ready and active assistance with regard to the interpretation and application of government ethics laws and regulations, as well as the procedural requirements of the ethics program;

(11) Ensuring that the agency has a process for notifying the Office of Government Ethics upon referral, made pursuant to 28 U.S.C. 535, to the Department of Justice regarding a potential violation of a conflict of interest law, unless such notification would be prohibited by law;

(12) Providing agency officials with advice on the applicability of government ethics laws and regulations to special Government employees;

(13) Requiring timely compliance with ethics agreements, pursuant to part 2634, subpart H of this chapter;

(14) Conducting ethics briefings for certain agency leaders, pursuant to § 2638.305;

(15) Prior to any Presidential election, preparing the agency's ethics program for a potential Presidential transition; and

(16) Periodically evaluating the agency's ethics program and making recommendations to the agency regarding the resources available to the ethics program.

(d) *Appointment of an Alternate Designated Agency Ethics Official.* Each agency head must appoint an Alternate Designated Agency Ethics Official (ADAEO). The ADAEO serves as the primary deputy to the DAEO in the administration of the agency's ethics program. Together, the DAEO and the ADAEO direct the daily activities of an agency's ethics program and coordinate with the Office of Government Ethics. The ADAEO must be an employee who has demonstrated the skills necessary to assist the DAEO in the administration of the agency's ethics program.

(e) *Program support by additional ethics officials and other individuals.* Subject to approval by the DAEO or the agency head, an agency may designate additional ethics officials and other employees to assist the DAEO in carrying out the responsibilities of the ethics program, some of whom may be designated ''deputy ethics officials'' for purposes of parts 2635 and 2636 of this chapter. The agency is responsible for ensuring that these employees have the skills and expertise needed to perform their assigned duties related to the ethics program and must provide appropriate training to them for this purpose. Although the agency may appoint such officials as are necessary to assist in carrying out functions of the agency's ethics program, they will be subject to the direction of the DAEO with respect to the functions of the agency's ethics program described in this chapter. The DAEO retains authority to make final decisions regarding the agency's ethics program and its functions, subject only to the authority of the agency head and the Office of Government Ethics.

(f) *Ethics responsibilities that may be performed only by the DAEO or ADAEO.* In addition to any items reserved for action by the DAEO or ADAEO in other parts of this chapter, only the DAEO or ADAEO may carry out the following responsibilities:

(1) Request approval of supplemental agency regulations, pursuant to § 2635.105 of this chapter;

(2) Recommend a separate component designation, pursuant to § 2641.302(e) of this chapter;

(3) Request approval of an alternative means for collecting certain public financial disclosure reports, pursuant to § 2638.204(c);

(4) Request determinations regarding public reporting requirements, pursuant to §§ 2634.202(c), 2634.203, 2634.205, and 2634.304(f) of this chapter;

(5) Make determinations, other than exceptions in individual cases, regarding the means the agency will use to collect public or confidential financial disclosure reports, pursuant to §§ 2638.204 and 2638.205;

(6) Request an alternative procedure for filing confidential financial disclosure reports, pursuant to § 2634.905(a) of this chapter;

(7) Request a formal advisory opinion on behalf of the agency or a prospective, current, or former employee of that agency, pursuant to § 2638.209(d); and

(8) Request a certificate of divestiture, pursuant to § 2634.1005(b) of this chapter.

§ 2638.105 Government ethics responsibilities of lead human resources officials.

(a) The lead human resources official, as defined in § 2638.603, acting directly or through delegees, is responsible for:

(1) Promptly notifying the DAEO of all appointments to positions that require incumbents to file public or confidential financial disclosure reports, with the notification occurring prior to appointment whenever practicable but in no case occurring more than 15 days after appointment; and

(2) Promptly notifying the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports, with the notification occurring prior to termination whenever practicable but in no case occurring more than 15 days after termination.

(b) The lead human resources official may be assigned certain additional ethics responsibilities by the agency.

(1) If an agency elects to assign such responsibilities to human resources officials, the lead human resources official is responsible for coordinating, to the extent necessary and practicable, with the DAEO to support the agency's ethics program;

(2) If the lead human resources official is responsible for conducting ethics training pursuant to subpart C of this part, that official must follow the DAEO's directions regarding applicable requirements, procedures, and the qualifications of any presenters, consistent with the requirements of this chapter;

(3) If the lead human resources official is responsible for issuing the required government ethics notices in written offers of employment, pursuant to § 2638.303, or providing supervisory ethics notices, pursuant to § 2638.306, that official must comply with any substantive and procedural requirements established by the DAEO, consistent with the requirements of this chapter; and

(4) To the extent applicable, the lead human resources official is required to provide the DAEO with a written summary and confirmation regarding procedures for implementing certain requirements of subpart C of this part by January 15 each year, pursuant to § 2638.310.

(c) Nothing in this section prevents an agency head from delegating the duties described in paragraph (b) of this

section to another agency official. In the event that an agency head delegates the duties described in paragraph (b) of this section to an agency official other than the lead human resources official, the requirements of paragraph (b) of this section will apply to that official.

§ 2638.106 Government ethics responsibilities of Inspectors General.

An agency's Inspector General has authority to conduct investigations of suspected violations of conflict of interest laws and other government ethics laws and regulations. An Inspector General is responsible for giving serious consideration to a request made pursuant to section 403 of the Ethics in Government Act of 1978 (the ''Act'') by the Office of Government Ethics for investigation of a possible violation of a government ethics law or regulation. In addition, an Inspector General is responsible for providing the Office of Government Ethics information about certain referrals to the Department of Justice, pursuant to § 2638.206. An Inspector General may consult with the Director for legal guidance on the application of government ethics laws and regulations, except that the Director may not make any finding as to whether a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated.

§ 2638.107 Government ethics responsibilities of agency heads.

The agency head is responsible for, and will exercise personal leadership in, establishing and maintaining an effective agency ethics program and fostering an ethical culture in the agency. The agency head is also responsible for:

(a) Designating employees to serve as the DAEO and ADAEO and notifying the Director in writing within 30 days of such designation;

(b) Providing the DAEO with sufficient resources, including staffing, to sustain an effective ethics program;

(c) Requiring agency officials to provide the DAEO with the information, support, and cooperation necessary for the accomplishment of the DAEO's responsibilities;

(d) When action is warranted, enforcing government ethics laws and regulations through appropriate referrals to the Inspector General or the Department of Justice, investigations, and disciplinary or corrective action;

(e) Requiring that violations of government ethics laws and regulations, or interference with the functioning of the agency ethics program, be appropriately considered in evaluating the performance of senior executives;

(f) Requiring the Chief Information Officer and other appropriate agency officials to support the DAEO in using technology, to the extent practicable, to carry out ethics program functions such as delivering interactive training and tracking ethics program activities;

(g) Requiring appropriate agency officials to submit to the Office of Government Ethics, by May 31 each year, required reports of travel accepted by the agency under 31 U.S.C. 1353 during the period from October 1 through March 31;

(h) Requiring appropriate agency officials to submit to the Office of Government Ethics, by November 30 each year, required reports of travel accepted by the agency under 31 U.S.C. 1353 during the period from April 1 through September 30; and

(i) Prior to any Presidential election, supporting the agency's ethics program in preparing for a Presidential transition.

§ 2638.108 Government ethics responsibilities of the Office of Government Ethics.

The Office of Government Ethics is the supervising ethics office for the executive branch, providing overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest. The Office of Government Ethics has the authorities and functions established in the Act.

(a) *Authorities and functions.* Among other authorities and functions, the Office of Government Ethics has the authorities and functions described in this section.

(1) The Office of Government Ethics issues regulations regarding conflicts of interest, standards of conduct, financial disclosure, requirements for agency ethics programs, and executive branch-wide systems of records for government ethics records. In issuing any such regulations, the Office of Government Ethics will, to the full extent required under the Act and any Executive Order, coordinate with the Department of Justice and the Office of Personnel Management. When practicable, the Office of Government Ethics will also consult with a diverse group of selected agency ethics officials that represent a cross section of executive branch agencies to ascertain representative views of the DAEO community when developing substantive revisions to this chapter.

(2) The Office of Government Ethics reviews and approves or disapproves agency supplemental ethics regulations.

(3) The Office of Government Ethics issues formal advisory opinions to interested parties, pursuant to § 2638.209. When developing a formal advisory opinion, the Office of Government Ethics will provide interested parties with an opportunity to comment.

(4) The Office of Government Ethics issues guidance and informal advisory opinions, pursuant to § 2638.208. When practicable, the Office of Government Ethics will consult with selected agency ethics officials to ascertain representative views of the DAEO community when developing guidance or informal advisory opinions that the Director determines to be of significant interest to a broad segment of the DAEO community.

(5) The Office of Government Ethics supports agency ethics officials through such training, advice, and counseling as the Director deems necessary.

(6) The Office of Government Ethics provides assistance in interpreting government ethics laws and regulations to executive branch Offices of Inspector General and other executive branch entities.

(7) When practicable, the Office of Government Ethics convenes quarterly executive branch-wide meetings of key agency ethics officials. When the Office of Government Ethics convenes a major executive branch-wide training event, the event normally serves in place of a quarterly meeting.

(8) Pursuant to sections 402(b)(10) and 403 of the Act, the Director requires agencies to furnish the Office of Government Ethics with all information, reports, and records which the Director determines to be necessary for the performance of the Director's duties, except when such a release is prohibited by law.

(9) The Office of Government Ethics conducts reviews of agency ethics programs in order to ensure their compliance with program requirements and to ensure their effectiveness in advancing the mission of the executive branch-wide ethics program. The Office of Government Ethics also conducts single-issue reviews of individual agencies, groups of agencies, or the executive branch ethics program as a whole.

(10) The Office of Government Ethics reviews financial disclosure reports filed by employees, former employees, nominees, candidates for the Office of the President of the United States, and candidates for the Office of the Vice President of the United States who are required to file executive branch financial disclosure reports with the Office of Government Ethics pursuant to

sections 101, 103(c), and 103(l) of the Act.

(11) By January 15 each year, the Office of Government Ethics issues year-end reports to agencies regarding their compliance with the obligations, pursuant to section 103(c) of the Act and part 2634 of this chapter:

(i) To timely transmit the annual public financial disclosure reports of certain high-level officials to the Office of Government Ethics; and

(ii) To promptly submit such additional information as is necessary to obtain the Director's certification of the reports.

(12) The Office of Government Ethics oversees the development of ethics agreements between agencies and Presidential nominees for positions in the executive branch requiring Senate confirmation and tracks compliance with such agreements. The Office of Government Ethics also maintains a guide that provides sample language for ethics agreements of Presidential nominees requiring Senate confirmation.

(13) The Office of Government Ethics proactively assists Presidential Transition Teams in support of effective and efficient Presidential transitions and, to the extent practicable, may provide Presidential campaigns with advice and counsel on preparing for Presidential transitions.

(14) The Office of Government Ethics orders such corrective action on the part of an agency as the Director deems necessary, pursuant to subpart D of this part, and such corrective action on the part of individual executive branch employees as the Director deems necessary, pursuant to subpart E of this part.

(15) The Office of Government Ethics makes determinations regarding public financial disclosure requirements, pursuant to §§ 2634.202(c), 2634.203, 2634.205, and 2634.304(f) of this chapter.

(16) The Office of Government Ethics conducts outreach to inform the public of matters related to the executive branch ethics program.

(17) The Director and the Office of Government Ethics take such other actions as are necessary and appropriate to carry out their responsibilities under the Act.

(b) *Other authorities and functions.* Nothing in this subpart or this chapter limits the authority of the Director or the Office of Government Ethics under the Act.

Subpart B—Procedures of the Executive Branch Ethics Program

§ 2638.201 In general.

This subpart establishes certain procedures of the executive branch ethics program. The procedures set forth in this subpart are in addition to procedures established elsewhere in this chapter and in the program advisories and other issuances of the Office of Government Ethics.

§ 2638.202 Furnishing records and information generally.

Consistent with sections 402 and 403 of the Act, each agency must furnish to the Director all information and records in its possession which the Director deems necessary to the performance of the Director's duties, except to the extent prohibited by law. All such information and records must be provided to the Office of Government Ethics in a complete and timely manner.

§ 2638.203 Collection of public financial disclosure reports required to be submitted to the Office of Government Ethics.

The public financial disclosure reports of individuals, other than candidates for elected office and elected officials, whose reports are required by section 103 of the Act to be transmitted to the Office of Government Ethics will be transmitted through the executive branch-wide electronic filing system of the Office of Government Ethics, except in cases in which the Director determines that using that system would be impracticable.

§ 2638.204 Collection of other public financial disclosure reports.

This section establishes the procedure that the executive branch ethics program will use to collect, pursuant to section 101 of the Act, public financial disclosure reports of individuals whose reports are not required by section 103 of the Act to be transmitted to the Office of Government Ethics.

(a) *General.* Subject to the exclusions and exceptions in paragraphs (b) through (d) of this section, the public financial disclosure reports required by part 2634 of this chapter will be collected through the executive branch-wide electronic filing system of the Office of Government Ethics.

(b) *Exclusions.* This section does not apply to persons whose financial disclosure reports are covered by section 105(a)(1) or (2) of the Act, persons whose reports are required by section 103 of the Act to be transmitted to the Office of Government Ethics, or such other persons as the Director may exclude from the coverage of this section in the interest of the executive branch ethics program.

(c) *Authorization to collect public reports in paper format or through a legacy electronic filing system.* Upon written request signed by the DAEO or ADAEO and by the Chief Information Officer, the Director of the Office of Government Ethics may authorize an agency in the interest of the executive branch ethics program to collect public financial disclosure reports in paper format or through a legacy electronic filing system other than the executive branch-wide electronic filing system of the Office of Government Ethics. The Director may rescind any such authorization based on a written determination that the rescission promotes the efficiency or effectiveness of the executive branch ethics program, but only after providing the agency with advance written notice and an opportunity to respond. The rescission will become effective on January 1 of a subsequent calendar year, but not less than 24 months after notice is provided.

(d) *Exceptions in cases of extraordinary circumstances or temporary technical difficulties.* Based on a determination that extraordinary circumstances or temporary technical difficulties make the use of an electronic filing system impractical, the DAEO or ADAEO may authorize an individual to file a public financial disclosure report using such alternate means of filing as are authorized in the program advisories of the Office of Government Ethics. To the extent practicable, agencies should limit the number of exceptions they grant under this paragraph each year. The Director may suspend an agency's authority to grant exceptions under this paragraph when the Director is concerned that the agency may be granting exceptions unnecessarily or in a manner that is inconsistent with § 2638.601(c). Nothing in this paragraph limits the authority of the agency to excuse an employee from filing electronically to the extent necessary to provide reasonable accommodations under the Rehabilitation Act of 1973 (Public Law 93–112), as amended, or other applicable legal authority.

§ 2638.205 Collection of confidential financial disclosure reports.

This section establishes the procedure that the executive branch will use to collect confidential financial disclosure reports from employees of the executive branch. To the extent not inconsistent with part 2634 of this chapter or with the approved forms, instructions, and other guidance of the Office of Government Ethics, the DAEO of each agency will determine the means by

which the agency will collect confidential financial disclosure reports, including a determination as to whether the agency will collect such reports in either paper or electronic format. Nothing in this paragraph limits the authority of the agency to provide reasonable accommodations under the Rehabilitation Act of 1973 (Public Law 93–112), as amended, or other applicable legal authority.

§ 2638.206 Notice to the Director of certain referrals to the Department of Justice.

This section establishes procedures implementing the requirement to provide the Director with notice of certain referrals, pursuant to sections 402(e)(2) and 403(a)(2) of the Act.

(a) Upon any referral made by an agency pursuant to 28 U.S.C. 535 to the Department of Justice regarding a potential violation of a conflict of interest law, the referring agency must notify the Director of the referral by filing a completed OGE Form 202 with the Director, as soon as practicable after the referral but in no case more than 30 days after the referral, unless prohibited by law.

(b) Thereafter, unless prohibited by law, the referring agency must promptly provide the Director with such other information as requested regarding the matter and any related prosecution, civil action, disciplinary action, or other corrective measure.

(c) If an agency's procedures authorize an official outside the Office of Inspector General to make a referral covered by this section, that official must provide the Inspector General and the DAEO with copies of documents provided to the Director pursuant this section, unless prohibited by law. If an Inspector General makes a referral covered by this section, the Inspector General should provide the DAEO with copies of documents provided to the Director pursuant to this section, unless the Inspector General determines that disclosure to the DAEO would be inappropriate or prohibited by law.

§ 2638.207 Annual report on the agency's ethics program.

(a) By February 1 of each year, the agency must file with the Office of Government Ethics, pursuant to section 402(e)(1) of the Act, a report containing such information about the agency's ethics program as is requested by the Office of Government Ethics. The report must be filed electronically and in a manner consistent with the instructions of the Office of Government Ethics.

(b) In order to facilitate the collection of required information by agencies, the Office of Government Ethics will provide agencies with advance notice regarding the contents of the report prior to the beginning of the reporting period for information that would be expected to be tracked over the course of the reporting period. Otherwise, it will provide as much notice as practicable, taking in consideration the effort required to collect the information.

§ 2638.208 Written guidance on the executive branch ethics program.

This section describes several means by which the Office of Government Ethics provides agencies, employees, and the public with guidance regarding its legal interpretations, program requirements, and educational offerings. Normally, guidance documents are published on the official Web site of the Office of Government Ethics.

(a) *Legal advisories.* The Office of Government Ethics issues legal advisories, which are memoranda regarding the interpretation of government ethics laws and regulations. They are intended primarily to provide education and notice to executive branch ethics officials; prospective, current, and former executive branch employees; and individuals who interact with the executive branch.

(b) *Program advisories.* The Office of Government Ethics issues program advisories, which are memoranda regarding the requirements or procedures applicable to the executive branch ethics program and individual agency ethics programs. They are intended primarily to instruct agencies on uniform procedures for the executive branch ethics program.

(c) *Informal advisory opinions.* Upon request or upon its own initiative, the Office of Government Ethics issues informal advisory opinions. Informal advisory opinions address subjects that in the opinion of the Director do not meet the criteria for issuance of formal advisory opinions. They are intended primarily to provide guidance to individuals and illustrate the application of government ethics laws and regulations to specific circumstances.

§ 2638.209 Formal advisory opinions.

This section establishes the formal advisory opinion service of the Office of Government Ethics.

(a) *General.* The Office of Government Ethics renders formal advisory opinions pursuant to section 402(b)(8) of the Act. A formal advisory opinion will be issued when the Director determines that the criteria and requirements established in this section are met.

(b) *Subjects of formal advisory opinions.* Formal advisory opinions may be rendered on matters of general applicability or important matters of first impression concerning the application of the Act; Executive Order 12674 of April 12, 1989, as modified by Executive Order 12731 of October 17, 1990; 18 U.S.C. 202–209; and regulations interpreting or implementing these authorities. In determining whether to issue a formal advisory opinion, the Director will consider:

(1) The unique nature of the question and its precedential value;

(2) The potential number of employees throughout the government affected by the question;

(3) The frequency with which the question arises;

(4) The likelihood or presence of inconsistent interpretations on the same question by different agencies; and

(5) The interests of the executive branch ethics program.

(c) *Role of the formal advisory opinion service.* The formal advisory opinion service of the Office of Government Ethics is not intended to replace the government ethics advice and counseling programs maintained by executive branch agencies. Normally, formal advisory opinions will not be issued with regard to the types of questions appropriately directed to an agency's DAEO. If a DAEO receives a request that the DAEO believes might appropriately be answered by the Office of Government Ethics through a formal advisory opinion, the DAEO will consult informally with the General Counsel of the Office of Government Ethics for instructions as to whether the matter should be referred to the Office of Government Ethics or retained by the agency for handling. Except in unusual circumstances, the Office of Government Ethics will not render formal advisory opinions with respect to hypothetical situations posed in requests for formal advisory opinions. At the discretion of the Director, however, the Office of Government Ethics may render formal advisory opinions on certain proposed activities or financial transactions.

(d) *Eligible persons.* Any person may request an opinion with respect to a situation in which that person is directly involved, and an authorized representative may request an opinion on behalf of that person. However, an employee will normally be required to seek an opinion from the agency's DAEO before requesting a formal advisory opinion from the Office of Government Ethics. In addition, a DAEO may request a formal advisory opinion

on behalf of the agency or a prospective, current, or former employee of that agency.

(e) *Submitting a request for a formal advisory opinion.* The request must be submitted either by electronic mail addressed to *ContactOGE@oge.gov* or by mail, through either the United States Postal Service or a private shipment service, to the Director of the Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917. Personal deliveries will not be accepted.

(f) *Requirements for request.* The request must include:

(1) An express statement indicating that the submission is a request for a formal advisory opinion;

(2) The name, street address, and telephone number of the person requesting the opinion;

(3) The name, street address, and telephone number of any representative of that person;

(4) All material facts necessary for the Director to render a complete and correct opinion;

(5) The date of the request and the signature of either the requestor or the requestor's representative; and

(6) In the case of a request signed by a representative, a written designation of the representative that is dated and signed by the requestor.

(g) *Optional materials.* At the election of the requestor, the request may also include legal memoranda or other material relevant to the requested formal advisory opinion.

(h) *Additional information.* The Director may request such additional information or documentation as the Director deems necessary to the development of a formal advisory opinion, from either the requestor or other sources. If the requestor or the requestor's representative fails to cooperate with such a request, the Office of Government Ethics normally will close the matter without issuing a formal advisory opinion.

(i) *Comments from interested parties.* The Office of Government Ethics will, to the extent practicable, solicit written comments on a request by posting a prominent notice on its official Web site. Any such notice will summarize relevant information in the request, provide interested parties 30 days to submit written comments, and include instructions for submitting written comments. Written comments submitted after the deadline will be considered only at the discretion of the Director.

(j) *Consultation with the Department of Justice.* Whenever the Office of the Government Ethics is considering rendering a formal advisory opinion, the Director will consult with the Office of Legal Counsel of the Department of Justice sufficiently in advance to afford that office an opportunity to review the matter. In addition, whenever a request involves an actual or apparent violation of any provision of 18 U.S.C. 202–209, the Director will consult with the Criminal Division of the Department of Justice. If the Criminal Division determines that an investigation or prosecution will be undertaken, the Director will take no further action on the request, unless the Criminal Division makes a determination not to prosecute.

(k) *Consultation with other executive branch officials.* The Director will consult with such other executive branch officials as the Director deems necessary to ensure thorough consideration of issues and information relevant to the request by the Office of Government Ethics. In the case of a request submitted by a prospective or current employee, the Director will share a copy of the request with the DAEO of the employee's agency.

(l) *Publication.* The Office of Government Ethics will publish each formal advisory opinion on its official Web site. Prior to publishing a formal advisory opinion on its Web site, the Office of Government Ethics will delete information that identifies individuals involved and that is unnecessary to a complete understanding of the opinion.

(m) *Reliance on formal advisory opinions.* (1) Any formal advisory opinion referred to in this section or any provisions or finding of a formal advisory opinion involving the application of the Act or the regulations promulgated pursuant to the Act or Executive Order may be relied upon by:

(i) Any person directly involved in the specific transaction or activity with respect to which such advisory opinion has been rendered; and

(ii) Any person directly involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such formal advisory opinion was rendered.

(2) Any person who relies upon any provision or finding of any formal advisory opinion in accordance with this paragraph and who acts in good faith in accordance with the provisions and findings of such opinion, will not, as a result of such act, be subject to prosecution under 18 U.S.C. 202–209 or, when the opinion is exculpatory, be subject to any disciplinary action or civil action based upon legal authority cited in that opinion.

§ 2638.210 Presidential transition planning.

Prior to any Presidential election, each agency has a responsibility to prepare its agency ethics program for a Presidential transition. Such preparations do not constitute support for a particular candidate and are not reflective of a belief regarding the likely outcome of the election; rather, they reflect an understanding that agencies are responsible for ensuring the continuity of governmental operations.

(a) *Preparing the ethics program for a transition.* The agency head or the DAEO must, not later than 12 months before any Presidential election, evaluate whether the agency's ethics program has an adequate number of trained agency ethics officials to effectively support a Presidential transition.

(b) *Support by the Office of Government Ethics.* In connection with any Presidential election, the Office of Government Ethics will:

(1) Prior to the election, offer training opportunities for agency ethics officials on counseling departing noncareer appointees on post-employment restrictions, reviewing financial disclosure reports, drafting ethics agreements for Presidential nominees, and counseling new noncareer appointees on conflict of interest laws and the Standards of Conduct; and

(2) After the election, in the event of a Presidential transition, proactively assist the Presidential Transition Team in preparing for Presidential nominations, coordinate with agency ethics officials, and develop plans to implement new initiatives related to government ethics.

Subpart C—Government Ethics Education

§ 2638.301 In general.

Every agency must carry out a government ethics education program to teach employees how to identify government ethics issues and obtain assistance in complying with government ethics laws and regulations. An agency's failure to comply with any of the education or notice requirements set forth in this subpart does not exempt an employee from applicable government ethics requirements.

§ 2638.302 Definitions.

The following definitions apply to the format of the various types of training required in this subpart. The agency may deviate from these prescribed formats to the extent necessary to provide reasonable accommodations to participants under the Rehabilitation

Act of 1973 (Pub. L. 93–112), as amended, or other applicable legal authority.

(a) *Live.* A training presentation is considered live if the presenter personally communicates a substantial portion of the material at the same time as the employees being trained are receiving the material, even if part of the training is prerecorded or automated. The training may be delivered in person or through video or audio technology. The presenter must respond to questions posed during the training and provide instructions for participants to submit questions after the training.

Example 1. An agency ethics official provides a presentation regarding government ethics and takes questions from participants who are assembled in a training room with the ethics official. At the end of the session, the ethics official provides contact information for participants who wish to pose additional questions. This training is considered live.

Example 2. An agency ethics official provides a presentation to a group of employees in an auditorium. She presents an introduction and a brief overview of the material that will be covered in the training. She has participants watch a prerecorded video regarding government ethics. She stops the video frequently to elaborate on key concepts and offer participants opportunities to pose questions before resuming the video. At the end of the session, she recaps key concepts and answers additional questions. She then provides contact information for employees who wish to pose additional questions. This training is considered live.

Example 3. The ethics official in Example 2 arranges for several Senate-confirmed public filers stationed outside of headquarters to participate in the live training via streaming video or telephone. For these remote participants, the ethics official also establishes a means for them to pose questions during the training, such as by emailing questions to her assistant. She also provides these remote participants with instructions for contacting the ethics office to pose additional questions after the training. This training is also considered live for the remote participants.

Example 4. Agency ethics officials present training via a telephone conference. A few dozen agency employees dial into the conference call. The ethics officials take questions that are submitted by email and provide contact information for employees who wish to pose additional questions later. This training is considered live.

Example 5. Several Senate-confirmed public filers required to complete live training in a particular year are stationed at various facilities throughout the country. For these filers, an ethics official schedules a 20-minute conference call, emails them copies of the written materials and a link to a 40-minute video on government ethics, and instructs them to view the video before the conference call. During the conference call, the ethics official recaps key concepts, takes questions, and provides his contact information in case participants have additional questions. The public filers then confirm by email that they watched the video and participated in the conference call. This training is considered live because a substantial portion of the training was live.

(b) *Interactive.* A training presentation is considered interactive if the employee being trained is required to take an action with regard to the subject of the training. The required action must involve the employee's use of knowledge gained through the training and may not be limited to merely advancing from one section of the training to another section. Training that satisfies the requirements of paragraph (a) of this section will also satisfy the requirements of this paragraph.

Example 1. An automated system allows employees to view a prerecorded video in which an agency ethics official provides training. At various points, the system poses questions and an employee selects from among a variety of possible answers. The system provides immediate feedback as to whether the selections are correct or incorrect. When the employee's selections are incorrect, the system displays the correct answer and explains the relevant concepts. This training is considered interactive.

Example 2. If, instead of a video, the training described in Example 1 were to include animated or written materials interspersed with questions and answers, the training would still be considered interactive.

Example 3. A DAEO emails materials to employees who are permitted under part 2638 to complete interactive training. The materials include a written training presentation, questions, and space for employees to provide written responses. Employees are instructed to submit their answers to agency ethics officials, who provide individualized feedback. This training is considered interactive.

Example 4. A DAEO emails materials to employees who are permitted under part 2638 to complete interactive training. The materials include a written training presentation, questions, and an answer key. The DAEO also distributes instructions for contacting an ethics official with any questions about the subjects covered. This training meets the minimum requirements to be considered interactive, even though the employees are not required to submit their answers for review and feedback. However, any DAEO who uses this minimally interactive format is encouraged to provide employees with other opportunities for more direct and personalized feedback.

§ 2638.303 Notice to prospective employees.

Written offers of employment for positions covered by the Standards of Conduct must include the information required in this section to provide prospective employees with notice of the ethical obligations associated with the positions.

(a) *Content.* The written offer must include, in either the body of the offer or an attachment:

(1) A statement regarding the agency's commitment to government ethics;

(2) Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee;

(3) Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements;

(4) Where applicable, notice of the time frame for completing initial ethics training; and

(5) Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.

(b) *DAEO's authority.* At the election of the DAEO, the DAEO may specify the language that the agency will use in the notice required under paragraph (a) of this section or may approve, disapprove, or revise language drafted by other agency officials.

(c) *Tracking.* Each agency must establish written procedures, which the DAEO must review each year, for issuing the notice required in this section. In the case of an agency with 1,000 or more employees, the DAEO must review any submissions under § 2638.310 each year to confirm that the agency has implemented an appropriate process for meeting the requirements of this section.

§ 2638.304 Initial ethics training.

Each new employee of the agency subject to the Standards of Conduct must complete initial ethics training that meets the requirements of this section.

(a) *Coverage.* (1) This section applies to each employee appointed to a position in an agency who was not an employee of the agency immediately prior to that appointment. This section also permits Presidential nominees for Senate-confirmed positions to complete the initial ethics training prior to appointment.

(2) The DAEO may exclude a non-supervisory position at or below the GS–8 grade level, or the equivalent, from the requirement to complete the training presentation described in paragraph (e)(1) of this section, provided that:

(i) The DAEO signs a written determination that the duties of the position do not create a substantial likelihood that conflicts of interest will arise;

(ii) The position does not meet the criteria set forth at § 2634.904 of this chapter; and

(iii) The agency provides an employee described in paragraph (a)(1) of this section who is appointed to the position with the written materials required under paragraph (e)(2) of this section within 90 days of appointment.

(b) *Deadline.* Except as provided in this paragraph, each new employee must complete initial ethics training within 3 months of appointment.

(1) In the case of a Presidential nominee for a Senate-confirmed position, the nominee may complete the ethics training before or after appointment, but not later than 3 months after appointment.

(2) In the case of a special Government employee who is reasonably expected to serve for less than 60 days in a calendar year on a board, commission, or committee, the agency may provide the initial ethics training at any time before, or at the beginning of, the employee's first meeting of the board, commission, or committee.

(c) *Duration.* The duration of the training must be sufficient for the agency to communicate the basic ethical obligations of Federal service and to present the content described in paragraph (e) of this section.

(d) *Format.* Employees covered by this section are required to complete interactive initial ethics training.

(e) *Content.* The following content requirements apply to initial ethics training.

(1) *Training presentation.* The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate for the employees participating in the training. The presentation must address concepts related to the following subjects:

(i) Financial conflicts of interest;

(ii) Impartiality;

(iii) Misuse of position; and

(iv) Gifts.

(2) *Written materials.* In addition to the training presentation, the agency must provide the employee with either the following written materials or written instructions for accessing them:

(i) The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency;

(ii) Provisions of any supplemental agency regulations that the DAEO determines to be relevant or a summary of those provisions;

(iii) Such other written materials as the DAEO determines should be included; and

(iv) Instructions for contacting the agency's ethics office.

(f) *Tracking.* Each agency must establish written procedures, which the DAEO must review each year, for initial ethics training. In the case of an agency with 1,000 or more employees, the DAEO must review any submissions under § 2638.310 each year to confirm that the agency has implemented an appropriate process for meeting the requirements of this section.

Example 1. The DAEO of a large agency decides that the agency's ethics officials will conduct live initial ethics training for high-level employees and certain procurement officials. The DAEO directs ethics officials to cover concepts related to financial conflicts of interest, impartiality, misuse of position, and gifts during the live training sessions. She also coordinates with the agency's Chief Information Officer to develop computerized training for all other new employees, and she directs her staff to include concepts related to financial conflicts of interest, impartiality, misuse of position, and gifts in the computerized training. The computerized training poses multiple-choice questions and provides feedback when employees answer the questions. At the DAEO's request, the agency's human resources officials distribute the required written materials as part of the onboarding procedures for new employees. The computerized training automatically tracks completion of the training, and the ethics officials use sign-in sheets to track participation in the live training. After the end of the calendar year, the DAEO reviews the materials submitted by the Office of Human Resources under § 2638.310 to confirm that the agency has implemented procedures for identifying new employees, distributing the written materials, and providing their initial ethics training. The agency's program for initial ethics training complies with the requirements of § 2638.304.

Example 2. The agency head, the DAEO, and the lead human resources official of an agency with more than 1,000 employees have agreed that human resources officials will conduct initial ethics training. The DAEO provides the lead human resources official with written materials for use during the training, approves the content of the presentations, and trains the human resources officials who will conduct the initial ethics training. After the end of the calendar year, the lead human resources official provides the DAEO with a copy of the agency's procedures for identifying new employees and providing initial ethics training, and the lead human resources official confirms that there is a reasonable basis for concluding that the procedures have been implemented. The DAEO reviews these procedures and finds them satisfactory. The agency has complied with its tracking obligations with regard to initial ethics training.

§ 2638.305 Additional ethics briefing for certain agency leaders.

In addition to other applicable requirements, each individual covered by this section must complete an ethics briefing to discuss the individual's immediate ethics obligations. Although the ethics briefing is separate from the initial ethics training, the agency may elect to combine the ethics briefing and the initial ethics training, provided that the requirements of both this section and § 2638.304 are met.

(a) *Coverage.* This section applies to public filers who are Senate-confirmed Presidential nominees and appointees, except for those in positions identified in § 2634.201(c)(2) of this chapter.

(b) *Deadline.* The following deadlines apply to the ethics briefing.

(1) Except as provided in paragraph (b)(2) of this section, each individual covered by this section must complete the ethics briefing after confirmation but not later than 15 days after appointment. The DAEO may grant an extension of the deadline not to exceed 30 days after appointment.

(2)(i) In extraordinary circumstances, the DAEO may grant an additional extension to an individual by issuing a written determination that an extension is necessary. The determination must describe the extraordinary circumstances necessitating the extension, caution the individual to be vigilant for conflicts of interest created by any newly acquired financial interests, remind the individual to comply with any applicable ethics agreement, and be accompanied by a copy of the ethics agreement(s). The DAEO must send a copy of the determination to the individual before expiration of the time period established in paragraph (b)(1) of this section. The agency must conduct the briefing at the earliest practicable date thereafter. The written determination must be retained with the record of the individual's briefing.

(ii) In the case of a special Government employee who is expected to serve for less than 60 days in a calendar year on a board, commission, or committee, the agency must provide the ethics briefing before the first meeting of the board, commission, or committee.

(c) *Qualifications of presenter.* The employee conducting the briefing must have knowledge of government ethics laws and regulations and must be qualified, as the DAEO deems appropriate, to answer the types of basic and advanced questions that are likely to arise regarding the required content.

(d) *Duration.* The duration of the ethics briefing must be sufficient for the

agency to communicate the required content.

(e) *Format.* The ethics briefing must be conducted live.

(f) *Content.* The ethics briefing must include the following activities.

(1) If the individual acquired new financial interests reportable under section 102 of the Act after filing the nominee financial disclosure report, the agency ethics official must appropriately address the potential for conflicts of interest arising from those financial interests.

(2) The agency ethics official must counsel the individual on the basic recusal obligation under 18 U.S.C. 208(a).

(3) The agency ethics official must explain the recusal obligations and other commitments addressed in the individual's ethics agreement and ensure that the individual understands what is specifically required in order to comply with each of them, including any deadline for compliance. The ethics official and the individual must establish a process by which the recusals will be achieved, which may consist of a screening arrangement or, when the DAEO deems appropriate, vigilance on the part of the individual with regard to recusal obligations as they arise in particular matters.

(4) The agency ethics official must provide the individual with instructions and the deadline for completing initial ethics training, unless the individual completes the initial ethics training either before or during the ethics briefing.

(g) *Tracking.* The DAEO must maintain a record of the date of the ethics briefing for each current employee covered by this section.

Example 1. A group of ethics officials conducts initial ethics training for six Senate-confirmed Presidential appointees within 15 days of their appointments. At the end of the training, ethics officials meet individually with each of the appointees to conduct their ethics briefings. The agency and the appointees have complied with both § 2638.304 and § 2638.305.

Example 2. The Senate confirms a nominee for a position as an Assistant Secretary. After the nominee's confirmation but several days before her appointment, the nominee completes her initial ethics briefing during a telephone call with an agency ethics official, and the ethics official records the date of the briefing. The agency and the nominee have complied with § 2638.305. During the telephone call, the ethics official also discusses the content required for initial ethics training and provides the nominee with instructions for accessing the required written materials online. The agency and the nominee have also complied with § 2638.304.

§ 2638.306 Notice to new supervisors.

The agency must provide each employee upon initial appointment to a supervisory position with the written information required under this section.

(a) *Coverage.* This requirement applies to each civilian employee who is required to receive training pursuant to 5 CFR 412.202(b).

(b) *Deadline.* The agency must provide the written materials required by this section within one year of the employee's initial appointment to the supervisory position.

(c) *Written materials.* The written materials must include contact information for the agency's ethics office and the text of § 2638.103. In addition, a copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct must be included, as well as such other information as the DAEO deems necessary for new supervisors.

(d) *Tracking.* Each agency must establish written procedures, which the DAEO must review each year, for supervisory ethics notices. In the case of an agency with 1,000 or more employees, the DAEO must review any submissions under § 2638.310 each year to confirm that the agency has implemented an appropriate process for meeting the requirements of this section.

§ 2638.307 Annual ethics training for confidential filers and certain other employees.

Each calendar year, employees covered by this section must complete ethics training that meets the following requirements.

(a) *Coverage.* In any calendar year, this section applies to the following employees, unless they are public filers:

(1) Each employee who is required to file an annual confidential financial disclosure report pursuant to § 2634.904 of this chapter during that calendar year, except an employee who ceases to be a confidential filer before the end of the calendar year;

(2) Employees appointed by the President and employees of the Executive Office of the President;

(3) Contracting officers described in 41 U.S.C. 2101; and

(4) Other employees designated by the head of the agency.

(b) *Deadline.* The employee must complete required annual ethics training before the end of the calendar year.

(c) *Duration.* Agencies must provide employees with one hour of duty time to complete interactive training and review any written materials.

(d) *Format.* The following formatting requirements apply.

(1) Except as provided in paragraph (d)(2) of this section, employees covered by this section are required to complete interactive training.

(2) If the DAEO determines that it is impracticable to provide interactive training to a special Government employee covered by this section who is expected to work no more than 60 days in a calendar year, or to an employee who is an officer in the uniformed services serving on active duty for no more 30 consecutive days, only the requirement to provide the written materials required by this section will apply to that employee each year. The DAEO may make the determination as to individual employees or a group of employees.

(e) *Content.* The following content requirements apply to annual ethics training for employees covered by this section.

(1) *Training presentation.* The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate for the employees participating in the training. The presentation must address concepts related to the following subjects:

(i) Financial conflicts of interest;

(ii) Impartiality;

(iii) Misuse of position; and

(iv) Gifts.

(2) *Written materials.* In addition to the training presentation, the agency must provide the employee with either the following written materials or written instructions for accessing them:

(i) The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency;

(ii) Provisions of any supplemental agency regulations that the DAEO determines to be relevant or a summary of those provisions;

(iii) Such other written materials as the DAEO determines should be included; and

(iv) Instructions for contacting the agency's ethics office.

(f) *Tracking.* The following tracking requirements apply to training conducted pursuant to this section. An employee covered by this section must confirm in writing the completion of annual ethics training and must comply with any procedures established by the DAEO for such confirmation. If the DAEO or other presenter has knowledge that an employee completed required training, that individual may record the employee's completion of the training, in lieu of requiring the employee to provide written confirmation. In the case of an automated system that delivers interactive training, the DAEO

may deem the employee to have confirmed the completion of the training if the system tracks completion automatically.

§ 2638.308 Annual ethics training for public filers.

Each calendar year, public filers and other employees specified in this section must complete ethics training that meets the following requirements.

(a) *Coverage.* In any calendar year, this section applies to each employee who is required to file an annual public financial disclosure report pursuant to § 2634.201(a) of this chapter during that calendar year, except for an employee who ceases to be a public filer during that calendar year.

(b) *Deadline.* A public filer must complete required annual ethics training before the end of the calendar year.

(c) *Qualifications of presenter.* The employee conducting any live training presentation must have knowledge of government ethics laws and regulations and must be qualified, as the DAEO deems appropriate, to answer the types of basic and advanced questions that are likely to arise regarding the required content.

(d) *Duration.* The duration of training must be sufficient for the agency to communicate the required content, but at least one hour. Agencies must provide employees with one hour of duty time complete interactive training and review any written materials.

(e) *Format.* The annual ethics training must meet the following formatting requirements.

(1) Employees whose pay is set at Level I or Level II of the Executive Schedule must complete one hour of live training each year, unless a matter of vital national interest makes it necessary for an employee to complete interactive training in lieu of live training in a particular year.

(2) Other civilian employees identified in section 103(c) of the Act who are stationed in the United States must complete live training once every 2 years and interactive training in alternate years. In extraordinary circumstances, the DAEO may grant written authorization for an employee who is required to complete live training in a particular year to complete interactive training.

(3) All other employees covered by this section must complete interactive training.

(f) *Content.* The following content requirements apply to annual ethics training for employees covered by this section.

(1) *Training presentation.* The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate for the employees participating in the training. The presentation must address concepts related to the following subjects:

(i) Financial conflicts of interest;

(ii) Impartiality;

(iii) Misuse of position; and

(iv) Gifts.

(2) *Written materials.* In addition to the training presentation, the agency must provide the employee with either the following written materials or written instructions for accessing them:

(i) The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency;

(ii) Provisions of any supplemental agency regulations that the DAEO determines to be relevant or a summary of those provisions;

(iii) Such other written materials as the DAEO determines should be included; and

(iv) Instructions for contacting the agency's ethics office.

(g) *Tracking.* The following tracking requirements apply to training conducted pursuant to this section. An employee covered by this section must confirm in writing the completion of annual ethics training and must comply with any procedures established by the DAEO for such confirmation. If the DAEO or other presenter has knowledge that an employee completed required training, that individual may record the employee's completion of the training, in lieu of requiring the employee to provide written confirmation. In the case of an automated system that delivers interactive training, the DAEO may deem the employee to have confirmed the completion of the training if the system tracks completion automatically.

Example 1. The DAEO of a small agency distributes the written materials for annual training by emailing a link to a Web site that contains the required materials. He then conducts a live training session for all of the agency's public filers. He spends the first 15 minutes of the training addressing concepts related to financial conflicts of interest, impartiality, misuse of position, and gifts. Because several participants are published authors, he spends the next 15 minutes covering restrictions on compensation for speaking, teaching, and writing. He then spends 20 minutes discussing hypothetical examples related to the work of the agency and 10 minutes answering questions. The training meets the content requirements of this section. Further, because live training satisfies the requirements for interactive training, this training meets the formatting requirements for all public filers, including those required to complete interactive training.

Example 2. An ethics official personally appears at each monthly senior staff meeting to conduct a 10-minute training session on government ethics. Across the year, he addresses concepts related to financial conflicts of interest, impartiality, misuse of position, gifts, and other subjects related to government ethics laws and regulations, although no one session covers all of these subjects. During each meeting, he distributes a one-page handout summarizing the key points of his presentation, takes questions, and provides contact information for employees who wish to pose additional questions. He records the names of the public filers in attendance at each meeting. Once a year, he emails them the required written materials, as well as the one-page summaries. While many of these public filers do not attend all 12 meetings, each attends at least six sessions during the calendar year. Although some of the filers missed the sessions that addressed gifts, they all received the handout summarizing the presentation on gifts. The training satisfies the annual training requirement for the public filers who attended the meetings, including those required to complete interactive training. Moreover, because the ethics official recorded the names of the public filers who attended, the filers are not required to separately confirm their completion of the training.

Example 3. One of the Presidentially appointed, Senate-confirmed employees in Example 2 was required to complete live training that year. Because she attended only four senior staff meetings during the year, she completed only 40 minutes of annual ethics training. The DAEO allows the employee to spend 20 minutes reviewing the handouts and written materials and send an email confirming that she completed her review before the end of the calendar year. This arrangement satisfies the requirements for live annual training because a substantial portion of the training was live.

§ 2638.309 Agency-specific ethics education requirements.

The DAEO may establish additional requirements for the agency's ethics education program, with or without a supplemental agency regulation under § 2635.105 of this chapter.

(a) *Groups of employees.* The DAEO may establish specific government ethics training requirements for groups of agency employees.

(b) *Employees performing ethics duties.* The DAEO has an obligation to ensure that employees performing assigned ethics duties have the necessary expertise with regard to government ethics laws and regulations. If the DAEO determines that employees engaged in any activities described in §§ 2638.104 and 2638.105 require training, the DAEO may establish specific training requirements for them either as a group or individually.

(c) *Procedures.* The DAEO may establish specific procedures for training that the DAEO requires under paragraph (a) or (b) of this section, including any certification procedures the DAEO deems necessary. Agency employees must comply with the requirements and procedures that the DAEO establishes under this section.

§ 2638.310 Coordinating the agency's ethics education program.

In an agency with 1,000 or more employees, any office that is not under the supervision of the DAEO but has been delegated responsibility for issuing notices, pursuant to § 2638.303 or § 2638.306, or conducting training, pursuant to § 2638.304, must submit the following materials to the DAEO by January 15 each year:

(a) A written summary of procedures that office has established to ensure compliance with this subpart; and

(b) Written confirmation that there is a reasonable basis for concluding that the procedures have been implemented.

Subpart D—Correction of Executive Branch Agency Ethics Programs

§ 2638.401 In general.

The Office of Government Ethics has authority, pursuant to sections 402(b)(9) and 402(f)(1) of the Act, to take the action described in this subpart with respect to deficiencies in agency ethics programs. Agency ethics programs comprise the matters described in this subchapter for which agencies are responsible.

§ 2638.402 Informal action.

If the Director has information indicating that an agency ethics program is not compliant with the requirements set forth in applicable government ethics laws and regulations, the Director is authorized to take any or all of the measures described in this section. The Director may:

(a) Contact agency ethics officials informally to identify the relevant issues and resolve them expeditiously;

(b) Issue a notice of deficiency to make the agency aware of its possible noncompliance with an applicable government ethics law or regulation;

(c) Require the agency to respond in writing to the notice of deficiency;

(d) Require the agency to provide such additional information or documentation as the Director determines to be necessary;

(e) Issue an initial decision with findings as to the existence of a deficiency in the agency's ethics program;

(f) Require the agency to correct or, at the Director's discretion, satisfactorily mitigate any deficiency in its ethics program;

(g) Provide the agency with guidance on measures that would correct or satisfactorily mitigate any program deficiency;

(h) Monitor the agency's efforts to correct or satisfactorily mitigate the deficiency and require the agency to submit progress reports; or

(i) Take other actions authorized under the Act to resolve the matter informally.

§ 2638.403 Formal action.

If the Director determines that informal action, pursuant to § 2638.402, has not produced an acceptable resolution, the Director may issue an order directing the agency to take specific corrective action.

(a) Before issuing such an order, the Director will:

(1) Advise the agency in writing of the deficiency in its ethics program;

(2) Describe the action that the Director is considering taking;

(3) Provide the agency with 30 days to respond in writing; and

(4) Consider any timely written response submitted by the agency.

(b) If the Director is satisfied with the agency's response, no order will be issued.

(c) If the Director decides to issue an order, the order will describe the corrective action to be taken.

(d) If the agency does not comply with the order within a reasonable time, the Director will:

(1) Notify the head of the agency of intent to furnish a report of noncompliance to the President and the Congress;

(2) Provide the agency 14 calendar days within which to furnish written comments for submission with the report of noncompliance; and

(3) Report the agency's noncompliance to the President and to the Congress.

Subpart E—Corrective Action Involving Individual Employees

§ 2638.501 In general.

This subpart addresses the Director's limited authority, pursuant to sections 402(b)(9) and 402(f)(2) of the Act, to take certain actions with regard to individual employees if the Director suspects a violation of a noncriminal government ethics law or regulation. Section 402(f)(5) of the Act prohibits the Director from making any finding regarding a violation of a criminal law. Therefore, the Director will refer possible criminal violations to an Inspector General or the Department of Justice, pursuant to § 2638.502. If, however, the Director is concerned about a possible violation of a noncriminal government ethics law or regulation by an employee, the Director may notify the employee's agency, pursuant to § 2638.503. In the rare circumstance that an agency does not address a matter after receiving this notice, the Director may use the procedures in § 2638.504 to issue a nonbinding recommendation of a disciplinary action or an order to terminate an ongoing violation. Nothing in this subpart relieves an agency of its primary responsibility to ensure compliance with government ethics laws and regulations.

§ 2638.502 Violations of criminal provisions related to government ethics.

Consistent with section 402(f) of the Act, nothing in this subpart authorizes the Director or any agency official to make a finding as to whether a provision of title 18, United States Code, or any other criminal law of the United States outside of such title, has been or is being violated. If the Director has information regarding the violation of a criminal law by an individual employee, the Director will notify an Inspector General or the Department of Justice.

§ 2638.503 Recommendations and advice to employees and agencies.

The Director may make such recommendations and provide such advice to employees or agencies as the Director deems necessary to ensure compliance with applicable government ethics laws and regulations. The Director's authority under this section includes the authority to communicate with agency heads and other officials regarding government ethics and to recommend that the agency investigate a matter or consider taking disciplinary or corrective action against individual employees.

§ 2638.504 Violations of noncriminal provisions related to government ethics.

In the rare case that consultations made pursuant to § 2638.503 have not resolved the matter, the Director may use the procedures in this section if the Director has reason to believe that an employee is violating, or has violated, any noncriminal government ethics law or regulation. Any proceedings pursuant to this section will be conducted in accordance with applicable national security requirements.

(a) *Agency investigation.* The Director may recommend that the agency head or the Inspector General conduct an investigation. If the Director determines that an investigation has not been

conducted within a reasonable time, the Director will notify the President.

(b) *Initiating further proceedings.* Following an investigation pursuant to paragraph (a) of this section or a determination by the Director that an investigation has not been conducted within a reasonable time, the Director may either initiate further proceedings under this section or close the matter.

(1) If the Director initiates further proceedings, the Director will notify the employee in writing of the suspected violation, the right to respond orally and in writing, and the right to be represented. The notice will include instructions for submitting a written response and requesting an opportunity to present an oral response, copies of this section and sections 401–403 of the Act, and copies of the material relied upon by the Office of Government Ethics.

(2) If the Director is considering issuing an order directing the employee to take specific action to terminate an ongoing violation, the Director will also provide notice of the potential issuance of an order and the right to request a hearing, pursuant to paragraph (f) of this section.

(c) *Employee's response.* The employee will be provided with a reasonable opportunity to present an oral response to the General Counsel of the Office of Government Ethics within 30 calendar days of the date of the employee's receipt of the notice described in paragraph (b) of this section. If the employee fails to timely request an opportunity to present an oral response or fails to cooperate with reasonable efforts to schedule the oral response, only a timely submitted written response will be considered.

(d) *General Counsel's recommendation.* After affording the employee 30 calendar days to respond, the General Counsel will provide the Director with a written recommendation as to the action warranted by the circumstances. However, if the employee has timely exercised an applicable right to request a hearing pursuant to paragraph (g) of this section, the provisions of paragraph (g) will apply instead of the provisions of this paragraph.

(1) If the employee has not had an opportunity to comment on any newly obtained material relied upon for the recommendation, the General Counsel will provide the employee with an opportunity to comment on that material before submitting the recommendation to the Director.

(2) The recommendation will include findings of fact and a conclusion as to whether it is more likely than not that a violation has occurred. The General Counsel will provide the Director with copies of the material relied upon for the recommendation, including any timely written response and a transcript of any oral response of the employee.

(3) In the case of an ongoing violation, the General Counsel may recommend an order directing the employee to take specific action to terminate the violation, provided that the employee has been afforded the notice required under paragraph (f) of this section and an opportunity for a hearing.

(e) *Decisions and orders of the Director.* After reviewing the recommendation of the General Counsel pursuant to paragraph (d) of this section or, in the event of a hearing, the recommendation of the administrative law judge pursuant to paragraph (g)(7) of this section, the Director may issue a decision and, if applicable, an order. The authority of the Director to issue decisions and orders under this paragraph may not be delegated to any other official. The Director's decision will include written findings and conclusions with respect to all material issues and will be supported by substantial evidence of record.

(1) A copy of the decision and order will be furnished to the employee and, if applicable, the employee's representative. Copies will also be provided to the DAEO and the head of the agency or, where the employee is the head of an agency, to the President. The Director's decision and any order will be posted on the official Web site of the Office of Government Ethics, except to the extent prohibited by law.

(2) The Director's decision may include a nonbinding recommendation that appropriate disciplinary or corrective action be taken against the employee. If the agency head does not take the action recommended within a reasonable period of time, the Director may notify the President.

(3) In the case of an ongoing violation, the Director may issue an order directing the employee to take specific action to terminate the violation, provided that the employee has been afforded the notice required under paragraph (f) of this section and an opportunity for a hearing.

(f) *Notice of the right to request a hearing regarding an order to terminate a violation.* Before an order to terminate an ongoing violation may be recommended or issued under this section, the employee must be provided with written notice of the potential issuance of an order, the right to request a hearing, and instructions for requesting a hearing.

(1) If the employee submits a written request for a hearing within 30 calendar days of the date of the employee's receipt of the notice, the hearing will be conducted pursuant to paragraph (g) of this section;

(2) If the employee does not submit a written request for a hearing within 30 days of receipt of the notice, the General Counsel may issue a recommendation, pursuant to paragraph (d) of this section, in lieu of a hearing after first considering any timely response of the employee, pursuant to paragraph (c) of this section; and

(3) If the employee timely submits written requests for both a hearing, pursuant to paragraph (f) of this section, and an oral response, pursuant to paragraph (c) of this section, only a hearing will be conducted, pursuant to paragraph (g).

(g) *Hearings.* If, after receiving a notice required pursuant to paragraph (f) of this section, the employee submits a timely request for a hearing, an administrative law judge who has been appointed under 5 U.S.C. 3105 will serve as the hearing officer, and the following procedures will apply to the hearing. An employee of the Office of Government Ethics will be assigned to provide the administrative law judge with logistical support in connection with the hearing.

(1) The General Counsel of the Office of Government Ethics will designate attorneys to present evidence and argument at the hearing in support of a possible finding that the employee is engaging in an ongoing violation. The General Counsel will serve as Advisor to the Director and will not, in connection with the presentation of evidence and argument against the employee, direct or supervise these attorneys. Any attorney who presents evidence, argument, or testimony against the employee at the hearing will be recused from assisting the Director or the General Counsel in connection with the contemplated order.

(2) The administrative law judge will issue written instructions for the conduct of the hearing, including deadlines for submitting lists of proposed witnesses and exchanging copies of documentary evidence. The hearing will be conducted informally, and the administrative law judge may make such rulings as are necessary to ensure that the hearing is conducted equitably and expeditiously.

(3) The parties to the hearing will be the employee and the attorneys of the Office of Government Ethics designated to present evidence and arguments supporting a finding that a violation is ongoing, respectively. The parties will

not engage in *ex parte* communications with the administrative law judge, unless the administrative law judge authorizes limited *ex parte* communications regarding scheduling and logistical matters.

(4) If either party requests assistance in securing the appearance of an approved witness who is an employee, the administrative law judge may, at his or her discretion, notify the General Counsel, who will assist the Director in requesting that the head of the employing agency produce the witness, pursuant to section 403(a)(1) of the Act. The Director will notify the President if an agency head fails to produce the approved witness.

(5) The hearing will be conducted on the record and witnesses will be placed under oath and subject to cross-examination. Following the hearing, the administrative law judge will provide each party with a copy of the hearing transcript.

(6) Hearings will generally be open to the public, but the administrative law judge may issue a written order closing, in whole or in part, the hearing in the best interests of national security, the employee, a witness, or an affected person. The order will set forth the reasons for closing the hearing and, along with any objection to the order by a party, will be made a part of the record. Unless specifically excluded by the administrative law judge, the DAEO of the employee's agency will be permitted to attend a closed hearing. If the administrative law judge denies a request by a party or an affected person to close the hearing, in whole or in part, that denial will be immediately appealable by the requester. The requester must file a notice of appeal with the Director within 3 working days. In the event that such a notice is filed, the hearing will be held in abeyance pending resolution of the appeal. The notice of appeal, exclusive of attachments, may not exceed 10 pages of double-spaced type. The Director will afford the parties and, if not a party, the requester the opportunity to make an oral presentation in person or via telecommunications technology within 3 working days of the filing of the appeal. The oral presentation will be conducted on the record. If the appellant or either party is unavailable to participate in the oral presentation within the 3-working-day period, the Director will convene the oral presentation without that party or affected person. The Director will issue a decision on the appeal within 3 working days of the oral presentation. If the Director is unavailable during this time period, the Director may designate a senior executive of the Office of Government Ethics to hear the oral presentation and decide the appeal. The notice of appeal, the record of the oral presentation, the decision on the appeal, and any other document considered by the Director or the Director's designee in connection with the appeal will be made a part of the record of the hearing.

(7) After closing the record, the administrative law judge will certify the entire record to the Director for decision. When so certifying the record, the administrative law judge will make a recommended decision, which will include his or her written findings of fact and conclusions of law with respect to material issues. After considering the certified record, the Director may issue a decision and an order, pursuant to paragraph (e) of this section.

(h) *Dismissal.* The Director may dismiss a proceeding under this section at any time, without a finding as to the alleged violation, upon a finding that:

(1) The employee or the agency has taken appropriate action to address the Director's concerns;

(2) The employee has undertaken, or agreed in writing to undertake, measures the Director deems satisfactory; or

(3) A question has arisen involving the potential application of a criminal law.

(i) *Notice procedure.* The notices required by paragraphs (b)(1) and (f) of this section may be delivered by U.S. mail, electronic mail or personal delivery. There will be a rebuttable presumption that notice sent by U.S. mail is received within 5 working days. If the agency does not promptly provide the Office of Government Ethics with an employee's contact information upon request, the notice may be sent to the agency's DAEO, who will bear responsibility for promptly delivering that notice to the employee and promptly notifying the Director after its delivery.

Subpart F—General Provisions

§ 2638.601 Authority and purpose.

(a) *Authority.* The regulations of this part are issued pursuant to the authority of titles I and IV of the Ethics in Government Act of 1978 (Pub. L. 95–521, as amended) (''the Act'').

(b) *Purpose.* These executive branch regulations supplement and implement titles I, IV and V of the Act and set forth more specifically certain procedures provided in those titles, and furnish examples, where appropriate.

(c) *Agency authority.* Subject only to the authority of the Office of Government Ethics as the supervising ethics office for the executive branch, all authority conferred on agencies in this subchapter B of chapter XVI of title 5 of the Code of Federal Regulations is sole and exclusive authority.

§ 2638.602 Agency regulations.

Each agency may, subject to the prior approval of the Office of Government Ethics, issue regulations not inconsistent with this part and this subchapter, using the procedures set forth in § 2635.105 of this chapter.

§ 2638.603 Definitions.

For the purposes of this part:

Act means the Ethics in Government Act of 1978 (Pub. L. 95–521, as amended).

ADAEO or *Alternate Designated Agency Ethics Official* means an officer or employee who is designated by the head of the agency as the primary deputy to the DAEO in coordinating and managing the agency's ethics program in accordance with the provisions of § 2638.104.

Agency or *agencies* means any executive department, military department, Government corporation, independent establishment, board, commission, or agency, including the United States Postal Service and Postal Regulatory Commission, of the executive branch.

Agency head means the head of an agency. In the case of a department, it means the Secretary of the department. In the case of a board or commission, it means the Chair of the board or commission.

Confidential filer means an employee who is required to file a confidential financial disclosure report pursuant to § 2634.904 of this chapter.

Conflict of interest laws means 18 U.S.C. 202–209, and *conflict of interest law* means any provision of 18 U.S.C. 202–209.

Corrective action means any action necessary to remedy a past violation or prevent a continuing violation of this part, including but not limited to restitution, change of assignment, disqualification, divestiture, termination of an activity, waiver, the creation of a qualified diversified or blind trust, or counseling.

DAEO or *Designated Agency Ethics Official* means an officer or employee who is designated by the head of the agency to coordinate and manage the agency's ethics program in accordance with the provisions of § 2638.104.

Department means a department of the executive branch.

Director means the Director of the Office of Government Ethics.

Disciplinary action means those disciplinary actions referred to in Office

of Personnel Management regulations and instructions implementing provisions of title 5 of the United States Code or provided for in comparable provisions applicable to employees not subject to title 5, including but not limited to reprimand, suspension, demotion, and removal. In the case of a military officer, comparable provisions may include those in the Uniform Code of Military Justice.

Employee means any officer or employee of an agency, including a special Government employee. It includes officers but not enlisted members of the uniformed services. It includes employees of a state or local government or other organization who are serving on detail to an agency, pursuant to 5 U.S.C. 3371, *et seq.* It does not include the President or Vice President. Status as an employee is unaffected by pay or leave status or, in the case of a special Government employee, by the fact that the individual does not perform official duties on a given day.

Executive branch includes each executive agency as defined in 5 U.S.C. 105 and any other entity or administrative unit in the executive branch. However, it does not include any agency, entity, office, or commission that is defined by or referred to in 5 U.S.C. app. sections 109(8)–(11) of the Act as within the judicial or legislative branch.

Government ethics laws and regulations include, among other applicable authorities, the provisions related to government ethics or financial disclosure of the following authorities:

(1) Chapter 11 of title 18 of the United States Code;

(2) The Ethics in Government Act of 1978 (Pub. L. 95–521, as amended);

(3) The Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) (Public Law 112–105, as amended);

(4) Executive Order 12674 (Apr. 12, 1989) as amended by Executive Order 12731 (Oct. 17, 1990); and

(5) Subchapter B of this chapter.

Lead human resources official means the agency's chief policy advisor on all human resources management issues who is charged with selecting, developing, training, and managing a high-quality, productive workforce. For agencies covered by the Chief Human Capital Officers Act of 2002 (Pub. L. 107–296), the Chief Human Capital Officer is the lead human resources official.

Person includes an individual, partnership, corporation, association, government agency, or public or private organization.

Principles of Ethical Conduct means the collection of general principles set forth in § 2635.101(b) of this chapter.

Public filer means an employee, former employee, or nominee who is required to file a public financial disclosure report, pursuant to § 2634.202 of this chapter.

Senior Executive means a career or noncareer appointee in the Senior Executive Service or equivalent Federal executive service. It also includes employees in Senior Level (SL) and Senior Technical (ST) positions. In addition, it includes equivalent positions in agencies that do not have a Federal executive service.

Special Government employee means an employee who meets the definition at 18 U.S.C. 202(a). The term does not relate to a specific category of employee, and 18 U.S.C. 202(a) is not an appointment authority. The term describes individuals appointed to positions in the executive branch, the legislative branch, any independent agency of the United States, or the District of Columbia who are covered less expansively by conflict of interest laws at 18 U.S.C. 202–209. As a general matter, an individual appointed to a position in the legislative or executive branch who is expected to serve for 130 days or less during any period of 365 consecutive days is characterized as a special Government employee. The appointment of special Government employees is not administered or overseen by the Office of Government Ethics but is carried out under legal authorities administered by the Office of Personnel Management and other agencies.

Standards of Conduct means the Standards of Ethical Conduct for Employees of the Executive Branch set forth in part 2635 of this chapter.

§ 2638.604 Key program dates.

Except as amended by program advisories of the Office of Government Ethics, the following list summarizes key deadlines of the executive branch ethics program:

(a) *January 15* is the deadline for:

(1) The Office of Government Ethics to issue its year-end status reports, pursuant to § 2638.108(a)(11); and

(2) In an agency with 1,000 or more employees, any office not under the supervision of the DAEO that provides notices or training required under subpart C of this part to provide a written summary and confirmation, pursuant to § 2638.310.

(b) *February 1* is the deadline for the DAEO to submit the annual report on the agency's ethics program, pursuant to § 2638.207.

(c) *February 15* is the deadline for employees to file annual confidential financial disclosure reports, pursuant to § 2634.903(a) of this chapter.

(d) *May 15* is the deadline for employees to file annual public financial disclosure reports, pursuant to § 2634.201(a) of this chapter.

(e) *May 31* is the deadline for the agency to submit required travel reports to the Office of Government Ethics, pursuant to § 2638.107(g).

(f) *July 1* is the deadline for the DAEO to submit a letter stating whether components currently designated should remain designated, pursuant to § 2641.302(e)(2) of this chapter.

(g) *November 30* is the deadline for the agency to submit required travel reports to the Office of Government Ethics, pursuant to § 2638.107(h).

(h) *December 31* is the deadline for completion of annual ethics training for employees covered by §§ 2638.307 and 2638.308.

(i) *By the deadline specified in the request* is the deadline, pursuant to § 2638.202, for submission of all documents and information requested by the Office of Government Ethics in connection with a review of the agency's ethics program, except when the submission of the information or reports would be prohibited by law.

(j) *Prior to appointment whenever practicable but in no case more than 15 days after appointment* is the deadline, pursuant to § 2638.105(a)(1), for the lead human resources official to notify the DAEO that the agency has appointed a confidential or public financial disclosure filer.

(k) *Prior to termination whenever practicable but in no case more than 15 days after termination* is the deadline, pursuant to § 2638.105(a)(2), for the lead human resources official to notify the DAEO of the termination of a public financial disclosure filer.

(l) *Within 15 days of appointment* is the deadline for certain agency leaders to complete ethics briefings, pursuant to § 2638.305(b).

(m) *Within 30 days of designation* is the deadline for the agency head to notify the Director of the designation of any DAEO or ADAEO, pursuant to § 2638.107(a).

(n) *Within 30 days of referral* is the deadline for the Inspector General or the DAEO to submit notice to the Director of certain referrals to the Department of Justice, pursuant to § 2638.206(a).

(o) *Within 3 months of appointment* is the deadline for new employees to complete initial ethics training, pursuant to § 2638.304(b).

(p) *Within 1 year of appointment* is the deadline for new supervisors to

receive supervisory ethics notices, pursuant to § 2638.306(b).

(q) *Not later than 12 months before any Presidential election* is the deadline for the agency head or the DAEO to evaluate whether the agency's ethics program has an adequate number of trained agency ethics officials to deliver effective support in the event a Presidential transition, pursuant to § 2638.210(a).

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3631; Directorate Identifier 2015–NM–060–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Airbus Model A330–200 and –300 series airplanes; Model A330–200 Freighter series airplanes; and Model A340–200, –300, –500, and –600 series airplanes. The NPRM proposed to require modifying the cockpit door frame structure, installing bonding-leads to the upper cockpit door frame, and modifying the upper cockpit door plate cover. The NPRM was prompted by reports of chafed wiring at the upper left corner of the cockpit door. The affected wire bundle was not grounded on the cockpit door frame. This action revises the NPRM by also requiring, for certain airplanes, installing a noise-reduced cockpit door locking system (CDLS). We are proposing this supplemental NPRM (SNPRM) to prevent electrical shock injury to persons contacting the cockpit door. Since these actions impose an additional burden over those proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this SNPRM by July 21, 2016.

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3631; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3631; Directorate Identifier 2015–NM–060–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

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 A330–200 and –300 series airplanes; Model A330–200 Freighter series airplanes; and Model A340–200, –300, –500, and –600 series airplanes. The NPRM published in the **Federal Register** on September 18, 2015 (80 FR 56405) (''the NPRM''). The NPRM was prompted by reports of chafed wiring at the upper left corner of the cockpit door. The affected wire bundle was not grounded on the cockpit door frame. The NPRM proposed to require modifying the cockpit door frame structure, installing bonding–leads to the upper cockpit door frame, and modifying the upper cockpit door plate cover.

Actions Since Previous NPRM Was Issued

Since we issued the NPRM, new service information has been issued that specifies, for certain airplanes, prior or concurrent actions of installing a noise-reduced CDLS. We have determined this installation is necessary to address the identified unsafe condition.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0037, dated March 2, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A330–200 and –300 series airplanes; Model A330–200 Freighter series airplanes; and Model A340–200, –300, –500, and –600 series airplanes. The MCAI states:

> An operator has reported chafed wiring at the upper left corner of the cockpit door. The investigation concluded that the affected wire bundle, which supplies a voltage of 115V [volt] AC [alternating current], was not grounded on the cockpit door frame as part of the design of A330 and A340 aeroplanes.
>
> This condition, if not corrected, could result in injury [electrical shock], in case any person gets in contact with the door frame.
>
> Prompted by these findings, Airbus issued SB [service bulletin] A330–25–3534, SB A340–25–4349 and SB A340–25–5212 to

provide instructions to modify the electrical bonding of the cockpit door.

For the reasons described above, this [EASA] AD requires modification of the cockpit door frame structure, installation of bonding-leads to the upper cockpit door frame and modification of the upper cockpit door plate cover.

Required actions for certain airplanes include installation of a noise-reduced CDLS.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov by searching for and locating Docket No. FAA–2015–3631.*

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information.

- Service Bulletin A330–25–3213, Revision 01, dated April 25, 2005. This service information describes procedures for modification of the upper cockpit door plate cover.
- Service Bulletin A330–25–3254, Revision 02, dated December 13, 2004. This service information describes procedures for installing a noise-reduced CDLS.
- Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015. This service information describes procedures for modifying the cockpit door frame structure and installing bonding-leads to the upper cockpit door frame.
- Service Bulletin A340–25–4217, Revision 01, dated April 25, 2005. This service information describes procedures for modification of the upper cockpit door plate cover.
- Service Bulletin A340–25–4349, Revision 02, dated September 4, 2015. This service information describes procedures for modifying the cockpit door frame structure and installing bonding-leads to the upper cockpit door frame.
- Service Bulletin A340–25–5046, Revision 02, dated February 5, 2007. This service information describes procedures for modification of the upper cockpit door plate cover.
- Service Bulletin A340–25–5212, Revision 01, dated October 27, 2014. This service information describes procedures for modifying the cockpit door frame structure and installing bonding-leads to the upper cockpit door frame.

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

Comments

We gave the public the opportunity to participate in developing this proposed AD. We considered the comments received.

Requests To Refer to Revised Service Information

An anonymous commenter and Delta Air Lines (DAL) requested that we reference revised service information. DAL requested that we refer to Airbus Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015, for accomplishing the actions in paragraphs (g) and (h) of the proposed AD (in the NPRM). The anonymous commenter requested that we refer to Airbus Service Bulletin A340–25–4349, Revision 02, dated September 4, 2015, in paragraphs (g)(2) and (h)(2) of the proposed AD (in the NPRM).

We partially agree with the commenters' requests. We agree to refer to Airbus Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015; and Airbus Service Bulletin A340–25–4349, Revision 02, dated September 4, 2015; in paragraph (g) of this proposed AD. This service information contains updated accomplishment instructions. Airbus Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015, also revises the specified concurrent requirements.

However, in paragraph (h) of this proposed AD, we have determined that Airbus Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015; and Airbus Service Bulletin A340–25–4349, Revision 02, dated September 4, 2015; are not appropriate sources of service information for accomplishing the proposed concurrent actions. Instead, we refer to Airbus Service Bulletin A330–25–3213, Revision 01, dated April 25, 2005; Airbus Service Bulletin A340–25–4217, Revision 01, dated April 25, 2005; and Airbus Service Bulletin A340–25–5046, Revision 02, dated February 5, 2007; for accomplishing the concurrent action of modifying the upper cockpit door plate cover. We refer to Airbus Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015; and Airbus Service Bulletin A340–25–4349, Revision 02, dated September 4, 2015; in paragraphs (h)(1) and (h)(2) of this AD, respectively, in order to identify the affected airplanes.

We have added a new paragraph (j) to this proposed AD to provide credit for actions accomplished using Airbus Service Bulletin A330–25–3534, Revision 01, dated October 23, 2014; Airbus Service Bulletin A330–25–3213, dated October 12, 2004; and Airbus Service Bulletin A340–25–4217, dated October 12, 2004. We have reidentified the subsequent paragraphs accordingly.

DAL also requested that we approve using later issued revisions of Airbus Service Bulletin A330–25–3534.

We disagree with approving unspecified later revisions of the service information. When referring to a specific service bulletin in an AD, using the phrase, ''or later FAA-approved revisions,'' violates Office of the Federal Register regulations for approving materials that are incorporated by reference. Once we issue a final rule, affected operators may request approval to use a later revision of the referenced service bulletin as an alternative method of compliance (AMOC), under the provisions of paragraph (k)(1) of this proposed AD.

Requests To Extend Compliance Time

DAL requested that we extend the compliance time from 24 months to 30 months. DAL stated that a 24-month compliance time does not provide the necessary time to procure parts and develop internal paperwork to accomplish the modifications. DAL explained that mandating a 24-month compliance time will result in several airplanes being missed during scheduled maintenance, which will result in requiring costly special visits that adversely impact passenger operations. DAL also stated it had not experienced problems with the cockpit door bonding during a service history of over 12 years and noted there is higher awareness to electrical wiring interconnect system (EWIS) issues, making wire chafing problems less likely. DAL concluded that a moderate extension to the compliance time should provide a sufficient level of safety without burdening the airlines unnecessarily.

We disagree with DAL's request. The compliance time has been determined by EASA and Airbus through the specific analysis to ensure continued operational safety of the affected airplanes. If an operator wishes to extend the compliance time, this can be done through a specific request for approval of an AMOC under the provisions of paragraph (k)(1) of this proposed AD. The operator must justify in the request that an extension of the compliance time will provide an adequate level of safety (such as by accomplishment of specific inspections or tasks).

Airbus has specified a standard lead time of 90 calendar days from the date of a purchase order for component kits, which ensures sufficient time for planning the appropriate operator's action to modify the airplane and

comply with this proposed AD. We have not changed this proposed AD in this regard.

Requests To Allow Alternative Consumable Materials

DAL requested that we allow the use of industry standard consumable materials already stocked by the airlines, instead of burdening the airlines with procuring the specific consumables specified in the service information. DAL stated that there are many industry standard materials that fulfill the roles of each of the specific materials called out in the service bulletins that are used daily by every airline. DAL also stated that the use of these industry standard consumable materials will in no way reduce the level of safety of the modifications.

We disagree with DAL's request. DAL did not provide details on the specific consumable materials it proposes to use for the actions required by this proposed AD and did not provide any technical justification that the use of other consumable materials would provide an equivalent level of safety. In addition, for service information that contains ''Required for Compliance'' (RC) sections in the Accomplishment Instructions, the consumable materials in the RC sections must be used to comply with the AD requirements. Completion of all steps in accordance with the RC sections ensures that the actions required by this proposed AD address the identified unsafe condition. Operators may request approval for the use of other consumable materials through the AMOC process, under the provisions of paragraph (k)(1) of this proposed AD. We have not changed this proposed AD in this regard.

FAA's Determination and Requirements of This SNPRM

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

Certain changes described above expand the scope of the NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Costs of Compliance

We estimate that this SNPRM affects 70 airplanes of U.S. registry.

We estimate that it would take about 53 work-hours per product to comply with the new basic requirements of this SNPRM. The average labor rate is $85 per work-hour. Required parts would cost about $2,430 per product. Based on these figures, we estimate the cost of this SNPRM on U.S. operators to be $485,450, or $6,935 per product.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2015–3631; Directorate Identifier 2015–NM–060–AD.

(a) Comments Due Date

We must receive comments by July 21, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, except airplanes on which Airbus Modification 203066, Modification 203074, or Modification 203372 has been embodied in production.

(1) Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; all manufacturer serial numbers (MSNs); if modified in-service as specified in Airbus Service Bulletin A330–25–3161, or in production with Airbus Modification 50014.

(2) Model A340–211, –212, –213, –311, –312, and –313 airplanes; all MSNs, if modified in-service as specified in Airbus Service Bulletin A340–25–4181, or in production with Airbus Modification 50014.

(3) Model A340–541 airplanes and Model A340–642 airplanes; all MSNs.

(d) Subject

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

(e) Reason

This AD was prompted by reports of chafed wiring at the upper left corner of the cockpit door. The affected wire bundle was not grounded on the cockpit door frame. We are issuing this AD to prevent electrical shock injury to persons contacting the cockpit door.

(f) Compliance

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

(g) Door Modification and Installation

Within 24 months after the effective date of this AD, modify the cockpit door frame structure and install bonding-leads to the upper cockpit door frame, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) Airbus Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015.

(2) Airbus Service Bulletin A340–25–4349, Revision 02, dated September 4, 2015.

(3) Airbus Service Bulletin A340–25–5212, Revision 01, dated October 27, 2014.

(h) Cover Plate Modification of the Upper Flight Deck Door

Except for airplanes on which Airbus Modification 52869 or Modification 53292 has been embodied in production: Prior to or concurrently with accomplishing the actions required by paragraph (g) of this AD, modify the upper cockpit door plate cover, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) For configuration 1 airplanes identified in Airbus Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015: Airbus Service Bulletin A330–25–3213, Revision 01, dated April 25, 2005.

(2) For airplanes identified in Airbus Service Bulletin A340–25–4349, Revision 02, dated September 4, 2015: Airbus Service Bulletin A340–25–4217, Revision 01, dated April 25, 2005.

(3) For airplanes identified in Airbus Service Bulletin A340–25–5212, Revision 01, dated October 27, 2014: Airbus Service Bulletin A340–25–5046, Revision 02, dated February 5, 2007.

(i) Additional Concurrent Action for Certain Airplanes

Prior to or concurrently with accomplishing the actions required by paragraph (g) of this AD: For configuration 1 airplanes identified in Airbus Service Bulletin A330–25–3534, Revision 02, dated May 18, 2015, install the noise-reduced cockpit door locking system (CDLS), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–25–3254, Revision 02, dated December 13, 2004.

(j) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A330–25–3534, Revision 01, dated October 23, 2014; or Airbus Service Bulletin A340–25–4349, Revision 01, dated October 27, 2014, as applicable. These service bulletins are not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the applicable service information specified in paragraphs (j)(2)(i) through (j)(2)(iv) of this AD. This service information is not incorporated by reference in this AD.

(i) Airbus Service Bulletin A330–25–3213, dated October 12, 2004.

(ii) Airbus Service Bulletin A340–25–4217, dated October 12, 2004.

(iii) Airbus Service Bulletin A340–25–5046, dated October 12, 2004.

(iv) Airbus Service Bulletin A340–25–5046, Revision 01, dated May 11, 2005.

(3) This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A330–25–3254, dated October 25, 2004; or Airbus Service Bulletin A330–25–3254, Revision 01, dated December 3, 2004. This service information is not incorporated by reference in this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0037, dated March 2, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3631.

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

Issued in Renton, Washington, on May 20, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–13049 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–6006; Airspace Docket No. 15–AGL–3]

Proposed Modification of Class D Airspace; Peru, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class D airspace at Grissom Air Reserve Base (ARB), IN, to allow for a lower Circling Minimum Descent Altitude, where Instrument Flight Rules Category E circling procedures are being used. This action would increase the area of the existing controlled airspace for Grissom ARB, IN. Additionally, this action would add Peru, Grissom ARB, IN to the subtitle of the airspace designation.

DATES: Comments must be received on or before July 21, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–6006; Docket No. 15–AGL–3, at the beginning of your comments. You may also submit

comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: 817–222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify Class D airspace at Grissom ARB, Peru, IN.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–6006/Airspace Docket No. 15–AGL–3.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Central Service Center, Operation Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class D airspace at Grissom ARB, IN, to within a 5.8-mile radius of the airport. This increase would allow for a lower Circling Minimum Descent Altitude, where Instrument Flight Rules Category E circling procedures are being used. Also, this action would add Peru, Grissom Air Reserve Base, IN, to the subtitle of the airspace designation. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class D airspace areas are published in Section 5000 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (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); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Section 5000 Class D Airspace.

* * * * *

AGL IN D Grissom ARB, IN [Amended]

Peru, Grissom Air Reserve Base, IN
(Lat. 40°38′53″ N., long. 086°09′08″ W.)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 5.8 mile radius of Grissom ARB. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Fort Worth, TX, on May 25, 2016.

Walter L. Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–13144 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 259

Guide Concerning Fuel Economy Advertising for New Automobiles

AGENCY: Federal Trade Commission

ACTION: Proposed amendments.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') seeks comments on proposed amendments to the Guide Concerning Fuel Economy Advertising for New Automobiles (''Fuel Economy Guide'' or ''Guide'') to reflect current Environmental Protection Agency (''EPA'') and National Highway Traffic Safety Administration (''NHTSA'') fuel economy labeling rules and to consider advertising claims prevalent in the market.

DATES: Comments must be received by August 8, 2016.

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 ''Fuel Economy Guide Amendments, R711008'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/fueleconomyamendments* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Fuel Economy Guide Amendments, R711008'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex B), 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 B), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326–2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room C–9528, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission issued the Fuel Economy Guide (16 CFR part 259) on September 10, 1975 (40 FR 42003) to prevent deceptive fuel economy advertising for new automobiles and thus facilitate the use of fuel efficiency information in advertising. To accomplish this goal, the current Guide advises advertisers to disclose established EPA fuel economy estimates (*e.g.,* miles per gallon or ''MPG'') whenever they make any fuel economy claim based on those estimates. In addition, if advertisers make claims based on non-EPA tests, the Guide advises them to disclose EPA-derived information and provide details about the non-EPA tests, such as the test's source, driving conditions, and vehicle configurations.

On April 28, 2009 (74 FR 19148), the Commission published a notice soliciting comments on proposed amendments to the Guide as part of its regulatory review program. The Commission then postponed its review in a June 1, 2011 notice (76 FR 31467) pending new fuel economy labeling requirements from the EPA and completion of the FTC's Alternative Fuels Rule (16 CFR part 309) review. The Commission explained that Fuel Economy Guide revisions would be premature before the conclusion of these regulatory proceedings. With those activities complete,[1] the Commission resumed its review of the Guide on May 15, 2014) (79 FR 27820) (''2014 Notice'') seeking comment on potential amendments to address changes to the EPA and NHTSA (hereinafter ''EPA'') fuel economy labeling rules, address advertising for alternative fueled vehicles, and consider other advertising claims prevalent in the market. The Commission also announced plans to conduct consumer research on fuel economy advertising claims.

After reviewing the comments generated by the 2014 Notice [2] and the consumer research results, the Commission proposes Guide amendments for comment. In considering these proposals, commenters should focus on information that helps advertisers avoid deceptive or unfair claims prohibited by the FTC Act.[3] The Guide does not identify disclosures that are merely helpful or desirable to consumers. Likewise, commenters should not address the adequacy of EPA fuel economy test procedures or the accuracy of EPA label content. Such issues fall within the EPA's purview and are generally outside the scope of the Guide.

II. Consumer Research

To aid the Commission in developing the proposed Guide amendments, the Commission conducted an Internet-based research study to explore consumer perceptions of certain fuel economy marketing claims.[4] Using a

[1] The Commission announced final revisions to the Alternative Fuels Rule in an April 23, 2013 Notice (78 FR 23832). In 2011, EPA and NHTSA completed revisions to their fuel economy labeling requirements, which, among other things, addressed labels for alternative fueled vehicles (AFVs) not specifically addressed in past EPA requirements. *See* 76 FR 39478 (July 6, 2011) (*see* 40 CFR parts 85, 86, and 600; and 49 CFR part 575).

[2] The comments are available at *https://www.ftc.gov/policy/public-comments/initiative-573.* The commenters included: Alliance of Automobile Manufacturers (Alliance) (#00004), Association of Global Automakers, Inc. (AGA) (#00007), Consumer Federation of America (on behalf of several organizations) (referred herein as ''consumer groups'') (#00006), LaRosa (#00002), National Automobile Dealers Association (NADA) (#00008), and Rodriguez (#00003).

[3] 15 U.S.C. 45(a). The Guides do not have the force and effect of law and are not independently enforceable. However, failure to comply with industry guides may result in law enforcement action under applicable statutory provisions. The Commission, therefore, can take action under the FTC Act if a business makes fuel economy claims inconsistent with the Guides. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive in violation of Section 5 of the FTC Act.

[4] The Commission announced the study in its May 2014 Notice and provided further information

treatment-control comparison methodology, the study compared participant responses regarding their understanding of a variety of claim types, such as general fuel economy claims (*e.g.,* ''this car gets great gas mileage''), specific MPG claims (*e.g.,* ''25 MPG in the city''), driving range claims, electric vehicle claims, and ''up to'' mileage claims. The study collected responses from U.S. automobile consumers representing a broad spectrum of the U.S. adult population.[5] By comparing the responses to various scenarios, the study provided useful insights about respondents' understanding of fuel economy claims.[6] This Notice contains relevant discussion of the proposed amendments, as well as specific study results. The Commission invites commenters to identify additional consumer research that may aid the FTC in considering the proposed Guide revisions.

III. Guide Benefits

Comments received in response to the 2014 Notice expressed general support for maintaining the Guide and provided general recommendations for improvement. Given this broad support, the Commission plans to retain the Guide. However, as detailed in this Notice, the Commission proposes to revise the Guide's format and update its content to address new technologies and new types of claims.

In expressing support for the Guide, several commenters discussed its benefits. NADA, for example, explained that the Guide helps prospective new vehicle purchasers obtain consistent and objective fuel economy information by advising manufacturers and dealers ''to disclose fuel economy estimates in a fair, even-handed, and clear and conspicuous manner.'' The consumer groups added that ''automobile purchases are among the largest expenditures consumers make and bind them to purchase the fuel necessary to run their vehicles.'' In their view, accurate mileage information benefits consumers, facilitates market functions, serves as a powerful incentive to increase fuel efficiency, and contributes significantly to the overall public good. These various comments are consistent with the Commission's past observation that ''the Guide has been a benefit to consumers, providing fuel economy numbers in advertising that allow meaningful comparisons of different vehicle models.'' [7]

Commenters also provided Guide recommendations related to EPA label developments and market changes in recent years. For example, NADA and the Alliance emphasized the need to ensure the Guide reflects current EPA fuel economy labeling requirements. The Alliance added that the updated Guide should reflect new vehicle technologies, existing terminology, and the current EPA label format, while still providing advertisers flexibility in how they inform consumers about fuel economy. In addition, NADA and the Alliance recommended the Guide afford flexibility in the content and format of claims, as long as such claims maintain accuracy and clarity.

In response to these comments, the Commission proposes to update the Guide, as detailed below, to take into account current EPA and NHTSA requirements, new vehicle technology, and new terminology. In addition, where appropriate, the proposed revisions provide flexibility to advertisers as long as they avoid deceptive claims.

IV. Proposed Guide Revisions

The Commission sought comments in the 2014 Notice on general issues related to the Guide, including a new format, technical definitions, citation format, types of fuel economy claims (including claims involving EPA-based MPG, non-EPA tests, vehicle configuration, fuel economy range, and alternative fueled vehicles), and limited-format advertising such as on mobile devices. The Commission discusses each of these issues below.

A. Guide Format

Background: In the 2014 Notice, the Commission proposed improving the Guide's format by making it consistent with recently amended FTC guides, such as the Guides for the Use of Environmental Marketing Claims.[8] Under the proposed format, the Guide includes a list of general principles to help advertisers avoid deceptive practices with detailed examples to illustrate those principles.

Comments: Commenters supported updating the Guide's format. For example, NADA explained updates would help dealers maximize the clarity and utility of their fuel economy advertising. The Alliance noted that revisions would aid manufacturers, particularly in addressing potential claims not specifically addressed by the Guide. However, several commenters (*e.g.,* NADA and AGA) urged the Commission to publish such changes for comment before making final amendments.

Discussion: In response to comments, the Commission proposes to revise the Guide format to be consistent with recent Guide revisions for other topics, such as environmental claims. Specifically, the proposed revisions include a list of general principles for fuel economy advertising illustrated by specific examples.

B. Definitions

Background: In the 2014 Notice, the Commission proposed five changes related to the Guide's definitions section (16 CFR 259.1).[9] First, the Commission proposed to replace several outdated terms to ensure consistency with EPA's current fuel economy rules.[10] Specifically, the Commission proposed changing the definitions ''estimated city miles per gallon'' to ''estimated city fuel economy;'' and ''estimated highway miles per gallon'' to ''estimated highway fuel economy.'' It also proposed revising the definition of the term ''fuel economy.'' In addition, the Commission proposed eliminating the term ''estimated in-use fuel economy range'' because EPA's fuel economy label no longer provides such information.[11] Second, the Commission proposed adding the term ''combined fuel economy'' to Section 259.1 to ensure consistency and reduce potential confusion because EPA now uses this term on its label.[12] The new term would expand the Commission's guidance to advertisers whose vehicles now display

in two additional notices (79 FR 26428 (May 8, 2014) and 79 FR 62618 (Oct. 20, 2014)).

[5] The study sampled members of an Internet panel consisting of individuals recruited through a variety of convenience sampling procedures. The sample for this research, therefore, does not constitute a true, random sample of the adult U.S. population. However, because the study focused primarily on comparing responses across randomly assigned treatment groups, the Internet panel provided an appropriate sample frame.

[6] Additional information about the study, including the questionnaire and results, is available on the FTC Web site. *See https://www.ftc.gov/policy/public-comments.*

[7] 67 FR 9924 (Mar. 5, 2002).

[8] *See* Guides for the Use of Environmental Marketing Claims (Green Guides) (16 CFR part 260).

[9] The Commission, in the 2009 Notice, also proposed to add two terms, ''Fuel'' and ''Alternative Fueled Vehicles,'' to distinguish vehicles that would be covered by EPA's label requirements from those covered by the proposed guidance regarding AFVs. 74 FR 19148, 19153.

[10] *See* 40 CFR 600.002.

[11] The current Guide defines ''estimated in-use fuel economy range'' as the ''estimated range of city and highway fuel economy of the particular new automobile on which the label is affixed, as determined in accordance with procedures employed by the U.S. Environmental Protection Agency as described in 40 CFR 600.311 (for the appropriate model year), and expressed in miles-per-gallon, to the nearest whole mile-per-gallon, as measured, reported or accepted by the U.S. Environment Protection Agency.'' 16 CFR 259.1(e).

[12] *See* 40 CFR 600, Appendix VI.

an estimate of combined fuel economy required by the EPA. Third, the Commission proposed to amend the Guide's definition of ''new automobile'' to include ''medium-duty passenger vehicle,'' consistent with EPA's existing fuel labeling requirements.[13] Fourth, the Commission proposed several minor revisions, including eliminating the phrase ''in use'' in the definition of ''range of fuel economy,'' and changing the definitions for ''estimated city MPG'' and ''estimated highway MPG'' to ensure consistency with EPA's terms and definitions. The Commission also proposed eliminating an obsolete reference to the term ''unique nameplate'' in footnote 2 and replacing it with the more appropriate EPA term ''model type.'' [14] Finally, the Commission proposed reorganizing the definition of ''new automobile'' to reduce its length and potential confusion. Specifically, the proposed amendment would remove the definitions of ''dealer,'' ''manufacturer,'' and ''ultimate purchaser'' from ''new automobile'' and list them as separate terms under section 259.1.[15]

Comments: Commenters supported conforming the definitions to current EPA label regulations.[16] AGA, for example, explained that using EPA's recent terminology would provide additional clarity and help ensure the Guide's consistent use. AGA also recommended eliminating the term ''estimated in-use fuel economy range'' because EPA no longer uses it. Likewise, it concurred with the proposal to remove the term ''in use'' from the Guide because the term furthers consumers' expectations that they will actually achieve the EPA numbers.

Discussion: Given commenters' support for these proposed changes, the Commission proposes to revise the definitions consistent with its proposals. In addition, the Commission has added the term ''EPA'' to the various ''fuel economy'' estimate definitions to clarify that such estimates are derived from required EPA test procedures. Furthermore, consistent with several proposed amendments discussed below, the proposed Guide contains new definitions for ''alternative fueled vehicle,'' ''flexible fuel vehicle,'' ''EPA driving range estimate,'' ''EPA regulations,'' and ''fuel.'' [17]

C. Regulatory Citations

Background: In its previous Notice, the FTC proposed to replace all specific regulatory citations to EPA regulations in the Guide with a general citation (40 CFR part 600) to reduce the frequency of future Guide changes should EPA amend its regulations. Earlier comments noted that this proposal would create confusion because the cited general EPA provisions contain two different sets of fuel economy requirements, one of which is not directly applicable to FTC's Guide. *See* 79 FR at 27821.

Comments: In response to the 2014 Notice, NADA urged the Commission to use only a general citation to EPA's regulations (*i.e.,* 40 CFR part 600), arguing the benefits of a general citation (*e.g.,* it would require fewer updates) outweigh any potential risks of confusion.

Discussion: To avoid confusion identified in the comments, the Commission proposes to simplify the citations by using a general citation to ''EPA regulations,'' but defining that term to mean EPA's ''fuel economy labeling requirements in 40 CFR part 600, subpart D,'' as opposed to other EPA vehicle-related regulations. This will clarify that the EPA regulations referenced in the Guide apply to that agency's labeling requirements and not other EPA requirements inapplicable to the Guide.

D. Types of Fuel Economy Claims

As discussed below, the Commission sought comment on specific types of advertising claims, including EPA-based miles-per-gallon claims, claims based on non-EPA tests, claims related to vehicle configuration, range of fuel economy claims, and AFV claims.

1. Miles-Per-Gallon (MPG) Claims

Background: In the 2014 Notice, the Commission sought comments on various aspects of the MPG provision of the current Guide (section 259.2(a)). Specifically, the Notice invited comments on the following issues: (1) Whether a general fuel economy claim (*e.g.,* ''XYZ car gets great mileage'') should be accompanied by a specific MPG disclosure to prevent consumer deception or unfairness; (2) whether an advertisement is unfair or deceptive if it provides only one type of mileage rating (*e.g.,* an advertisement that only provides highway MPG); (3) whether an unspecified MPG claim (*e.g.,* ''37 MPG'') is deceptive if the advertisement fails to identify whether the rating is city, highway, or combined; (4) how consumers understand ''up to'' MPG claims (*e.g.,* ''up to 45 MPG''); (5) whether the combined EPA MPG rating should serve as the default disclosure for unspecified fuel economy claims (instead of the city MPG as currently indicated in the Guide); (6) whether the Guide should advise advertisers to avoid statements that imply a linear relationship between MPG and fuel costs; (7) whether fuel economy advertisements containing MPG claims should identify EPA as the source of the ratings; and (8) whether the FTC should provide additional guidance regarding disclaimers that the EPA ratings are only estimates. Each of these issues is addressed below.

a. General Fuel Economy Claims

Background: In the 2014 Notice, the Commission sought comments on whether a general fuel economy claim should be accompanied by a specific mileage disclosure to prevent consumer deception or unfairness. The Guide has advised advertisers to include such disclosures since its initial publication in the 1970's. Specifically, section 259.2(a) states that an advertisement with a general fuel economy claim should disclose the vehicle's city mileage rating.[18] That section also indicates that any claim about city or highway driving should contain estimated city or highway MPG rating.

Comments: Commenters supported the current Guide's approach to specific mileage disclosures for general fuel economy claims. The Alliance explained that such mileage disclosures provide consumers ''with context and backup for the specific claim being made.'' Rodriquez stated that, given the potential for deception in general advertising claims, the Guide should continue to advise advertisers to include the fuel economy ratings.

Discussion: The Commission proposes to retain the existing guidance advising advertisers to provide the EPA mileage estimates whenever they make a fuel economy claim. As discussed below, this approach, supported by commenters, is consistent with the recent consumer research, as well as the guidance the Commission has provided consistently for decades.

In releasing the Guide in 1975, the Commission explained that ''when no specific fuel economy figure is cited in advertising, the use of such vague and ill-defined terms as 'saves gas,' or 'gas stingy engine' may . . . be deceptive by implying existence of some level of 'good fuel economy' which may be perceived differently by different

[13] 40 CFR 86.1803–01. Previously, EPA required fuel economy labels for only passenger automobiles and light trucks.

[14] 74 FR at 19151.

[15] The Commission does not propose otherwise altering these definitions.

[16] *See, e.g.,* Alliance, Global Automakers, and NADA.

[17] *See* section 259.1 of the proposed Guide.

[18] At the time the Guide was created, EPA did not require combined fuel economy on the label. Therefore, the guidance pointed to the city mileage number as the default disclosure.

individuals.''[19] In choosing to retain the provision in 1995, the Commission explained that ''it is important that the EPA estimate accompany implicit as well as explicit mileage claims. Any mileage claim inherently involves a comparison to other vehicles. The EPA estimates provide consumers with a meaningful method of comparing competing claims.'' [20]

The recent FTC consumer study supports these conclusions.[21] Study respondents tended to assign multiple meanings to general fuel economy claims. For example, when asked about the meaning of the claim ''this car gets great gas mileage,'' various respondents said the vehicle had better mileage than other cars of its size, better mileage than all other cars, better mileage than similarly priced cars, or none of those choices.[22] When the study narrowed the general fuel economy claim to a particular class size (''This car gets great gas mileage compared to other compact cars''), respondents offered varied responses about whether such claims applied to all, most, or many cars in the class.[23] When asked to describe the meaning of a general fuel economy claim in an open-ended format, the results were similarly diverse. Specifically, when respondents were asked about the meaning of the claim ''This car gets great gas mileage,'' they variously answered ''more miles per gallon/saves money/less gas''; ''gets over 30 miles or more''; gets ''good'' or ''great'' mileage; and ''gets over 20 miles or more.'' [24]

These varied interpretations are likely impossible for an advertiser to substantiate simultaneously. To overcome such potential deception, the Commission has consistently recommended that advertisers disclose the EPA MPG ratings in advertisements that contain general fuel economy claims. Such ratings adequately qualify general fuel economy claims by providing clear objective information that allows consumers to compare competing models and thus mitigates the deceptive conclusions consumers may draw from general claims. Given the results of the research and the overwhelming commenter support for the existing guidance, the Commission does not propose to change it.

b. Combined EPA MPG Rating as Default Disclosure

Background: In the 2014 Notice, the Commission also solicited comments on whether the EPA combined city/highway rating, rather than the city MPG, should serve as the default disclosure for general fuel economy claims. The current Guide (section 259.2(a)(1)(iii)), which the Commission issued before EPA began requiring the combined rating on the label, directs advertisers to provide the EPA city rating as the default disclosure to accompany any general fuel economy claim that does not reference city or highway driving. In 2011, EPA altered the fuel economy label's design and content to feature the combined city-highway rating.[25] The EPA label continues to provide both the city and highway MPG ratings in a font smaller than that used for the combined rating.

Comments: Commenters generally supported designating the combined (city/highway) mileage rating as the default disclosure for general fuel economy claims. In particular, the Alliance preferred the combined rating because it is the most prominent disclosure on EPA's current label. The Alliance also explained that the city rating is no longer the lowest or most conservative value in all instances. For many hybrid vehicles, the city MPG rating is higher. AGA argued that advertisers should be able to disclose all the rating types—city, highway, and combined—in combination or alone because these ratings may be beneficial in specific cases (*e.g.,* where a vehicle is intended primarily for city driving).

The consumer groups argued that including all three ratings is the best way to avoid deception, though they noted the combined number alone may be appropriate in some cases. In addition, Rodriguez added that advertisements should include fuel economy ratings for both highway and city because evidence suggests that typical driving time is almost evenly split between the two, contrary to the EPA combined estimate, which weights 55% city and 45% highway. In Rodriguez's view, such city and highway disclosures allow for more accurate fuel economy comparisons.

Discussion: The Commission proposes advising advertisers to disclose either the combined fuel economy rating, or both the city and highway numbers, when using fuel economy claims that do not specifically mention city or highway driving. Based on an EPA-specified weighted ratio of city and highway driving, the combined number is now the most prominent EPA label disclosure. It provides an effective default disclosure because it serves as a common consistent indicator of a vehicle's overall mileage. Additionally, the proposed guidance gives advertisers the option to disclose the city and highway estimates together. This disclosure allows consumers to gauge their expected mileage based on their own ratio of city-highway driving. Accordingly, the proposed provision would provide advertisers the flexibility to disclose either the combined rating or the city and highway ratings together. The Commission seeks comments on this approach.[26]

c. Single Mileage Ratings

Background: The Commission also asked whether an advertisement is deceptive or unfair if it provides only one type of rating (*e.g.,* an advertisement that only discloses highway MPG). The current Guide states that, if an MPG claim involves only city or only highway fuel economy, the advertisement need only disclose the corresponding EPA city or highway estimate. For example, under the current approach, only the ''estimated highway MPG'' need be disclosed if the representation clearly refers only to

[19] 40 FR 42003 (Sept. 10, 1975).

[20] 60 FR 56230, 56231 (Nov. 8, 1995).

[21] Section II of this Notice contains background information about the study.

[22] Specifically, when asked about a general claim's meaning (Q1d), study participants, selecting from five responses, indicated the vehicle had better mileage than other cars of its size (36.8%), better mileage than all other cars (14.1%), better mileage than similarly priced cars (12.0%), not sure (15.6%), and none of above (21.5%). The responses were significant compared to control questions where the general claim was narrowed (Q1e and Q1f) (*e.g.,* great mileage compared ''to other compact cars'' or ''similarly priced cars''). In response to those questions, the vast majority of respondents correctly identified the relevant comparison. Specifically, in Q1e where the claim included ''other compact cars,'' 78.8% of respondents accurately identified the comparison as ''other cars of its size'' while the results for all other choices were fewer than 10%. Where the claim involved a comparison of ''similar priced'' cars in Q1f, 62.7% accurately identified the comparison as ''cars with a similar sales price'' though 20.6% still identified the relevant comparison as ''other cars of its size'' even though the claim specifically identified ''similarly-priced cars.''

[23] When the advertisement said ''This car gets great gas mileage compared to other compact cars'' (Q2b), 23% of respondents indicated the car got better gas mileage than ''all'' other compact cars; 37% believed it got better gas mileage than ''almost all'' other compact cars; and 18% indicated it got better mileage than ''at least half.'' When the claim was altered to say ''This car gets great gas mileage compared to many other compact cars'' (Q2d), the responses also varied with 10% indicating the car had better mileage than all cars, 30% indicating better than almost all, and 30% indicating better than at least half. Only when respondents viewed a control which stated ''This car gets great gas mileage compared to all other compact cars'' (Q2c) did the variation decrease, with 52% indicating the advertised car got better mileage than all other cars. However, even under this scenario, 23% said the car got better mileage than ''almost all'' other compact cars.

[24] Q1a. None of these various answers corresponded to more than 5% of participants' responses.

[25] 76 FR 39478 (July 6, 2011).

[26] 74 FR at 19150. Currently, section 259.2(a) does not prohibit disclosure of both the city and highway estimates.

highway fuel economy. 16 CFR 259.2(a)(1)(ii).

Comments: Commenters offered different opinions on the use of a single mileage rating (*e.g.,* ''43 MPG on the highway''). For example, the consumer groups argued that single rating disclosures are clearly deceptive because few, if any, consumers drive solely on highways or local streets. Thus in their view, most consumers will not obtain the fuel efficiency represented by single highway ratings. The consumer groups also indicated that many advertisers use the highway rating ''to present their vehicle in the best light possible.'' To avoid deception, they argued that advertisers should disclose mileage estimates in one of two ways: (1) All three ratings together (*i.e.,* city, highway, and combined) with the combined rating presented most prominently, or (2) the combined rating only where space for content is limited.

Other commenters, particularly industry members, disagreed. For instance, NADA argued that advertisements containing a single fuel economy rating are not inherently unfair or deceptive. The Alliance agreed, stating that advertisers should have the flexibility to provide information that they believe is most relevant for each vehicle.[27] The Alliance asserted that consumers ''have had many years to become familiar with the City, Highway, and Combined rating system'' and thus are unlikely to become confused by a single rating. Several of these commenters argued that the Guide should provide manufactures the flexibility to disclose the rating most relevant to the consumers of a particular product. The Alliance explained, for example, that consumers shopping for a compact car designed primarily for urban use are likely to be most interested in the city value. In its view, an advertisement is not deceptive as long as it discloses the EPA label value and identifies the rating involved (*e.g.,* city mileage).

Discussion: Consistent with the current guidance, the proposed Guide does not discourage single mileage ratings in advertisements tied to a particular type of driving (*e.g.,* ''This vehicle is rated at 40 MPG on the highway according to the EPA estimate''). Such single-rating claims are not likely to be deceptive as long as the advertisement clearly identifies the type of estimate (*e.g.,* city, highway, or combined), and the estimate matches the content of the advertised claims.

The FTC's consumer study supports this approach. For example, when shown a single highway mileage claim (*e.g.,* ''This car is rated at 25 miles per gallon on the highway according to the EPA estimate''), the vast majority of respondents (74.6%) correctly answered that car would likely achieve that MPG in highway driving, and the responses for alternative interpretations were low.[28] The results were similar when respondents were asked about a claim for a combination of city and highway driving.[29]

In addition, respondents were able to distinguish between highway and combined driving ranges when asked whether they expected to achieve a certain mileage rating if they used the advertised vehicle for *all* their driving. For instance, when shown a 25 MPG highway claim, (Q6c) 62.2% of respondents indicated they would expect to get ''a lot'' or a ''little'' less than 25 MPG when driving the advertised car, while only 48.1% answered similarly when shown the 25 MPG combined driving claim (Q6d).[30] When asked to identify the conditions that might lead to mileage higher or lower than the EPA estimate, more than half of respondents mentioned highway driving, city driving, or both.[31]

The research therefore suggests that consumers are not deceived by single mileage claims as long as the claim specifies the type of driving involved (*e.g.,* highway, combined, etc.). Moreover, consumers have seen such estimates in advertising and on EPA labels for decades. In light of this ongoing exposure, it seems unlikely that a single, clearly-identified mileage estimate will lead to deception. Accordingly, absent additional evidence demonstrating that such claims are deceptive, the Commission does not propose changing its approach on this issue. However, consistent with the existing Guide, the proposed amendments (section 259.4(c)) advise marketers that EPA fuel economy estimates should match the driving claims appearing in the advertisements.

d. Unspecified MPG Claims

Background: The 2014 Notice also asked commenters whether an unspecified MPG claim (*e.g.,* ''37 MPG'') is deceptive if the advertisement fails to identify whether the rating is city, highway, or combined. The current Guide advises advertisers to tie specific mileage ratings to specific driving modes (*i.e.,* city or highway).[32]

Comments: The consumer groups argued that an unspecified MPG rating is clearly deceptive because consumers do not know the driving mode upon which such a claim is based and, in cases where the number reflects the highway rating, consumers are unlikely to consistently achieve such mileage. Citing similar concerns, the Alliance recommended that, whenever an EPA label value appears in an advertisement, the advertiser disclose which EPA value applies (city, highway, or combined).

Discussion: The Commission plans to continue to advise against using mileage ratings claims that fail to specify the type of rating (*i.e.,* city, highway, or combined). The FTC consumer study suggests that such unqualified claims lead to confusion and potential deception because respondents interpreted them in different ways. For example, when presented with the claim that a car was ''rated at 25 MPG,'' 30.5% of the respondents linked the figure to highway driving, while 40.4% indicated it applied to a combination of highway and city driving.[33] The results are consistent with the assumption underlying the current Guide that consumers' interpretation of such unspecified mileage claims varies significantly in the absence of specific information (*i.e.,* highway, city or combined), and that consumers do not

[27] Both NADA and the Alliance emphasized that appropriate disclosures should be included in ads.

[28] *See* Q5c. The response results for other choices, with no control, were: city rating (5.8%), combined rating (10.7%), unsure (5.5%), and none of the above (3.5%).

[29] The results for Q5d were, not accounting for a control: Combined (76.6%), highway (10%), city (4.2%), not sure (6.2%), and none of the above (2.5%). When the question presented an unspecified MPG claim (Q5b) (car '' . . . rated at 25 miles per gallon . . .''), the responses were: combined (40.4%), highway (30.5%), city (8.5%), not sure (16.7%), and none of the above (4.1%).

[30] The results for respondents expecting to achieve ''a little'' or ''a lot'' more than the stated rating were 7.6% for Q6c (highway claim) and 6.9% for Q6d (combined claim), with no control.

[31] In both cases, the number of respondents indicating they would get better mileage than the stated MPG rating was low. These results suggest that a significant number of respondents expected to achieve lower mileage in combined driving than highway driving and believe that EPA test results may overstate actual mileage, regardless of the type of driving.

[32] *See* section 259.2(a)(1)(iii). The Guide also advises disclosure of the ''estimated city MPG'' if advertisers make a ''general fuel economy claim without reference to either city or highway, or if the representation refers to any combined fuel economy number.'' As noted above, at the time the Guide was created, EPA did not require combined fuel economy on the label. Therefore, the guidance pointed to the city mileage number as the default disclosure. However, the current EPA label features combined city/highway MPG as the primary disclosure.

[33] Q5b. The contrasting questions lend validity to these results. As discussed above, in a separate question (5c), when told the car was rated at 25 MPG on the highway, 74.6% indicated the car would get about 25 MPG on the highway. Similarly, when told the car was rated at 25 MPG in combined driving (Q5d), 76.6% responded that the car would achieve about 25 MPG in combined driving.

uniformly assume such estimates apply to a particular type of driving (*e.g.,* highway). Accordingly, advertisers failing to identify the driving type associated with an MPG claim are likely to deceive a significant percentage of consumers regarding the rating's basis.[34]

e. ''Up To'' Claims

Background: The Commission also asked commenters to address how consumers understand ''up to'' MPG claims, which currently appear in dealership advertisements (*e.g.,* ''up to 45 MPG''). In making such claims, advertisers often seek to convey that the advertised MPG applies to a specific version of the model (*e.g.,* style, trim line, or option package), while other versions of the model have lower ratings. The current guidance does not address such claims.

Comments: Commenters split on this issue, with the consumer groups arguing that the Guide should discourage ''up to'' claims and industry members disagreeing. In the Alliance's view, such claims allow sellers to advertise a nameplate or family of vehicles by communicating ''the range of capabilities across a nameplate or family.'' The Alliance asserted that eliminating these claims would limit manufacturer flexibility and potentially prohibit simple ''reasonably understood'' information about vehicle groups. NADA added that, because single models have various engine and transmission options, the ''up to'' qualifier may be necessary to avoid deception. Alternatively, NADA suggested that dealers and manufacturers disclose a range of fuel economy label ratings when an advertisement involves multiple vehicles.

The consumer groups, however, stated that ''up to'' claims are deceptive and, to avoid such deception, mileage ratings in ads must reflect the ''vehicle configuration expected to be most popular for that year.'' If a specific model configuration has a better fuel economy rating, the groups argued that the advertisement can present that rating in addition to the MPG of the most popular version.

Discussion: The FTC proposes amending the Guide to advise advertisers to avoid unqualified ''up to'' MPG claims. The FTC consumer study suggested significant consumer confusion regarding these claims. In particular, the study gauged respondents' interpretation of three versions of an ''up to'' claim, ranging from a basic claim with no explanatory information, to one that provided a detailed explanation. Most respondents (73.1%) interpreted ''up to'' in an unqualified claim to mean the depicted vehicle would achieve the stated MPG if it was driven in a certain way.[35] In addition, when respondents were asked in an open-ended format to explain their understanding of a simple ''up to'' claim (*i.e.,* ''This model gets up to 30 miles per gallon''), very few respondents mentioned that the claim relates to the MPG rating for a specific version of the model (Q3a).

However, when respondents viewed a more detailed, qualified claim explaining that ''up to'' referred to a specific model version (Q3e (close-ended question)), the confusion decreased significantly, with a majority (51.9%) indicating the claim meant a version of the advertised model was rated at 30 miles per gallon.[36] With this more detailed disclosure, 30% of respondents interpreted the stated MPG as referring to the way in which the vehicle is driven, compared to the 73.1% who took away the same interpretation from the unqualified claim in Q3c.[37] Caution should be used in interpreting this 30%, as it is an uncontrolled result. Thus, we cannot be sure how many of the responses actually indicate deception. However, it does suggest that drafting an adequate qualifying disclosure may be difficult. Accordingly, to minimize the risk of deception, advertisers should be careful to ensure that qualifying language properly conveys the meaning and limitations of any ''up to'' claims.

In sum, the consumer study strongly suggests that unqualified ''up to'' claims are likely to be deceptive where the advertiser intends to communicate that a version of the advertised model will achieve the stated fuel economy rating. In addition, under the same circumstances, the results suggest that it is difficult to fashion qualifying language that adequately avoids consumer confusion. However, given available information, the Commission cannot conclude that such ''up to'' claims are categorically deceptive. Therefore, the proposed guidance advises advertisers to ensure that qualifying language adequately clarifies such claims to prevent deception.

f. Non-Linear Relationship Between MPG and Fuel Costs

Background: In the 2014 Notice, the Commission asked whether the Guide should advise advertisers to avoid statements that imply a linear relationship between MPG and fuel costs. As explained in the earlier notice, MPG ratings and fuel savings do not increase proportionally. For instance, fuel savings due to an increase from 10 MPG to 20 MPG is much greater than from an increase from 50 to 60 MPG. Given this fact, some have recommended use of a different efficiency metric, such as ''gallons per 100 miles,'' which exhibits a linear relationship with fuel cost.[38] Indeed, EPA requires a ''gallons per 100 miles'' figure as a secondary disclosure on its label.

Comments: Commenters agreed that advertisers should not imply that there is a linear relationship between MPG and fuel costs. However, they also stated that no such claims currently appear in advertisements and thus did not identify a need for the Guide to address them.[39]

Discussion: Because commenters indicated that no claims currently appear in advertising implying a linear relationship between mileage and fuel cost, the Commission does not propose addressing this issue in the Guide.[40] However, advertisers should remain mindful of the non-linear relationship between MPG and fuel costs and avoid claims that state or imply such a relationship.

g. EPA as the Source of Estimate

Background: The Commission also invited comments on whether it should retain its current advice that fuel economy values in advertisements should disclose that EPA is the source of the ''estimated city MPG'' and ''estimated highway MPG.''

Comments: Commenters agreed that the Guide should continue to advise advertisers to identify EPA as the source

[34] This guidance assumes the city and highway ratings for a particular vehicle are different, which is almost always the case.

[35] Specifically, 28.4% stated that ''up to'' meant the advertised MPG depended on the type of driving (*e.g.,* highway or city), and 44.7% indicated the stated MPG could be achieved if the car was driven efficiently (Q3c). Only a few respondents (9.3%) interpreted the unqualified ''up to'' claim to mean the MPG rating applied to a specific model version, the meaning often intended by car advertisers.

[36] The claim in Q3e read: ''Different options for engine size and other features are available. Depending on the options chosen, this model gets up to 30 miles per gallon.''

[37] Specifically, 14.2% choose type of driving (*e.g.,* highway or city), and 15.8% indicated the stated MPG could be achieved if the car was driven efficiently (Q3e).

[38] *See, e.g.,* Larrick, R.P. and J.B. Soll, ''The MPG Illusion,'' *Science* 320:1593–1594 (2008).

[39] *See* Alliance and NADA comments.

[40] As EPA has indicated in the past, a metric such as ''gallons per 100 miles'' provides consumers with ''a better tool for making economically sound decisions'' than traditional MPG disclosure. Accordingly, EPA now includes such a figure on the label despite its unfamiliarity to most consumers. 76 FR 39478, 39486 (July 6, 2011).

of the estimates. The consumer groups explained that advertisements should always list EPA as the rating's source because this designation reinforces the rating's ''official nature'' and ensures consumers can make true vehicle-to-vehicle comparisons. In their view, the FTC's recommended disclosures help consumers understand that the fuel economy values do not derive from an unofficial process for marketing or advertising purposes. NADA agreed and urged the Commission to recognize the value in additional disclosures directing consumers to *www.fueleconomy.gov.*

Discussion: The Commission does not propose changing its guidance for identifying EPA as the source of the estimates. No information on the record suggests a change is necessary. As comments explained, this disclosure clarifies the basis for mileage disclosures and thus helps avoids deception. The consumer research provides some support for this guidance. Although the study did not address this issue directly, respondents indicated significant confusion about the source of tests for driving range claims related to electric vehicles, suggesting the absence of the EPA disclosures could lead to deception.[41] Finally, the Commission expects most advertisers will identify the EPA disclosure as a matter of course. Accordingly, continuing the guidance is unlikely to place any significant burden on advertisers.

h. Additional Guidance on Ratings as ''Estimates''

Background: The current Guide advises advertisers to disclose that the EPA ratings are ''estimates.'' [42] In the 2014 Notice, the Commission asked whether the FTC should provide additional guidance on this issue.

Comments: Commenters urged the Commission to retain its guidance regarding the estimate disclosure. NADA explained that the EPA fuel economy ratings do not convey the mileage particular vehicles will actually achieve, but, instead, furnish estimates to help prospective purchasers make vehicle comparisons. Rodriguez also cautioned that the EPA test cannot accurately predict fuel economy for all drivers and all driving conditions. The Alliance, which also supported the existing guidance, argued that any additional disclosures on this issue would increase consumer confusion. AGA suggested that FTC caution against phrases such as ''X vehicle *gets* xx MPG in the city/on the highway'' because such language may lead consumers to believe that they will actually achieve such mileage in their own driving. However, AGA recommended that advertisers use the term ''rating'' instead of ''estimate,'' because the latter term may mislead consumers into believing they will actually achieve the stated MPG number.[43] The term ''rating,'' it argued, would help manage consumers' expectations given other types of ratings, reviews, and other comparative tools typically based on individuals' experience. AGA noted that the EPA uses ''rating'' somewhat interchangeably with ''estimated fuel economy'' on the *fueleconomy.gov* Web site.

Discussion: The Commission does not propose to change its guidance advising advertisers to disclose that EPA numbers are ''estimates.'' The term ''estimate'' helps prevent deception by signaling to consumers that their actual mileage will vary. Specifically, the term helps reduce the likelihood consumers will believe they will achieve or ''get'' a certain mileage.[44]

Moreover, although one commenter recommended that the Guide discourage using the term ''estimate,'' there is no indication this term is deceptive other than that comment. In addition, EPA regulations and the underlying statute employ this term, and it has appeared on EPA labels and in advertising for decades.[45] At the same time, the Commission recognizes that the term ''estimate'' does not represent the only non-deceptive means to inform consumers that their fuel economy results may vary from the EPA rating.

2. Claims Related to Model Types

Background: The current Guide advises manufacturers to limit fuel economy ratings to the model type being advertised. Doing so ensures advertised fuel economy ratings match the advertised vehicles specification.[46] Specifically, section 259.2, n. 2 of the Guide warns against using a single fuel economy estimate for all vehicles bearing a common model name, if separate vehicles within that model group have different fuel economy ratings. The Commission sought comment on this issue including whether the FTC should provide further guidance to help advertisers avoid deceptive claims in this context.

Comments: In response, NADA indicated that, where an advertisement includes only one model version, advertisers should not use mileage ratings for a different version of the same make or model. The Alliance agreed and argued the current Guide provides adequate guidance on this issue. In its opinion, additional information would create lengthy and unwieldy disclosures, with little benefit to consumers. The Alliance noted that several sources, including manufacturer Web sites, *fueleconomy.gov,* the vehicle's EPA label, and dealers, have more detailed information about vehicle configuration to help consumers. Finally, AGA cautioned against revising guidance, explaining that EPA has been working to address how models are grouped for mileage purposes. Accordingly, AGA urged EPA and FTC to coordinate efforts to ensure consistency.

Discussion: Responding to these comments, the Commission proposes to update its existing guidance on claims related to make or model groups to include current EPA terminology. Specifically, the proposed amendments remove the outdated term ''unique nameplate'' and replace it with the more general term ''model type.'' However, the proposed Guide remains consistent with existing advice. In particular, the proposal states that it is deceptive to state or imply that a rated fuel economy figure applies to vehicles not included in the same model type featured in the advertisement. Fuel economy estimates assigned to model types under EPA's regulations apply only to specific versions of the model. Thus, any fuel economy claim for a vehicle should apply to the model type being advertised (*e.g.,* a version with a 1.0 liter engine, automatic transmission).

3. Claims Based on Non-EPA Estimates

Background: In the 2014 Notice, the Commission sought comment on the Guide's treatment of fuel economy claims based on non-EPA tests. In issuing the Guide in 1975, the Commission explained that ''the use in advertising of fuel economy results obtained from disparate test procedures may unfairly and deceptively deny to consumers information which will

[41] In Question 4c, the Commission asked respondents about the source of a test used to determine a driving range claim. In open-ended responses, study participants pointed to a variety of results, with about 30% identifying the car company as the source, 11% identifying a government agency, and more than 40% indicating they were not sure.

[42] *See* section 259.2(a)(2).

[43] AGA noted that, in the European Union, advertisements must include additional text stating: ''The mpg figures quoted are sourced from official EU-regulated test results, are provided for comparability purposes and may not reflect your actual driving experience.''

[44] The revised Guidance also contains an example warning against the use of the term ''gets'' without adequate qualification.

[45] *See* 40 CFR part 600, and 49 U.S.C. 32908.

[46] The EPA's fuel economy regulations define ''model type'' as ''a unique combination of car line, basic engine, and transmission class.'' 40 CFR 600.002–85.

enable them to compare advertised automobiles on the basis of fuel economy.''[47] To address this issue, the Guide advises advertisers to provide several disclosures whenever they make a fuel economy claim based on non-EPA information. Specifically, section 259.2(c) states that fuel economy claims based on non-EPA information should: (1) Disclose the corresponding EPA estimates with more prominence than other estimates; (2) identify the source of the non-EPA information; and (3) disclose how the non-EPA test differs from the EPA test in terms of driving conditions and other relevant variables. The Commission sought input on this issue, asking commenters to address, among other things, the prevalence of non-EPA fuel economy claims, including both traditional fuel economy claims (*e.g.,* MPG), as well as electric vehicle driving range claims (*e.g.,* ''100 miles per charge'') and the adequacy of the current guidance for preventing deception.

Comments: Commenters offered conflicting views on the Guide's treatment of non-EPA fuel economy claims. Industry members agreed with the existing guidance but questioned its relevance. In AGA's view, the current guidance could help consumers make comparisons when non-EPA ratings appear in advertisements. However, both NADA and AGA explained that manufacturers and dealers simply do not refer to such ratings in advertising, and there is no expectation they will do so in the future. Thus, both organizations questioned whether the guidance on non-EPA source is still necessary.

Conversely, the consumer groups argued the Guide should ''prevent the use of anything but standardized EPA MPG ratings'' because such ratings provide the only means to avoid ''significant deception.'' The groups explained that the EPA ratings have become the standard on which manufacturers compete. In their view, many different techniques can produce mileage estimates, and the dissemination of such alternative ratings ''would substantially increase deceptive advertising.'' They argued that the EPA numbers, which appear on every vehicle sold in the U.S., must appear in the advertisements to avoid deception and confusion. They further asserted that EPA's single rating system allows for ''true competition and avoids the deception associated with multiple rating systems'' and different testing methodologies. In their view, alternative (non-EPA) rating results prevent vehicle-to-vehicle comparisons and lead to ''manipulation and skepticism.''

Discussion: The Commission does not propose changing the Guide's basic approach to advertising claims based on non-EPA data. The Commission has identified no basis to prohibit all fuel economy advertising claims based on non-EPA tests. There is no evidence that such claims are deceptive if adequately qualified. In addition, though advertisers may not commonly use non-EPA MPG ratings in advertising, that may not be the case for other claims, such as driving range representations for electric vehicles.[48] Accordingly, the proposed Guide continues to recommend specific disclosures related to non-EPA claims to reduce the possibility of deception.[49] The Commission seeks further comment on this issue, particularly whether non-EPA claims, including non-EPA driving range claims for electric vehicles, are common. Finally, the current Guide addresses the relative size and prominence of fuel economy claims based on non-EPA and EPA estimates in television, radio, and print advertisements. The Commission proposes to retain this guidance. The Commission, however, proposes to clarify that it applies to any advertising medium (not solely television, radio, and print).

4. Claims for Alternative Fueled Vehicles

Background: In the 2014 Notice, the Commission sought comment on whether the Guide should address advertising for flexible fueled vehicles (FFVs), particularly pertaining to different fuel economy estimates for different fuels.[50] Specifically, the Commission asked commenters to address whether advertisements that provide a vehicle's gasoline MPG rating and identify the vehicle as an FFV should include disclosures about that vehicle's alternative fuel MPG rating.

Comments: In response, commenters recommended that the Guide address alternative fueled vehicles, particularly electric vehicles, given their recent proliferation in the market. However, they recommended different approaches to addressing this issue.

Electric Vehicle Driving Range: First, AGA recommended the Guide address plug-in hybrid electric vehicles (PHEVs), battery electric vehicles (BEVs), and fuel cell electric vehicles (FCEVs) to ensure consistent use of fuel economy ratings among these increasingly prevalent vehicles. AGA also recommended that the FTC consult with EPA to develop best practices for BEV, FCEV, and PHEV fuel economy advertising. In particular, AGA asked the Commission to consider guidance on driving range claims for alternative fueled vehicles to provide a better ''apples-to-apples'' comparison across all fuel and vehicle types, particularly given the importance of this information for PHEVs and ''electric-only'' ranges. In the Alliance's view, any claims for a vehicle's driving range should follow the same disclosure principles applicable to other claims. NADA added that the Commission's guidance should promote uniformity and clarity in the use of all government fuel economy labeling for all AFVs in the same manner as conventionally fueled vehicles.

Miles Per Gallon Equivalent (MPGe): The consumer groups recommended that electric vehicle advertisements disclose the vehicle's miles per gallon equivalent (MPGe), which appears on the EPA label and converts the energy efficiency of electric vehicles into a miles per gallon estimate. However, to help consumers understand such information, the commenters suggested the following disclosure: ''This vehicle does not use gasoline, the conversion from electric efficiency to miles per gallon is for comparative purposes.'' For plug-in hybrid electric vehicles, the consumer groups argued that the fuel economy ratings should include separate ratings for operation on gasoline (or other combustion engine fuel) and on electricity, in equal prominence.

Alternative Fuel: Finally, the consumer groups argued that FFV advertisements should disclose two MPG ratings: One for the model's gasoline rating and one for the biofuel blend. However, they indicated that, if the advertisement does not mention the vehicle's FFV capability, it would be adequate to disclose the gasoline-only MPG.

Discussion: The Commission has considered issues related to electric vehicle driving range, MPGe

[47] 40 FR 42003 (Sept. 10, 1975).

[48] In addition, to the extent such claims do not appear in advertising, the Guide imposes no burden on such claims.

[49] The guidance assumes that the advertised non-EPA estimates are not identical to the EPA estimates.

[50] Previously, the Commission had sought comments on Guide amendments specifically related to alternative fueled vehicles labeled under the Alternative Fuels Rule (16 CFR part 309). 74 FR at 19152. However, in April 2013, the Commission amended the Alternative Fuels Rule to consolidate the FTC's alternative fueled vehicle labels with EPA's new fuel economy labels. Because those amendments removed any potential conflict between FTC and EPA labels, the Guides need not address FTC alternative fueled vehicles labels. 78 FR 23832 (April 23, 2013).

disclosures, and claims for FFVs. We discuss each below:

Electric Driving Range Information: The Commission proposes to address driving range claims for several reasons. First, as with general fuel economy claims, general driving range claims (*e.g.,* ''will go far on a single charge'') are likely to generate a variety of consumer interpretations about the vehicle's range relative to other vehicle's on the market. These multiple interpretations are likely impossible for many advertisers to substantiate simultaneously. Disclosing the EPA range estimates will help prevent deception by providing clear, objective information that allows consumers to compare the driving ranges of competing vehicles. Second, the consumer research suggested that confusion may exist regarding the source of driving range claims. Specifically, in response to an open-ended question about the source of the test used to derive a driving range (Q4c), respondents pointed to a variety of results, with about 30% identifying the car company as the source, 11% identifying a government agency, and more than 40% indicating they were not sure.[51] Finally, driving range estimates are becoming increasingly important and prevalent. As with MPG disclosures for gasoline vehicles, range estimates for electric vehicles provide a fundamental measurement of an electric vehicle's performance based on EPA testing requirements. Given these various considerations, the proposed Guide advises advertisers to disclose EPA-mandated driving range results whenever they make a general driving range claim.

Miles Per Gallon Equivalent (MPGe): The Commission does not propose advising advertisers to always disclose MPGe in advertising for electric vehicles as some comments suggested. It is unclear whether such disclosures are essential to preventing deception. Because MPGe is a relatively new and unfamiliar concept to most consumers, the extent to which they would understand and use such a disclosure is unclear. Indeed, the consumer research supports this. When viewing an MPGe claim (*i.e.,* ''This electric car is rated at 93 MPGe'') (Q4d), respondents assigned a variety of interpretations to the term. Specifically, only about 35% understood that MPGe reflected the electric vehicle's relative energy use (or energy cost) compared to conventional gasoline vehicles, and 40% indicated they were not sure what the term meant.[52] In addition, in shopping for electric vehicles, consumers are likely to focus on other energy performance metrics, such as driving range. Furthermore, it is likely that consumer understanding of MPGe will evolve rapidly as more electric vehicles enter the market. For now, however, the concept is too novel to incorporate into the guidance.

Alternative Fuel: The Commission agrees with commenters that, if the advertisement mentions the vehicle's alternative fuel capability, FFV advertisements should provide both the vehicle's gasoline and alternative fuel ratings. Without such disclosures, consumers may assume the advertised MPG rating applies both to gasoline and alternative fuel operation.

5. Fuel Economy Range Claims for Specific Models

Background: In the 2014 Notice, the Commission proposed to eliminate its guidance on ''estimated in-use fuel economy range'' claims (*e.g.,* ''expected range for most drivers 15 to 21 MPG''). Because EPA's label no longer contains this information, and no evidence suggests such claims are prevalent, the Commission proposed to eliminate this specific provision.

Comments: The Alliance supported the proposal, explaining that the provision, as written, no longer applies to most vehicles.

Discussion: For the reasons discussed above, including commenter support, the Commission proposes to eliminate the Guides' provision related to ''estimated in-use fuel economy range'' (259.2(b)(1)).

E. Limited Format Advertising

Background and Comments: The Alliance urged the Commission to address space-constrained advertising, particularly in newer media formats. It recommended the Guide ''grant maximum flexibility'' for fuel economy advertising in new media formats while ensuring a level playing field and fair disclosures to consumers. Specifically, it suggested the Commission set general guidelines to allow familiar short-hand and weblinks in limited format advertising to direct consumers to mandated disclosures while avoiding overly prescriptive provisions. The Alliance stressed that such advertisements typically serve as a ''starting point'' for consumer awareness of the product and lead consumers to conduct additional research elsewhere. According to the Alliance, consumers understand that restricted-format advertisements do not contain complete information and routinely click on hyperlinks to access more detailed information. In its view, such links are more effective in providing disclosures to consumers than ''attempting to include detailed footnotes that clutter a restricted-format advertisement and make it more difficult to read.'' [53]

The Alliance provided two specific suggestions. First, it recommended the Guide allow fuel economy advertisers to make abbreviated, but clearly understandable, disclosures of EPA label values in restricted-format media (*e.g.,* ''EPA-est. 35 MPG Hwy''). Second, it argued that, in restricted format advertising, the Guide allow advertisers to provide necessary disclosures through web links directing consumers to the required information.

Discussion: The Commission does not propose to cover space-constrained advertising in the Fuel Economy Guide because these issues are already addressed by the FTC's ''.Com Disclosures: How to Make Effective Disclosures in Digital Advertising'' (''.Com Disclosures'').[54] That guidance clarifies that advertisers are not exempt from general disclosure requirements simply because an advertisement has space constraints. However, it also provides recommendations for making disclosures in such contexts. The general principles in .Com Disclosures for space-constrained advertising hold true for fuel economy advertising. The Commission expects that advertisers will be able to include abbreviated forms of most disclosures identified in the proposed Guidance. Terms such as ''EPA estimate'' and ''highway MPG'' have been widespread in advertisements over the last four decades. Given the prevalence of these terms, the Commission expects that abbreviated disclosures, such as ''EPA-est. 35 MPG Hwy,'' coupled with a link to more detailed information, should be effective in conveying the disclosures to consumers.[55] However, since the Commission cannot anticipate every abbreviated disclosure advertisers may use, empirical evidence may be

[51] The balance of respondents (about 19%) identified other sources such as non-governmental organizations.

[52] The research (Q4e) suggests that respondents were much more likely to understand the term ''MPGe'' when the claims included extensive explanatory information.

[53] The consumer groups added that television and radio advertisements should include a clear, audible representation of the MPG.

[54] *See https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf.*

[55] In addition, if consumers do not click the link for more detailed disclosures, they will have an opportunity to see the information in the showroom on the EPA label, which appears on every new car in the showroom.

necessary to demonstrate that certain abbreviations or icons are effective. The Commission seeks further comment on these issues.[56]

V. 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 August 8, 2016. Write ''Proposed Fuel Economy Guide Revisions'' 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, such as medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[57] 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 comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/fueleconomyrevisions,* by following the instruction 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 prefer to file your comment on paper, write ''Fuel Economy Guide Amendments, R711008'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex B), 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 B), Washington, DC 20024.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the News Release describing this proceeding. 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 August 8, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *https://www.ftc.gov/site-information/privacy-policy.*

VI. Proposed Amendments

List of Subjects in 16 CFR Part 259

Advertising, Fuel economy, Trade practices.

For the reasons set forth in this document, the Commission proposes to revise 16 CFR part 259 as follows:

PART 259—GUIDE CONCERNING FUEL ECONOMY ADVERTISING FOR NEW AUTOMOBILES

Sec

Authority: 15 U.S.C. 41–58.

§ 259.1 Purpose.

This Guide contains administrative interpretations of laws enforced by the Federal Trade Commission. Specifically, the Guide addresses the application of Section 5 of the FTC Act (15 U.S.C. 45) to the use of fuel economy information in advertising for new automobiles. This guidance provides the basis for voluntary compliance with the law by advertisers and endorsers. Practices inconsistent with this Guide may result in corrective action by the Commission under Section 5 if, after investigation, the Commission has reason to believe that the practices fall within the scope of conduct declared unlawful by the statute. The Guide sets forth the general principles that the Commission will use in such an investigation together with examples illustrating the application of those principles. The Guide does not purport to cover every possible use of fuel economy in advertising. Whether a particular advertisement is deceptive will depend on the specific advertisement at issue.

§ 259.2 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) *Alternative fueled vehicle.* Any vehicle that qualifies as a covered vehicle under 16 CFR part 309.

(b) *Automobile.* Any new passenger automobile, medium duty passenger vehicle, or light truck for which a fuel economy label is required under the Energy Policy and Conservation Act (42 U.S.C. 32901 *et seq.*) or rules promulgated thereunder, the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser or lessee. For the purposes of this part, the terms ''vehicle'' and ''car'' have the same meaning as ''automobile.''

(c) *Dealer.* Any person located in the United States or any territory thereof engaged in the sale or distribution of new automobiles to the ultimate purchaser.

(d) *EPA.* The U.S. Environmental Protection Agency.

(e) *EPA city fuel economy estimate.* The city fuel economy determined in accordance with the city test procedure as defined and determined pursuant to EPA regulations.

(f) *EPA combined fuel economy estimate.* The fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively, determined pursuant to EPA regulations.

(g) *EPA driving range estimate.* An estimate of the number of miles a

[56] The Commission does not propose to recommend audible MPG disclosures in all advertisements. Instead, consistent with the existing Guide, the proposed amendments continue to recommend that disclosures appear in the same format as the claim. For example, if the estimated MPG appears in the video of a television advertisement, the recommended disclosure should appear in the video.

[57] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

vehicle will travel between refueling as defined and determined pursuant to EPA regulations.

(h) *EPA fuel economy estimate.* The average number of miles traveled by an automobile per volume of fuel consumed (*i.e.,* Miles-Per-Gallon (''MPG'') rating) as calculated under EPA regulations.

(i) *EPA highway fuel economy estimate.* The highway fuel economy determined in accordance with the highway test procedure as defined and determined pursuant to EPA regulations.

(j) *EPA regulations.* EPA regulatory requirements for fuel economy labeling set forth in 40 CFR part 600, subpart D.

(k) *Flexible Fuel Vehicle.* Any motor vehicle (or motor vehicle engine) engineered and designed to be operated on any mixture of two or more different fuels.

(l) *Fuel.* (1) Gasoline and diesel fuel for gasoline- or diesel-powered automobiles; or

(2) Electricity for electrically-powered automobiles; or

(3) Alcohol for alcohol-powered automobiles;

(4) Natural gas for natural gas-powered automobiles; or

(5) any other fuel type used in a vehicle for which EPA requires a fuel economy label under EPA regulations.

(m) *Manufacturer.* Any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for, and is under the control, of such manufacturer, assembler, or importer in connection with the distribution of new automobiles.

(n) *Model type.* A unique combination of car line, basic engine, and transmission class as defined by EPA regulations.

(o) *Ultimate purchaser or lessee.* The first person, other than a dealer purchasing in his or her capacity as a dealer, who in good faith purchases a new automobile for purposes other than resale or leases such vehicle for his or her personal use.

(p) *Vehicle configuration.* The unique combination of automobile features, as defined in 40 CFR part 600.

§ 259.3 Qualifications and disclosures.

To prevent deceptive claims, qualifications and disclosures should be clear, prominent, and understandable. To make disclosures clear and prominent, marketers should use plain language and sufficiently large type for a person to see and understand them, should place disclosures in close proximity to the qualified claim, and should avoid making inconsistent statements or using distracting elements that could undercut or contradict the disclosure. The disclosures should also appear in the same format as the claim. For example, for television advertisements, if the estimated MPG appears in the video, the disclosure recommended by this Guide should appear in the visual format; if the estimated MPG is audio, the disclosure should be in audio.

§ 259.4 Advertising guidance.

(a) *Misrepresentations:* It is deceptive to misrepresent, directly or by implication, the fuel economy or driving range of an automobile.

(b) *General Fuel Economy Claims:* General unqualified fuel economy claims, which do not reference a specific fuel economy estimate, likely convey a wide range of meanings about a vehicle's fuel economy relative to other vehicles. Such claims, which inherently involve comparisons to other vehicles, can mislead consumers about the vehicle class included in the comparison, as well as the extent to which the advertised vehicle's fuel economy differs from other models. Because it is highly unlikely that advertisers can substantiate all reasonable interpretations of these claims, advertisers making general fuel economy claims should disclose the advertised vehicle's EPA fuel economy estimate in the form of the EPA MPG rating.

Example 1: A new car advertisement states: ''This vehicle gets great mileage.'' The claim is likely to convey a variety of meanings, including that the vehicle has a better MPG rating than all or almost all other cars on the market. However, the advertised vehicle's EPA fuel economy estimates are only slightly better than the average vehicle on the market. Because the advertiser cannot substantiate that the vehicle's rating is better than all or almost all other cars on the market, the advertisement is likely to be deceptive. In addition, the advertiser may not be able to substantiate other reasonable interpretations of the claim. To avoid deception, the advertisement should disclose the vehicle's EPA fuel economy estimate (*e.g.,* ''EPA-estimated 27 combined MPG'').

Example 2: An advertisement states: ''This car gets great gas mileage compared to other compact cars.'' The claim is likely to convey a variety of meanings, including that the vehicle gets better gas mileage than all or almost all other compact cars. However, the vehicle's EPA fuel economy estimates are only slightly better than average compared to other models in its class. Because the advertiser cannot substantiate that the vehicle's rating is better than all or almost all other compact cars, the advertisement is likely to be deceptive. In addition, the advertiser may not be able to substantiate other reasonable interpretations of the claim. To address this problem, the advertisement should disclose the vehicle's EPA fuel economy estimate.

(c) *Matching the EPA Estimate to the Claim:* EPA fuel economy estimates should match the driving claim appearing in the advertisement. If they do not, consumers are likely to associate the stated fuel economy estimate with a different type of driving. Specifically, if an advertiser makes a city or a highway fuel economy claim, it should disclose the corresponding EPA-estimated city or highway fuel economy estimate. If the advertiser makes both a city and a highway fuel economy claim, it should disclose both the EPA estimated city and highway fuel economy rating. If the advertiser makes a general fuel economy claim without specifically referencing city or highway driving, it should disclose the EPA combined fuel economy estimate, or, alternatively, both the EPA city and highway fuel economy estimates.

Example 1: An automobile advertisement states that model ''XYZ gets great gas mileage in town.'' However, the advertisement does not disclose the EPA city fuel economy estimate. Instead, it only discloses the EPA highway fuel economy estimate, which is higher than the model's city estimate. This claim likely conveys to a significant proportion of reasonable consumers that the highway estimate disclosed in the advertisement applies to city driving. Thus, the advertisement is likely to mislead consumers. To remedy this problem, the advertisement should disclose the EPA city fuel economy estimate (*e.g.,* ''32 MPG in the city according to the EPA estimate'').

Example 2: A new car advertisement states that model ''XZA gives you great gas mileage'' but only provides the EPA highway fuel economy estimate. Given the likely inconsistency between the general fuel economy claim, which does not reference a specific type of driving, and the disclosed EPA highway estimate, the advertisement is likely to mislead consumers. To address this problem, the advertisement should disclose the EPA combined estimate (*e.g.,* ''37 MPG for combined driving according to the EPA estimate''), or both the EPA city and highway fuel economy estimates.

Example 3: An advertisement states ''according to EPA estimates, new cars in this class are rated at between 20 and 32 MPG, while the EPA estimate for this car is an impressive 35 MPG highway.'' The advertisement is likely to imply that the 20 to 32 MPG range and 35 MPG estimate are comparable. In fact, the ''20 and 32 MPG'' range reflects EPA city estimates. Therefore, the advertisement is likely deceptive. To address this problem, the advertisement should only provide an apples-to-apples comparison—either using the highway range for the class or using the city estimate for the advertised vehicle.

(d) *Identifying Fuel Economy and Driving Range Ratings as Estimates:*

Advertisers citing EPA fuel economy or driving range figures should disclose that these numbers are estimates. Without such disclosures, consumers may incorrectly assume that they will achieve the mileage or range stated in the advertisement. In fact, their actual mileage or range will likely vary for many reasons, including driving conditions, driving habits, and vehicle maintenance. To address potential deception, advertisers may state that the values are ''EPA estimate(s),'' or use equivalent language that informs consumers that they will not necessarily achieve the stated MPG rating or driving range.

Example 1: An automobile manufacture's Web site states, without qualification, ''This car gets 40 MPG on the highway.'' The claim likely conveys to a significant proportion of reasonable consumers that they will achieve 40 MPG driving this vehicle on the highway. The advertiser based its claim on an EPA highway estimate. However, EPA provides that estimate primarily for comparison purposes—it does not necessarily reflect real world driving results. Therefore, the claim is likely deceptive. In addition, the use of the term ''gets,'' without qualification, may lead some consumers to believe not only that they can, but will consistently, achieve the stated mileage. To address these problems, the advertisement should clarify that the MPG value is an estimate by stating ''EPA estimate'' or equivalent language.

(e) *Disclosing EPA Test as Source of Fuel Economy and Driving Range Estimates:* Advertisers citing any EPA fuel economy or driving range figures should disclose EPA as the source of the test so consumers understand that the estimate is comparable to estimates for competing models. Doing so prevents deception by ensuring that consumers do not associate the claimed ratings with a test other than the EPA-required procedures. Advertisers may avoid deception by stating that the values are ''EPA estimate(s),'' or equivalent language that identifies the EPA test as the source.

Example 1: A radio commercial for the ''XTQ'' car states that the vehicle ''is rated at an estimated 28 MPG in the city'' but does not disclose that an EPA test is the source of this MPG estimate. This advertisement may convey that the source of this test is an entity other than EPA. Therefore, the advertisement may be deceptive.

(f) *Specifying Driving Modes for Fuel Economy Estimates:* If an advertiser cites an EPA fuel economy estimate, it should identify the particular type of driving associated with the estimate (*i.e.,* estimated city, highway, or combined MPG). Advertisements failing to do so can deceive consumers who incorrectly assume the disclosure applies to a specific type of driving, such as combined or highway, which may not be the driving type the advertiser intended. Thus, such consumers may believe the model's fuel economy rating is higher than it actually is.

Example 1: A television commercial for the car model ''ZTA'' informs consumers that the ZTA is rated at ''25 miles per gallon according to the EPA estimate'' but does not disclose whether this number is a highway, city, or combined estimate. The advertisement likely conveys to a significant proportion of reasonable consumers that the 25 MPG figure reflects normal driving (*i.e.,* a combination of city and highway driving), not the highway rating as intended by the advertiser. In fact, the 25 MPG rating is the vehicle's EPA highway estimate. Therefore, the advertisement is likely deceptive.

(g) *Within Vehicle Class Comparisons:* If an advertisement contains an express comparative fuel economy claim where the relevant comparison is to any group or class, other than all available automobiles, the advertisement should identify the group or class of vehicles used in the comparison. Without such qualifying information, many consumers are likely to assume that the advertisement compares the vehicle to all new automobiles.

Example 1: An advertisement claims that sports car X ''outpaces other cars' gas mileage.'' The claim likely conveys a variety of meanings to a significant proportion of reasonable consumers, including that this vehicle has a higher MPG rating than all or almost all other vehicles on the market. Although the vehicle's MPG rating compares favorably to other sports cars, its fuel economy is only better than roughly half of all new automobiles on the market. Therefore, the claim is likely deceptive.

(h) *Comparing Different Model Types:* Fuel economy estimates are assigned to specific model types under EPA regulations (*i.e.,* unique combinations of car line, basic engine, and transmission class). Therefore, advertisers citing MPG ratings for certain models should ensure that the rating applies to the model type depicted in the advertisement. It is deceptive to state or imply that a rated fuel economy figure applies to vehicles not included in the model type featured in the advertisement, unless such rating in fact applies to that model type.

Example 1: A manufacturer's advertisement states that model ''PDQ'' gets ''great gas mileage'' but depicts the MPG numbers for a similar model type known as the ''Econo-PDQ.'' The advertisement is likely to convey that the claimed MPG rating applies to all types of the PDQ model. However, the ''Econo-PDQ'' has a better fuel economy rating than other types of the ''PDQ'' model. Therefore, the advertisement is likely to be deceptive.

(i) ''*Up To'' Claims:* Advertisers should avoid using the term ''up to'' without adequate explanatory language if they intend to communicate that certain versions of a model (*i.e.,* model types) are rated at a stated fuel economy estimate. A significant proportion of reasonable consumers are likely to interpret such claims to mean that the stated MPG can be achieved if the vehicle is driven under certain conditions. Therefore, to address the risk of deception, advertisers should qualify the term by clearly explaining the stated MPG applies to a particular vehicle model type.

Example 1: An advertisement claims that a vehicle model VXR will achieve ''up to 40 MPG on the highway'' without further explanation. The advertisement is based on a particularly efficient type of this model, with specific options, with an EPA highway estimate of 40 MPG. However, other types of model VXR have lower EPA MPG estimates. A significant proportion of reasonable consumers likely interpret the ''up to'' claim as applying to all VXR model types. Therefore, the advertisement is likely deceptive. To address this problem, the advertisement should clearly explain that the 40 MPG rating does not apply to all model types of the VXR or use language other than ''up to'' that better conveys the basis for the claim.

(j) *Claims for Flexible-Fueled Vehicles:* Advertisements for flexible-fueled vehicles should not mislead consumers about the vehicle's fuel economy when operated with alternative fuel. If an advertisement for a flexible fueled vehicle mentions the vehicle's flexible fuel capability and makes a fuel economy claim, it should include the EPA fuel economy estimates for both gasoline and alternative fuel operation. Without such disclosures, consumers are likely to assume the stated fuel economy estimate for gasoline operation also applies to alternative fuel operation.

Example 1: An automobile advertisement states: ''This flex-fuel powerhouse has a 30 MPG highway rating according to the EPA estimate.'' The advertisement likely implies that the 30 MPG rating applies to both gasoline and alternative fuel operation. In fact, the ethanol EPA estimate for this vehicle is 25 MPG. Therefore, the advertisement is likely deceptive.

(k) *General Driving Range Claims:* General unqualified driving range claims, which do not reference a specific driving range estimate, are difficult for consumers to interpret and likely convey a wide range of meanings about a vehicle's range relative to other vehicles. Such claims, which inherently involve comparisons to other vehicles, can mislead consumers about the vehicle class included in the

comparison as well as the extent to which the advertised vehicle's driving range differs from other models. Because it is highly unlikely that advertisers can substantiate all reasonable interpretations of these claims, advertisers making general driving range claims should disclose the advertised vehicle's EPA driving range estimate.

Example 1: An advertisement for an electric vehicle states: ''This car has a great driving range.'' This claim likely conveys a variety of meanings, including that the vehicle has a better driving range than all or almost all other electric vehicles. However, the EPA driving range estimate for this vehicle is only slightly better than roughly half of all other electric vehicles on the market. Because the advertiser cannot substantiate that the vehicle's driving range is better than all or almost all other electric vehicles, the advertisement is likely to be deceptive. In addition, the advertiser may not be able to substantiate other reasonable interpretations of the claim. To address this problem, the advertisement should disclose the vehicle's EPA driving range estimate (*e.g.,* ''EPA-estimated range of 70 miles per charge'').

(l) *Use of Non-EPA Estimates.*—(1) *Disclosure Content:* Given consumers' reliance on EPA estimated fuel economy values over the last several decades, fuel economy and driving range estimates derived from non-EPA tests can lead to deception if consumers confuse such estimates with fuel economy ratings derived from EPA-required tests. Accordingly, advertisers should avoid such claims and disclose the EPA fuel economy or driving range estimates whenever possible. However, if an advertisement includes a claim about a vehicle's fuel economy or driving range based on a non-EPA estimate, advertisers should disclose the EPA estimate and disclose with substantially more prominence than the non-EPA estimate:

(i) That the fuel economy or driving range information is based on a non-EPA test;

(ii) The source of the non-EPA test;

(iii) The EPA fuel economy estimates or EPA driving range estimates for the vehicle; and

(iv) All driving conditions or vehicle configurations simulated by the non-EPA test that are different from those used in the EPA test. Such conditions and variables may include, but are not limited to, road or dynamometer test, average speed, range of speed, hot or cold start, temperature, and design or equipment differences.

(2) *Disclosure format:* The Commission regards the following as constituting ''substantially more prominence'':

(i) *For visual disclosures on television:* If the fuel economy claims appear only in the visual portion, the EPA figures should appear in numbers twice as large as those used for any other estimate, and should remain on the screen at least as long as any other estimate. Each EPA figure should be broadcast against a solid color background that contrasts easily with the color used for the numbers when viewed on both color and black and white television.

(ii) *For audio disclosures:* For radio and television advertisements in which any other estimate is used only in the audio, equal prominence should be given to the EPA figures. The Commission will regard the following as constituting equal prominence: the EPA estimated city and/or highway MPG should be stated, either before or after each disclosure of such other estimate, at least as audibly as such other estimate.

(iii) *For print and Internet disclosures:* The EPA figures should appear in clearly legible type at least twice as large as that used for any other estimate. The EPA figures should appear against a solid color, and contrasting background. They may not appear in a footnote unless all references to fuel economy appear in a footnote.

Example 1: An internet advertisement states: ''Independent driving experts took the QXT car for a weekend spin and managed to get 55 miles-per-gallon under a variety of driving conditions.'' It does not disclose the actual EPA fuel economy estimates, nor does it explain how conditions during the ''weekend spin'' differed from those under the EPA tests. This advertisement likely conveys that the 55 MPG figure is the same or comparable to an EPA fuel economy estimate for the vehicle. This claim is likely to be deceptive because it fails to disclose that fuel economy information is based on a non-EPA test, the source of the non-EPA test, the EPA fuel economy estimates for the vehicle, and all driving conditions or vehicle configurations simulated by the non-EPA test that are different from those used in the EPA test.

Example 2: An advertisement states: ''The XZY electric car has a driving range of 110 miles per charge in summer conditions according to our expert's test.'' It provides no additional information regarding this driving range claim. This advertisement likely conveys that this 110 driving range figure is comparable to an EPA driving range estimate for the vehicle. The advertisement is likely deceptive because it does not clearly state that the test is a non-EPA test; it does not provide the EPA estimated driving range; and it does not explain how conditions referred to in the advertisement differed from those under the EPA tests. Without this information, consumers are likely to confuse the claims with range estimates derived from the official EPA test procedures.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–13098 Filed 6–3–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[CPCLO Order No. 005–2016]

Privacy Act of 1974; Implementation; Extension of Comment Period

AGENCY: Federal Bureau of Investigation, United States Department of Justice.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Department of Justice (Department or DOJ), Federal Bureau of Investigation (FBI), is extending the comment period for its proposal to exempt ''The Next Generation Identification (NGI) System,'' JUSTICE/FBI–009, from certain provisions of the Privacy Act, published in the **Federal Register** on May 5, 2016 (81 FR 27288). The original comment period is scheduled to expire on June 6, 2016. The Department is now extending the time period for public comments by 30 days. The updated comment period is scheduled to expire on July 6, 2016. This action will allow interested persons additional time to analyze the proposal and prepare their comments.

DATES: Comments on the notice of proposed rulemaking published May 5, 2016 (81 FR 27288) must be submitted on or before July 6, 2016.

ADDRESSES: Address all comments to the Privacy Analyst, Privacy and Civil Liberties Office, National Place Building, 1331 Pennsylvania Ave. NW., Suite 1000, Washington, DC 20530–0001 or facsimile 202–307–0693. To ensure proper handling, please reference either this CPCLO Order No., or the CPCLO Order No. from the original notice of proposed rulemaking (CPCLO Order No. 003–2016) on your correspondence. You may review an electronic version of the proposed rule at *http://www.regulations.gov.* You may also comment via the Internet to either *ProposedRegulations@usdoj.gov;* or by using the *http://www.regulations.gov* comment form. When submitting comments electronically, you must include the CPCLO Order No., as described above, in the subject box.

Please note that the Department is requesting that electronic comments be submitted before midnight Eastern Daylight Savings Time on the day the

comment period closes because *http://www.regulations.gov* terminates the public's ability to submit comments at that time. Commenters in time zones other than Eastern Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Department's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Department's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

FOR FURTHER INFORMATION CONTACT: Roxane M. Panarella, Assistant General Counsel, Privacy and Civil Liberties Unit, Office of the General Counsel, FBI, Washington, DC 20535–0001, telephone 304–625–4000.

SUPPLEMENTARY INFORMATION: On May 5, 2016, the Department requested comments on its proposal to modify an existing FBI system of records notice titled, ''Fingerprint Identification Records System (FIRS),'' JUSTICE/FBI–009, and its proposal to amend the Department's Privacy Act regulations by establishing an exemption for records in this system of records from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k).

Both the notice of a modified system of records notice and notice of proposed rulemaking for this system of records originally provided that comments must be received by June 6, 2016. The Department has received requests to extend these comment periods. The Department believes that extending the comment periods would be appropriate in order to provide the public additional time to consider and comment on the proposals addressed in these notices. Therefore, the Department is extending both public comment periods for 30 days, until July 6, 2016. Elsewhere in the **Federal Register,** the Department is extending the comment period for the accompanying notice of modified system of records.

Dated: June 1, 2016.

Erika Brown Lee,

Chief Privacy and Civil Liberties Officer, U.S. Department of Justice.

[FR Doc. 2016–13352 Filed 6–3–16; 8:45 am]

BILLING CODE 4410–02–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4231

RIN 1212–AB31

Mergers and Transfers Between Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend PBGC's regulation on Mergers and Transfers Between Multiemployer Plans to implement section 121 of the Multiemployer Pension Reform Act of 2014. The proposed rule would also reorganize and update the existing regulation.

DATES: Comments must be submitted on or before August 5, 2016.

ADDRESSES: Comments, identified by Regulation Identifier Number (RIN) 1212–AB31, may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4112.
- *Mail or Hand Delivery:* Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

All submissions must include the Regulation Identifier Number for this rulemaking (RIN 1212–AB31). Comments received, including personal information provided, will be posted to *www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Joseph J. Shelton (*shelton.joseph@pbgc.gov*), Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC 20005–4026; 202–326–4400, ext. 6559; Theresa B. Anderson (*anderson.theresa@pbgc.gov*), Attorney, Office of the General Counsel, 202–326–4400, ext. 6353.

SUPPLEMENTARY INFORMATION:

Executive Summary—Purpose of the Regulatory Action

This rulemaking is needed to implement statutory changes under the Multiemployer Pension Reform Act of 2014 (MPRA) affecting mergers of multiemployer plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The proposed rule also would reorganize and update the existing regulatory requirements applicable to mergers and transfers between multiemployer plans.

PBGC's legal authority for this action is based on section 4002(b)(3) of ERISA, which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA, and section 4231 of ERISA, which sets forth the statutory requirements for mergers and transfers between multiemployer plans.

Executive Summary—Major Provisions of the Regulatory Action

Section 121 of MPRA amends the existing rules under section 4231 of ERISA by adding a new section 4231(e), which clarifies PBGC's authority to

facilitate the merger of two or more multiemployer plans if certain statutory requirements are met. For purposes of section 4231(e), ''facilitation'' may include training, technical assistance, mediation, communication with stakeholders, and support with related requests to other government agencies. In addition, subject to the requirements of section 4231(e)(2), PBGC may provide financial assistance (within the meaning of section 4261 of ERISA) to facilitate a merger it determines is necessary to enable one or more of the plans involved to avoid or postpone insolvency.

The proposed rule would provide guidance on the process for requesting a facilitated merger under section 4231(e) of ERISA, including a request for financial assistance under section 4231(e)(2). The proposed rule would also reorganize and update the existing regulation.

Background

PBGC and the Multiemployer Insurance Program

PBGC is a Federal corporation created under title IV of ERISA to guarantee the payment of pension benefits earned by more than 40 million American workers and retirees in over 23,000 private-sector defined benefit pension plans.

PBGC administers two insurance programs—one for single-employer defined benefit pension plans, and a second for multiemployer defined benefit pension plans. This proposed rule would apply only to the multiemployer program.

Multiemployer Mergers and Transfers Under ERISA

Under section 4231(b) of ERISA, mergers of two or more multiemployer plans and transfers of assets and liabilities between multiemployer plans must comply with four requirements:

(1) The plan sponsor must notify PBGC at least 120 days before the effective date of the merger or transfer;

(2) No participant's or beneficiary's accrued benefit may be lower immediately after the effective date of the merger or transfer than the benefit immediately before that date;

(3) The benefits of participants and beneficiaries must not be reasonably expected to be subject to suspension as a result of plan insolvency under section 4245 of ERISA; and

(4) An actuarial valuation of the assets and liabilities of each of the affected plans must have been performed during the plan year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the start of that plan year, or as prescribed by PBGC's regulation.

Section 4231(a) of ERISA grants PBGC authority to vary these requirements by regulation. Part 4231 of PBGC's regulations implements and interprets these requirements by providing a procedure under which plan sponsors must notify PBGC of any merger or transfer between multiemployer plans.

MPRA

In December 2014, Congress enacted, and the President signed, the Consolidated and Further Continuing Appropriations Act, 2015,[1] of which MPRA is a part. MPRA contains a number of statutory reforms to assist financially troubled multiemployer plans, and to improve the financial condition of PBGC's multiemployer insurance program.

Section 201 of MPRA amended the rules under section 305 of ERISA to add a new ''critical and declining'' status for financially troubled multiemployer plans (described below in the discussion of ''multiemployer facilitated mergers under MPRA''). Generally, a plan is in critical and declining status if it is in critical status under any subparagraph of section 305(b)(2), and is projected to become insolvent within 15–20 years. Plans in critical and declining status may suspend benefits under section 305(e)(9) of ERISA under certain conditions. The Department of the Treasury (Treasury) has interpretative jurisdiction over the subject matter in section 305.

Sections 121 and 122 of MPRA provide PBGC with new statutory authority to assist critical and declining status plans under certain conditions. Section 121 of MPRA, which is the subject of this rulemaking, authorizes PBGC to facilitate multiemployer plan mergers, including with financial assistance (within the meaning of section 4261) if certain statutory conditions—such as the condition that one or more of the plans involved be in critical and declining status—are met. Section 122 of MPRA amended section 4233 of ERISA to create a new statutory framework for partitions of critical and declining status plans.[2]

Finally, section 131 of MPRA increased the annual premium that multiemployer plans pay to PBGC for 2015 from $13 to $26 per participant. For plan years beginning after 2015, the annual premium increases based on increases in the national average wage index. The annual premium for 2016 is $27 per participant.

Multiemployer Facilitated Mergers—Before MPRA

PBGC provides financial assistance under section 4261 of ERISA to multiemployer plans that are or will be insolvent under section 4245 of ERISA. Generally, a plan is insolvent when it is unable to pay benefits when due during the plan year. PBGC provides financial assistance to an insolvent plan in the form of a loan sufficient to pay its participants' and beneficiaries' guaranteed benefits.

In a few cases before the enactment of MPRA, PBGC provided financial assistance (within the meaning of section 4261 of ERISA) to facilitate the merger of a soon-to-be insolvent multiemployer plan into a larger, more financially secure multiemployer plan. The financial assistance provided was a single payment that covered the cost of guaranteed benefits under the failing plan. In exchange, the larger, more financially secure plan assumed responsibility for paying the full plan benefits of the participants and beneficiaries in the failing plan with which it merged. As a result, the participants and beneficiaries in the failing plan received more than they would have in the absence of a facilitated merger from a financially secure plan that was more likely to remain ongoing. In addition, the financial assistance provided was generally less than PBGC's valuation of the present value of future financial assistance to the failing plan.

For a number of reasons, including the deteriorating financial condition of PBGC's multiemployer insurance program, PBGC was only able to facilitate a few financial assistance mergers before MPRA.

Multiemployer Facilitated Mergers Under MPRA

Section 4231(e)(1) of ERISA provides that upon request by the plan sponsors, PBGC may take such actions as it deems appropriate to promote and facilitate the merger of two or more multiemployer plans. Facilitation may include training, technical assistance, mediation, communication with stakeholders, and support with related requests to other government agencies. The decision to facilitate a merger is within PBGC's discretion. Furthermore, before PBGC may exercise this discretion, it must first determine—in consultation with the Participant and Plan Sponsor

[1] Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (128 Stat. 2130 (2014)).

[2] PBGC issued an interim final rule under section 4233 of ERISA on June 19, 2015 (80 FR 35220), and a final rule on December 23, 2015 (80 FR 79687).

Advocate [3]—that the merger is in the interests of the participants and beneficiaries of at least one of the plans, and is not reasonably expected to be adverse to the overall interests of the participants and beneficiaries of any of the plans.

Under section 4231(e)(2), PBGC may also provide financial assistance (within the meaning of section 4261) to facilitate a merger that it determines is necessary to enable one or more of the plans involved to avoid or postpone insolvency, if the following statutory conditions are satisfied:

Critical and declining status. In accordance with section 4231(e)(2)(A) of ERISA, one or more of the plans involved in the merger must be in critical and declining status as defined in section 305(b)(6). A plan is in critical and declining status if the plan is in critical status under any subparagraph of section 305(b)(2), and is projected to become insolvent within the meaning of section 4245 during the current plan year or any of the 14 succeeding plan years (or 19 succeeding plan years if the plan has a ratio of inactive participants to active participants that exceeds two to one, or if the funded percentage of the plan is less than 80 percent). Section 305(b)(3)(A)(i) requires an annual certification from the plan actuary on whether a plan is or will be in critical and declining status for the plan year. Treasury has interpretative jurisdiction over the subject matter in section 305.

Long-term loss and plan solvency. In accordance with section 4231(e)(2)(B), PBGC must reasonably expect that—

- Financial assistance will reduce PBGC's expected long-term loss with respect to the plans involved; and
- Financial assistance is necessary for the merged plan to become or remain solvent.

Certification. In accordance with section 4231(e)(2)(C), PBGC must certify that its ability to meet existing financial assistance obligations to other plans will not be impaired by the financial assistance.

Source of funding. In accordance with section 4231(e)(2)(D), financial assistance must be paid exclusively from the PBGC fund for basic benefits guaranteed for multiemployer plans.

[3] The Participant and Plan Sponsor Advocate position was created in 2012 by the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141 (126 Stat. 405 (2012)). *See* section 4004 of ERISA for the rules governing this position. PBGC is not defining the Participant and Plan Sponsor Advocate's consultative role in determining how the merger affects the interests of the participants and beneficiaries of the plans involved, but will let that role evolve based on experience implementing this proposed rule.

PBGC Notice of Financial Assistance

Section 4231(e)(2) requires that, not later than 14 days after the provision of financial assistance, PBGC provide notice of the financial assistance to the Committee on Education and the Workforce of the House of Representatives; the Committee on Ways and Means of the House of Representatives; the Committee on Finance of the Senate; and the Committee on Health, Education, Labor, and Pensions of the Senate.

PBGC Request for Information

On February 18, 2015, PBGC published in the **Federal Register** (80 FR 8712) a request for information (RFI) to solicit information from interested parties on issues PBGC should consider in implementing sections 4231 and 4233 of ERISA. PBGC received 20 comments in response to the RFI.[4] This proposed rule reflects public input on facilitated mergers stemming from the comments.

In general, commenters expressed strong support for MPRA's changes to the merger rules under section 4231 of ERISA, and urged PBGC to issue timely guidance to the public on the types of information, documents, data, and actuarial projections needed for a request to be complete. Many of these same commenters urged that whenever possible and consistent with statutory requirements, any new regulatory information requirements should be based on information that plans are already required to prepare, or information that plans could easily develop.

A number of commenters also suggested that PBGC provide guidance on the factors and criteria it will use to evaluate proposed facilitated mergers, while another suggested that proposed facilitated mergers should be analyzed individually on a case-by-case basis. In addition, one commenter suggested that PBGC provide guidance on any general limitations it may establish on the amount of financial assistance available for facilitated mergers.

PBGC considered these and other comments and decided it will determine whether to provide further guidance on the evaluation criteria for facilitated mergers, and any limitations PBGC may impose relating to the amount of financial assistance available, based on the experience it gains implementing this proposed rule. While the proposed rule does not impose any additional limitations on the amount of financial assistance available for financial assistance mergers, sections 4231(e)(2) and 4233 of ERISA require PBGC to certify that its ability to meet existing financial obligations to other plans will *not* be impaired by the transaction. Furthermore, because the funds available for financial assistance to insolvent plans under 4261, financial assistance mergers under 4231(e)(2), and partitions under section 4233, are derived from the same source—the revolving fund for basic benefits guaranteed under section 4022A (the multiemployer revolving fund)—it is anticipated that the amount of financial assistance available to a critical and declining status plan for a financial assistance merger generally will not exceed the amount available to that plan for a partition (and could be less). Given complexities and uncertainties such as these, the proposed rule includes a provision that would allow a plan sponsor to engage in informal discussions with PBGC before filing a formal request for a facilitated merger.

With respect to the eligibility requirements for a facilitated merger, a few commenters noted that unlike the statutory conditions for a partition under section 4233 of ERISA, which require, among other things, a finding that the plan sponsor has taken all reasonable measures to avoid insolvency, including maximum benefit suspensions, there is no explicit requirement in section 4231(e) to suspend benefits. Given the absence of such a requirement, these commenters urged PBGC *not* to impose one by regulation. Expressing a similar view, another commenter suggested that PBGC guidance under section 4231(e) should *not* result in the automatic imposition of the same requirements, such as benefit suspensions or a certain type of projection, because although each requirement might be appropriate in some cases, it might not be appropriate in all cases.

PBGC agrees with the commenters and consistent with the express terms of the statute, this proposed rule would neither require nor preclude a plan sponsor's application for both benefit suspensions under section 305(e)(9)(G) and a facilitated merger under section 4231(e). PBGC recognizes, however, that although benefit suspensions are *not* required under section 4231(e), some plans may need both benefit suspensions and a financial assistance merger to become or remain solvent. For example, the plan sponsors of two critical and declining status plans that propose a financial assistance merger may need to consider benefit suspensions if the amount of financial assistance available from PBGC is less

[4] The RFI and comments are accessible at *http://www.pbgc.gov/prac/pg/other/guidance/multiemployer-notices.html.*

than the amount necessary for the merged plan to become or remain solvent.

Before considering an integrated transaction involving benefit suspensions and a facilitated merger, however, plan sponsors must carefully consider how the various requirements under sections 305(e)(9) and 4231 would apply to such a transaction. For example, a critical and declining status plan could merge into a large, well-funded multiemployer plan. In such a case, to the extent any of the benefits previously provided by the critical and declining status plan had been subject to suspension under section 305(e)(9) or become subject to suspension at the same time that the merger occurs, the plan sponsor of the merged plan would become responsible for making the annual determinations necessary for continued benefit suspensions under section 305(e)(9) and the regulations thereunder. Under section 305(e)(9)(C)(ii) of ERISA and the regulations thereunder, benefits may continue to be suspended for a plan year only if the plan sponsor determines, in a written record to be maintained throughout the period of the benefit suspension, that although all reasonable measures to avoid insolvency have been and continue to be taken, the plan is still projected to become insolvent unless benefits are suspended. Absent these determinations, restoration of the suspended benefits would be required.

Finally, one commenter expressed concern that a narrow interpretation of section 4231(e)(2)(B)(ii) would effectively preclude a small, critical and declining status plan from receiving financial assistance to merge into a large, financially healthy multiemployer plan. That section provides, in relevant part, that PBGC must reasonably expect that financial assistance is necessary for the *merged* plan to become or remain solvent.

As explained more fully below in the section-by-section discussion, PBGC does *not* interpret section 4231(e)(2)(B)(ii) to preclude a small, critical and declining status plan from receiving financial assistance to merge into a large, financially healthy multiemployer plan because such an interpretation would be inconsistent with the statute as a whole. Section 4231(e)(2), for example, authorizes PBGC to provide financial assistance to facilitate a merger it determines is necessary to enable *one or more* (but not necessarily all) of the plans involved to avoid or postpone insolvency.

Similarly, section 4231(e)(2)(A) requires only that *one or more* (but not necessarily all) of the plans involved in the merger be in critical and declining status. Given that MPRA neither imposes a requirement that *all* multiemployer plans involved in a financial assistance merger be in critical and declining status, nor requires a finding that the merger is necessary to enable *all* of the plans involved to avoid or postpone insolvency, PBGC does *not* interpret section 4231(e)(2)(B)(ii) to impose any additional eligibility conditions beyond those expressly provided in the statute.

A more detailed discussion of the proposed rule and the RFI comments follows.

Proposed Regulatory Changes

Overview

The proposed rule would amend part 4231 of PBGC's regulations to implement MPRA's changes to section 4231 of ERISA. The proposed rule also would reorganize and update the existing regulation to reflect other changes in law.

Under the proposed rule, part 4231 would provide guidance on: (1) The process for submitting a notice of merger or transfer, and a request for a compliance determination or facilitated merger; (2) the information required in such notices and requests; (3) the notification process for PBGC decisions on requests for facilitated mergers; and (4) the scope of PBGC's jurisdiction over a merged plan that received financial assistance. The proposed rule also would reorganize part 4231 by dividing it into subparts. Subpart A would contain the general merger and transfer rules. Subpart B would provide guidance on procedures and information requirements for facilitated mergers, including those involving financial assistance.

In most instances, implementation of the mergers and transfers addressed in this proposed rule, including facilitated mergers, will involve conduct that is also subject to the fiduciary responsibility standards of part 4 of subtitle B of title I of ERISA. Among other things, these standards require that a fiduciary with respect to a plan act prudently, solely in the interest of the participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the plan. The fact that a merger or transfer, including a facilitated merger, may satisfy title IV of ERISA and the regulations thereunder is not determinative of whether it satisfies the requirements of part 4 of subtitle B of title I of ERISA (other than section 406(a) and (b)(2), in the event of a compliance determination).

Finally, the proposed rule would be applicable to mergers and transfers for which a notice, and, if applicable, request for a facilitated merger are filed with PBGC on or after the effective date of the final rule. If a plan sponsor chooses to submit an application for a facilitated merger before the issuance of a final rule, then the plan sponsor may need to revise or supplement its request to take into account the requirements under the final rule.

Section-by-Section Discussion

Subpart A—General Provisions

Section 4231.1 of the proposed rule describes the purpose and scope of part 4231, which is to prescribe notice requirements for mergers and transfers of assets or liabilities among multiemployer plans and to interpret other requirements under section 4231 of ERISA.

Section 4231.2 of the proposed rule would amend the current regulation by adding new definitions, and by moving existing definitions defined elsewhere in the current regulation to § 4231.2. For example, the proposed rule would move the existing definition of ''effective date'' from § 4231.8(a) to § 4231.2.

Under the proposed rule, the term ''facilitated merger'' would mean a merger of two or more multiemployer plans facilitated by PBGC under section 4231(e) of ERISA, including a merger that is facilitated with financial assistance under section 4231(e)(2).

The term ''financial assistance'' would mean financial assistance under section 4261, which may be in the form of one or more payments.

The term ''financial assistance merger'' would mean a facilitated merger for which PBGC provides financial assistance under section 4231(e)(2).

Consistent with the definition of ''merged plan'' in § 4211.2, the term ''merged plan'' would mean a plan that is the result of the merger of two or more multiemployer plans.

The proposed rule also would amend the existing definition of ''significantly affected plan'' in § 4231.2 to include a plan in endangered or critical status, as defined in section 305(b) of ERISA,[5] that engages in a transfer (other than a de minimis transfer). When the regulation was originally published, only plans transferring 15% or more of their assets, or receiving a transfer of unfunded

[5] ''Endangered'' and ''critical'' status are plan categories established by the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006) (PPA)).

accrued benefits equaling 15% or more of their assets were treated as significantly affected plans.

In PBGC's view, endangered and critical status plans generally present a greater risk of insolvency, and when these plans engage in non-de minimis transfers their risk of insolvency may increase. Consistent with this view, the proposed rule would expand the definition of ''significantly affected plan'' to include endangered and critical status plans engaging in non-de minimis transfers. Although the proposed rule would apply the stricter plan solvency test under § 4231.6(b) to non-de minimis transfers involving endangered and critical status plans, that test would only apply to *transfers* involving such plans (*not* mergers).

Requirements for Mergers and Transfers

Section 4231.3 of the proposed rule provides guidance on the requirements for mergers and transfers. As under the current regulation, § 4231.3(a) of the proposed rule sets forth the statutory criteria under section 4231(b) of ERISA. The proposed rule also would amend the current regulation to clearly provide that plan sponsors may engage in informal consultations with PBGC to discuss proposed mergers and transfers. As noted above in the discussion of the RFI comments, informal consultation is particularly important in the context of a proposed financial assistance merger because PBGC's ability to provide financial assistance will depend on, among other things, its ability to meet existing financial assistance obligations to other plans.

Section 4231.4 of the current regulation is unchanged under the proposed rule. That section provides guidance on the requirement under section 4231(b)(2) of ERISA that no participant's or beneficiary's accrued benefit may be lower immediately after the effective date of a merger or transfer than the benefit immediately before that date.

Section 4231.5 of the current regulation provides guidance on the actuarial valuation requirement under section 4231(b)(4) of ERISA. For a plan that is not a significantly affected plan, it provides that the actuarial valuation requirement under section 4231(b)(4) is satisfied if an actuarial valuation has been performed for the plan based on the plan's assets and liabilities as of a date not more than three years before the date on which the notice of the merger or transfer is filed. When the regulation was originally published, section 302(c)(9) of ERISA required plans to have an actuarial valuation performed every three years, and PBGC adopted that timeframe for non-significantly affected plans.

Because multiemployer plans are now required under section 304(c)(7) of ERISA [6] to perform actuarial valuations not less frequently than once every year, the proposed rule would amend § 4231.5 to require that each plan involved in a merger or transfer have an actuarial valuation performed for the plan year preceding the proposed effective date of the merger or transfer. The proposed rule further provides that if the valuation is not complete as of the date the plan sponsors file the notice of merger or transfer, the plan sponsors may provide the most recent actuarial valuation performed for the plans with the notice, and the required valuations when complete.

Section 4231.6 of the current regulation provides guidance on ''plan solvency'' tests that operate as regulatory safe harbors under section 4231(b)(3) of ERISA. Section 4231(b)(3) prohibits a merger or transfer unless ''the benefits of participants and beneficiaries are not reasonably expected to be subject to suspension under section 4245.'' Section 4245, in turn, provides that an insolvent plan must suspend benefits that are above the level guaranteed by PBGC to the extent the plan has insufficient assets to pay such benefits.

For a plan that is not a significantly affected plan, § 4231.6(a) of the current regulation provides that the plan solvency requirement under section 4231(b)(3) of ERISA and § 4231.3(a)(3)(i) is satisfied if one of the following tests are met:

(1) The expected fair market value of plan assets immediately after the merger or transfer equals or exceeds five times the benefit payments for the last plan year ending before the proposed effective date of the merger or transfer, or

(2) In each of the first five plan years beginning on or after the proposed effective date of the merger or transfer, expected plan assets plus expected contributions and investment earnings equal or exceed expected expenses and benefit payments for the plan year.

The proposed rule would amend and reorder these tests in the following manner. First, under § 4231.6(a)(1) of the proposed rule, a plan will satisfy the plan solvency requirement if in each of the first ten plan years beginning on or after the proposed effective date of the merger or transfer, the plan's expected fair market value of assets plus expected contributions and investment earnings equal or exceed expected expenses and benefit payments for the plan year.

Alternatively, under § 4231.6(a)(2) of the proposed rule, a plan will satisfy the plan solvency requirement if the plan's expected fair market value of assets immediately after the merger or transfer equals or exceeds ten times the benefit payments for the last plan year ending before the proposed effective date of the merger or transfer.

Accordingly, in addition to reordering § 4231.6(a)(1) and (2), the proposed rule would change the period of years in § 4231.6(a)(2) of the current regulation from ''five plan years'' to ''ten plan years,'' and the multiple in § 4231.6(a)(1) from ''five times the benefit payments'' to ''ten times the benefit payments.'' Based on PBGC's experience under the multiemployer program since the regulation was first published, PBGC believes that the proposed changes will provide a better demonstration that benefits are not reasonably expected to be subject to suspension under section 4245 of ERISA as a result of insolvency. At the same time, PBGC recognizes that the majority of multiemployer plan mergers will broaden the contribution base and stabilize the plans involved. Therefore, as is the case under the current regulation for a plan that cannot satisfy the solvency tests under § 4231.6(a), the proposed rule would continue to allow an enrolled actuary to ''otherwise demonstrate'' that benefits under the plan are not reasonably expected to be subject to suspension under section 4245 of ERISA as a result of insolvency.

Section 4231.6(b) of the current regulation sets forth a more rigorous solvency test for significantly affected plans. The proposed rule would amend § 4231.6(b)(2) by changing the requirement that assets cover benefit payments for the first ''five'' years after the proposed effective date to ''ten'' years. In addition, the proposed rule would amend § 4231.6(b)(4)(i) by changing the amortization period from 25 to 15 years to reflect the amortization period generally applicable to changes in funding of multiemployer plans under PPA.[7] Finally, the proposed rule would amend § 4231.6(c)(1) by requiring withdrawal liability payments to be listed separately from contributions.

Section 4231.7 of the current regulation sets forth special rules for de minimis mergers and transfers. That section would remain unchanged under the proposed rule.

[6] Sections 302 and 304 of ERISA were repealed and replaced by PPA. Section 304 of ERISA, as amended by PPA, sets forth the minimum funding standards for multiemployer plans.

[7] *See* section 304(b) of ERISA.

Section 4231.8 of the current regulation sets forth requirements for notices of mergers and transfers, and requests for compliance determinations under section 4231(c). In general, a notice of a merger or transfer must be filed not less than 120 days, or not less than 45 days in the case of a merger for which a compliance determination is not requested, before the effective date of a merger or transfer. Section 4231.8(f) permits PBGC to waive the timing of the notice requirements under certain circumstances.

In the case of a facilitated merger, the proposed rule would amend § 4231.8(a) to require that notice of a proposed facilitated merger be filed not less than 270 days before the proposed effective date of a facilitated merger. As noted above in the discussion of § 4231.2, the proposed rule would also move the definition of ''effective date'' from § 4231.8(a)(1) to § 4231.2. Finally, the proposed rule would move the information requirements contained in § 4231.8(e) to a new § 4231.9.

Section 4231.9 of the proposed rule would generally retain the existing information requirements in § 4231.8(e) with minor modifications. For example, the de minimis exception contained in § 4231.8(e)(6) would not apply to a request for a financial assistance merger.

Section 4231.10 of the proposed rule (§ 4231.9 of the existing regulation) describes the additional information required for a request for a compliance determination. The proposed rule would amend this section to make clear that a request for a compliance determination must be filed contemporaneously with a notice of merger or transfer. In addition, the proposed rule would delete the ''place of filing'' provision in § 4231.9(1) as that information is now contained in § 4231.8(e), and would delete certain information requirements as those requirements are now contained in § 4231.9(e).

Section 4231.11 of the proposed rule (§ 4231.10 of the existing regulation) describes the requirements for actuarial calculations and assumptions. The proposed rule would conform the regulation to section 304(c)(3) of ERISA, would specify that calculations must be performed by an enrolled actuary, and would expand the bases upon which PBGC may require updated calculations.

Subpart B—Additional Rules for Facilitated Mergers

Section 4231.12 of the proposed rule provides general guidance on a request for a facilitated merger. A request for a facilitated merger, including a financial assistance merger, must satisfy the requirements of section 4231(b) of ERISA and subpart A of the regulation, in addition to section 4231(e) of ERISA and subpart B. The procedures set forth in the proposed rule would represent the exclusive means by which PBGC will approve a request for a facilitated merger, including a financial assistance merger. Any financial assistance provided by PBGC will be limited by section 4261 of ERISA and with respect to the guaranteed benefits of the plans involved in the merger that are in critical and declining status. In addition, as noted above, because the funds available for financial assistance mergers under section 4231(e), partitions under section 4233, and financial assistance to insolvent plans under 4261, are derived from the same source—the revolving fund for basic benefits guaranteed under section 4022A (the multiemployer revolving fund)—it is anticipated that the amount of financial assistance available to a critical and declining status plan for a financial assistance merger generally will not exceed the amount available to that plan for a partition (and could be less). Finally, while PBGC expects that in most cases the financial assistance it provides in a facilitated merger will be in the form of periodic payments, PBGC agrees with the RFI comment advocating flexibility in the structure of financial assistance (*e.g.,* lump sum or periodic payments), and consistent with past practice will decide the structure of financial assistance on a case-by-case basis.

Section 4231.12 of the proposed rule would also provide guidance on the information required for a request for a facilitated merger. It states that a request must include the information required under §§ 4231.9 (notice of merger or transfer) and 4231.10 (request for compliance determination), as well as a detailed narrative description with supporting documentation demonstrating that the proposed merger is in the interests of participants and beneficiaries of at least one of the plans, and is not reasonably expected to be adverse to the overall interests of the participants and beneficiaries of any of the plans. The narrative description and supporting documentation should reflect, among other things, any material efficiencies expected as a result of the merger and the basis for those expectations.

In addition, a request for a financial assistance merger must contain the information described in § 4231.13 (plan information), § 4231.14 (financial assistance merger information), § 4231.15 (actuarial and financial information), and § 4231.16 (participant census data). The proposed rule provides that PBGC may require additional information to determine whether the requirements of section 4231(e) of ERISA are met or to enable it to facilitate the merger. Finally, § 4231.12 of the proposed rule would impose an affirmative obligation on the plan sponsors to promptly notify PBGC in writing if the plan sponsor(s) discovers that any material fact or representation contained in or relating to the request for a facilitated merger, or in any supporting documents, is no longer accurate, or has been omitted.

Information Requirements for Financial Assistance Merger

Section 4231.13 of the proposed rule would provide guidance on the various categories of plan-related information required for a request for a financial assistance merger, such as trust agreements, formal plan documents, summary plan descriptions, summaries of material modifications, and rehabilitation or funding improvement plans. PBGC expects that most, if not all, of the information required under this section should be readily available and accessible by plan sponsors.

Section 4231.14 of the proposed rule sets forth information requirements relating to the proposed structure of a financial assistance merger. The information required includes a detailed description of the financial assistance merger, including any larger integrated transaction of which the proposed merger is a part (including, but not limited to, an application for suspension of benefits under section 305(e)(9)(G) of ERISA), and the estimated total amount of financial assistance the plan sponsors request for each year. It would also require a narrative description of the events that led to the sponsors' decision to request a financial assistance merger, and the significant risks and assumptions relating to the proposed financial assistance merger and the projections provided.

Section 4231.15 of the proposed rule would identify the actuarial and financial information required for a request for a financial assistance merger. The first two information requirements relate to plan actuarial reports and actuarial certifications, which should ordinarily be within the possession of the plan sponsors or plan actuaries. Sections 4231.15(c)–(f) of the regulation would require the submission of certain actuarial and financial information specific to the proposed financial assistance merger, which are necessary for PBGC to evaluate the solvency requirements under section 4231(e)(2) of ERISA.

Under § 4231.15 of the proposed rule, each critical and declining plan must demonstrate that its projected date of insolvency without the merger is sooner than the projected date of insolvency of the merged plan. The plan(s) may take the proposed financial assistance into account in this demonstration.

Section 4231.15 of the proposed rule would also provide guidance on the required demonstration that financial assistance is necessary for the merged plan to become or remain solvent. Under the proposed rule, the type of projection required will depend on whether the merged plan would be in critical status under section 305(b) of ERISA immediately following the merger (without taking the proposed financial assistance into account), as reasonably determined by the actuary. For example, if a critical and declining status plan merges into an endangered status plan, and the actuary anticipates that the merged plan would not meet minimum funding requirements for the coming year without financial assistance, then the merged plan would be in critical status for purposes of the projections. Alternatively, if the actuary anticipates that the merged plan would not be described in section 305(b)(2)(A)–(D) of ERISA immediately after the merger, then the merged plan would not be in critical status for purposes of the projections (even if the merged plan could elect to be in critical status).

Under the proposed rule, the plan's enrolled actuary may use any reasonable estimation for determining the expected funded status of the merged plan. Under an optional approach, the funded status of the merged plan could be determined based on the combined data and projections underlying the status certifications of each of the plans for the plan year immediately preceding the merger (including any selected updates in the data based on the experience of the plans in the immediately preceding plan year). PBGC requests comments on this issue, including methods to determine whether the merged plan would be in critical status.

Under § 4231.15(f)(1) of the proposed rule, if the merged plan would be in critical status under section 305(b) of ERISA (without taking the proposed financial assistance into account), the plans must demonstrate that financial assistance is necessary for the merged plan to ''avoid insolvency'' under section 305(e)(9)(D)(iv) of ERISA and the regulations thereunder (excluding stochastic projections). This more rigorous solvency standard is consistent with the ''emergence'' test under section 305(e)(4)(B) of ERISA, which requires a plan in critical status to show that is not projected to become insolvent for any of the 30 succeeding plan years.

If the merged plan would *not* be in critical status under section 305(b) of ERISA (without taking the proposed financial assistance into account), § 4231.15(f)(2) of the proposed rule provides that the plans must demonstrate that the merged plan is *not* projected to become insolvent during the 20 years beginning after the proposed effective date of the merger with the proposed financial assistance. If such a demonstration can be satisfied without taking the proposed financial assistance into account, or if the amount of financial assistance requested exceeds the amount that satisfies this demonstration, the plan sponsors must demonstrate that financial assistance is necessary to mitigate the adverse effects of the merger on the merged plan's ability to remain solvent.

In summary, under the proposed rule, critical status plans would be subject to a different solvency standard than non-critical status plans. This is consistent with the RFI comments that suggested determining solvency on a case-by-case basis, and maintains flexibility in the solvency demonstration for a merged plan that would *not* be in critical status. To encourage the merger of critical and declining status plans into financially stable plans, the proposed rule provides for a solvency demonstration based on the circumstances and challenges specific to the merged plan (for example, the merger might have an impact on the plan's funding requirements, increase the ratio of inactive to active participants, or decrease the funded percentage of the healthy plan in a manner that can be demonstrated to adversely affect the merged plan's ability to remain solvent long-term). PBGC requests comments on this issue, including alternative approaches or methods to demonstrate plan solvency.

Section 4231.16 of the proposed rule would identify the types of participant census data to include with a request for a financial assistance merger.

Decision on Request for Facilitated Merger

Section 4231.17 of the proposed rule would describe the manner in which PBGC will notify a plan sponsor of PBGC's decision on a request for a facilitated merger. PBGC will approve or deny a request for a facilitated merger in writing and in accordance with the standards set forth in section 4231(e) of ERISA.[8] If PBGC denies a request, PBGC's written decision will state the reason(s) for the denial. If PBGC approves a request for a financial assistance merger, PBGC will provide a financial assistance agreement detailing the total amount and terms of the financial assistance as soon as practicable thereafter. The decision to approve or deny a request for facilitated merger under section 4231(e) of ERISA is within PBGC's discretion, and would be a final agency action not subject to PBGC's rules for reconsideration or administrative appeal.

Jurisdiction Over Financial Assistance Merger

Section 4231.18 of the proposed rule would describe PBGC's jurisdiction over the merged plan resulting from a financial assistance merger. PBGC has determined that maintaining oversight is necessary to ensure compliance with financial assistance agreements, and proper stewardship of PBGC financial assistance. This is also consistent with one of the RFI comments. Based on the foregoing, § 4231.18(a) would provide that PBGC will continue to have jurisdiction over the merged plan resulting from a financial assistance merger to carry out the purposes, terms, and conditions of the financial assistance merger, sections 4231 and 4261 of ERISA, and the regulations thereunder. Section 4231.18(b) would state that PBGC may, upon notice to the plan sponsor, make changes to the financial assistance agreement(s) in response to changed circumstances consistent with sections 4231 and 4261 of ERISA and the regulations thereunder.

Request for Comments

In addition to the specific requests for comments identified above, PBGC encourages all interested parties to submit their comments, suggestions, and views concerning the provisions of this proposed rule. In particular, PBGC is interested in any area in which additional guidance may be needed.

Applicability

The amendments to part 4231 would be applicable to mergers and transfers for which a notice, and, if applicable,

[8] As noted above, section 4231(e)(1) of ERISA requires a determination by PBGC in consultation with the Participant and Plan Sponsor Advocate to approve a facilitated merger. Section 4231(e)(2) of ERISA sets forth four additional statutory conditions that must be satisfied before PBGC may approve a request for a financial assistance merger. PBGC will review each request for a facilitated merger, including a financial assistance merger, on a case-by-case basis in accordance with the statutory criteria in section 4231(e) of ERISA.

request are filed with PBGC on or after the effective date of the final rule.

Compliance With Rulemaking Guidelines

Executive Orders 12866 ''Regulatory Planning and Review'' and 13563 ''Improving Regulation and Regulatory Review''

Having determined that this rulemaking is a ''significant regulatory action'' under Executive Order 12866, the Office of Management and Budget has reviewed this proposed rule under Executive Order 12866.

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, 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. Executive Orders 12866 and 13563 require a comprehensive regulatory impact analysis be performed for any economically significant regulatory action, defined as an action that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts.

Pursuant to section 1(b)(1) of Executive Order 12866 (as amended by Executive Order 13422), PBGC has determined that regulatory action is required in this area. Principally, this regulatory action is necessary to implement the requirements for a request for a facilitated merger under section 4231 of ERISA, as amended by MPRA.

In accordance with OMB Circular A–4, PBGC also has examined the economic and policy implications of this proposed rule and has concluded that the action's benefits justify its costs. Plan sponsors requesting a facilitated merger should have readily accessible the information needed for a request under this proposed rule. Most of the information requirements pertain to a request for facilitation of a merger with financial assistance. These requirements are largely the same as the information requirements in the interim final rule that PBGC published in the **Federal Register** on June 19, 2015 (80 FR 35220) about partition of a multiemployer plan. Public comments to that interim final rule stated that its information requirements were not overly burdensome.[9] In addition, if the plan sponsors' request for facilitation of a merger with financial assistance is approved, the merged plan benefits by receiving enough financial assistance to remain solvent. The benefits to participants equal or exceed the costs to PBGC. Further, under section 4231(e)(2) of ERISA, PBGC cannot provide financial assistance to facilitate a merger unless its expected long-term loss with respect to the plans is reduced, and PBGC's ability to satisfy existing financial assistance obligations to other plans is not impaired.[10]

Under Section 3(f)(1) of Executive Order 12866, a regulatory action is economically significant if ''it is likely to result in a rule that may * * * [h]ave an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.'' OMB has determined that this proposed rule does not cross the $100 million threshold for economic significance and is not otherwise economically significant.

Based on a review of the requirements plans and PBGC must comply with for both partitions and financial assistance mergers, particularly the requirement that PBGC not impair its ability to help other troubled plans, PBGC expects that fewer than 20 plans would be approved for either partition or financial assistance merger over the next three years (about six plans per year), and that the total financial assistance PBGC would provide under both provisions would be less than $60 million per year.

Regulatory Flexibility Act

The Regulatory Flexibility Act imposes certain requirements with respect to rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the Regulatory Flexibility Act requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the proposed rule describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations and governmental jurisdictions.

For purposes of the Regulatory Flexibility Act requirements with respect to the proposed amendments to the Annual Financial and Actuarial Information Reporting regulation, PBGC considers a small entity to be a plan with fewer than 100 participants. This is substantially the same criterion PBGC uses in other regulations [11] and is consistent with certain requirements in title I of ERISA [12] and the Internal Revenue Code (Code),[13] as well as the definition of a small entity that the Department of Labor (DOL) has used for purposes of the Regulatory Flexibility Act.[14]

Further, while some large employers may have small plans, in general most small plans are maintained by small employers. Thus, PBGC believes that assessing the impact of the proposed rule on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business based on size standards promulgated by the Small Business Administration (13 CFR 121.201) pursuant to the Small Business Act. PBGC therefore requests comments on the appropriateness of the size standard used in evaluating the impact on small entities of the proposed amendments to part 4231.

PBGC certifies under section 605(b) of the Regulatory Flexibility Act that the amendments in this proposed rule would not have a significant economic impact on a substantial number of small entities. In 2014, multiemployer plans with fewer than 250 participants made up just 11% of the total 1,425 multiemployer plans. Accordingly, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), sections 603 and 604 do not apply.

Paperwork Reduction Act

PBGC is submitting the information collection requirements under this

[9] The partition rule and comments are accessible at *http://www.pbgc.gov/prac/pg/other/guidance/final-rules.html*. PBGC published the final rule in the **Federal Register** on December 23, 2015 (80 FR 79687).

[10] *See* sections 4231(e)(2)(B)(i) and 4231(e)(2)(C) of ERISA.

[11] *See, e.g.,* special rules for small plans under part 4007 (Payment of Premiums).

[12] *See, e.g.,* section 104(a)(2) of ERISA, which permits the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants.

[13] *See, e.g.,* section 430(g)(2)(B) of the Code, which permits plans with 100 or fewer participants to use valuation dates other than the first day of the plan year.

[14] *See, e.g.,* DOL's final rule on Prohibited Transaction Exemption Procedures, 76 FR 66637, 66644 (Oct. 27, 2011).

proposed rule to the Office of Management and Budget under the Paperwork Reduction Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The collection of information in part 4231 is approved under control number 1212–0022 (expires July 31, 2017). PBGC estimates that there will be 28 respondents each year and that the total annual burden of the collection of information will be about 63.125 hours and $169,995. For purposes of estimating the total annual burden numbers for the collection of information in part 4231, PBGC assumed that it will receive a total of six requests for facilitation of a merger with financial assistance, with a per respondent annual burden of 10 hours and $26,250.

Comments on the information requirements under this proposed rule should be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. Comments may be submitted through August 5, 2016. Comments may address (among other things)—

- Whether the collection of information is needed for the proper performance of PBGC's functions and will have practical utility;
- The accuracy of PBGC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancement of the quality, utility, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

List of Subjects in 29 CFR Part 4231

Employee benefit plans, Pension insurance, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, PBGC proposes to amend 29 CFR chapter XL by revising part 4231 to read as follows:

PART 4231—MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Subpart A—General Provisions

Subpart B—Additional Rules for Facilitated Mergers

Authority: 29 U.S.C. 1302(b)(3)

PART 4231—MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Subpart A—General Provisions

§ 4231.1 Purpose and scope.

(a) *General*—(1) *Purpose.* The purpose of this part is to prescribe notice requirements under section 4231 of ERISA for mergers and transfers of assets or liabilities among multiemployer pension plans. This part also interprets the other requirements of section 4231 of ERISA and prescribes special rules for de minimis mergers and transfers.

(2) *Scope.* This part applies to mergers and transfers among multiemployer plans where all of the plans immediately before and immediately after the transaction are multiemployer plans covered by title IV of ERISA.

(b) *Additional requirements.* Subpart B of this part sets forth the additional requirements for and procedures specific to a request for a facilitated merger.

§ 4231.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: *annuity, Code, EIN, ERISA, fair market value, guaranteed benefit, IRS, multiemployer plan, normal retirement age, PBGC, plan, plan sponsor, plan year,* and *PN.* In addition, the following terms are defined for purposes of this part:

Actuarial valuation means a valuation of assets and liabilities performed by an enrolled actuary using the actuarial assumptions used for purposes of determining the charges and credits to the funding standard account under section 304 of ERISA and section 431 of the Code.

Advocate means the Participant and Plan Sponsor Advocate under section 4004 of ERISA.

Critical and declining status has the same meaning as the term has under section 305(b)(6) of ERISA and section 432(b)(6) of the Code.

Critical status has the same meaning as the term has under section 305(b)(2) of ERISA and section 432(b)(2) of the Code, and includes ''critical and declining status'' as defined in section 305(b)(6) of ERISA and section 432(b)(6) of the Code.

De minimis merger is defined in § 4231.7(b).

De minimis transfer is defined in § 4231.7(c).

Effective date means, with respect to a merger or transfer, the earlier of—

(1) The date on which one plan assumes liability for benefits accrued under another plan involved in the transaction; or

(2) The date on which one plan transfers assets to another plan involved in the transaction.

Endangered status has the same meaning as the term has under section 305(b)(1) of ERISA and section 432(b)(1) of the Code, and includes ''seriously endangered status'' as described in section 305(b)(1) of ERISA and section 432(b)(1) of the Code.

Facilitated merger means a merger of two or more multiemployer plans facilitated by PBGC under section 4231(e) of ERISA, including a merger that is facilitated with financial assistance under section 4231(e)(2) of ERISA.

Fair market value of assets has the same meaning as the term has for minimum funding purposes under section 304 of ERISA and section 431 of the Code.

Financial assistance means periodic or lump sum financial assistance payments from PBGC under section 4261 of ERISA.

Financial assistance merger means a merger facilitated by PBGC for which PBGC provides financial assistance (within the meaning of section 4261 of ERISA) under section 4231(e)(2) of ERISA.

Insolvent has the same meaning as insolvent under section 4245(b) of ERISA.

Merged plan means a plan that is the result of the merger of two or more multiemployer plans.

Merger means the combining of two or more plans into a single plan. For example, a consolidation of two plans into a new plan is a merger.

Significantly affected plan means a plan that—

(1) Transfers assets that equal or exceed 15 percent of its assets before the transfer,

(2) Receives a transfer of unfunded accrued benefits that equal or exceed 15 percent of its assets before the transfer,

(3) Is created by a spinoff from another plan,

(4) Engages in a merger or transfer (other than a de minimis merger or transfer) either—

(i) After such plan has terminated by mass withdrawal under section 4041A(a)(2) of ERISA, or

(ii) With another plan that has so terminated, or

(5) Is in either endangered status or critical status, and engages in a transfer (other than a de minimis transfer).

Transfer and *transfer of assets or liabilities* mean a diminution of assets or liabilities with respect to one plan and the acquisition of these assets or the assumption of these liabilities by another plan or plans (including a plan that did not exist prior to the transfer). However, the shifting of assets or liabilities pursuant to a written reciprocity agreement between two multiemployer plans in which one plan assumes liabilities of another plan is not a transfer of assets or liabilities. In addition, the shifting of assets between several funding media used for a single plan (such as between trusts, between annuity contracts, or between trusts and annuity contracts) is not a transfer of assets or liabilities.

Unfunded accrued benefits means the excess of the present value of a plan's accrued benefits over the plan's fair market value of assets, determined on the basis of the actuarial valuation required under § 4231.5.

§ 4231.3 Requirements for mergers and transfers.

(a) *General requirements.* A plan sponsor may not cause a multiemployer plan to merge with one or more multiemployer plans or transfer assets or liabilities to or from another multiemployer plan unless the merger or transfer satisfies all of the following requirements:

(1) No participant's or beneficiary's accrued benefit is lower immediately after the effective date of the merger or transfer than the benefit immediately before that date.

(2) Actuarial valuations of the plans that existed before the merger or transfer have been performed in accordance with § 4231.5.

(3) For each plan that exists after the transaction, an enrolled actuary—

(i) Determines that the plan meets the applicable plan solvency requirement set forth in § 4231.6; or

(ii) Otherwise demonstrates that benefits under the plan are not reasonably expected to be subject to suspension under section 4245 of ERISA.

(4) The plan sponsor notifies PBGC of the merger or transfer in accordance with §§ 4231.8 and 4231.9.

(b) *Compliance determination.* If a plan sponsor requests a determination that a merger or transfer that may otherwise be prohibited by section 406(a) or (b)(2) of ERISA satisfies the requirements of section 4231 of ERISA, the plan sponsor must submit the information described in § 4231.10 in addition to the information required by § 4231.9. PBGC may request additional information if necessary to determine whether a merger or transfer complies with the requirements of section 4231 and subpart A of this part. Plan sponsors are not required to request a compliance determination. Under section 4231(c) of ERISA, if PBGC determines that the merger or transfer complies with section 4231 of ERISA and subpart A of this part, the merger or transfer will not constitute a violation of the prohibited transaction provisions of section 406(a) and (b)(2) of ERISA.

(c) *Certified change in bargaining representative.* Transfers of assets and liabilities pursuant to a change of collective bargaining representative certified under the Labor-Management Relations Act of 1947 or the Railway Labor Act, as amended, are governed by section 4235 of ERISA. Plan sponsors involved in such transfers are not required to comply with subpart A of this part. However, under section 4235(f)(1) of ERISA, the plan sponsors of the plans involved in the transfer may agree to a transfer that complies with sections 4231 and 4234 of ERISA. Plan sponsors that elect to comply with sections 4231 and 4234 of ERISA must comply with the rules in subpart A of this part.

(d) *Informal consultation.* Nothing in this part precludes a plan sponsor from contacting PBGC on an informal basis to discuss a potential merger or transfer.

§ 4231.4 Preservation of accrued benefits.

Section 4231(b)(2) of ERISA and § 4231.3(a)(1) require that no participant's or beneficiary's accrued benefit may be lower immediately after the effective date of the merger or transfer than the benefit immediately before the merger or transfer. A plan that assumes an obligation to pay benefits for a group of participants satisfies this requirement only if the plan contains a provision preserving all accrued benefits. The determination of what is an accrued benefit must be made in accordance with section 411 of the Code and the regulations thereunder.

§ 4231.5 Valuation requirement.

The actuarial valuation requirement under section 4231(b)(4) of ERISA and § 4231.3(a)(2) is satisfied if an actuarial valuation has been performed for the plan based on the plan's assets and liabilities as of a date not earlier than the first day of the last plan year ending before the proposed effective date of the transaction. If the actuarial valuation required under this section is not complete when the notice of merger or transfer is filed, the plan sponsor may provide the most recent actuarial valuation for the plan with the notice, and the actuarial valuation required under this section when complete. For a significantly affected plan involved in a transfer, other than a plan that is a significantly affected plan only because the transfer involves a plan that has terminated by mass withdrawal under section 4041A(a)(2) of ERISA, the valuation must separately identify assets, contributions, and liabilities being transferred and must be based on the actuarial assumptions and methods that are expected to be used for the plan for the first plan year beginning after the transfer.

§ 4231.6 Plan solvency tests.

(a) *General.* For a plan that is not a significantly affected plan, the plan solvency requirement of section 4231(b)(3) of ERISA and § 4231.3(a)(3)(i) is satisfied if—

(1) In each of the first ten plan years beginning on or after the proposed effective date of the merger or transfer, the plan's expected fair market value of assets plus expected contributions and investment earnings equal or exceed expected expenses and benefit payments for the plan year; or

(2) The plan's expected fair market value of assets immediately after the merger or transfer equals or exceeds ten times the benefit payments for the last plan year ending before the proposed effective date of the merger or transfer.

(b) *Significantly affected plans.* The plan solvency requirement of section 4231(b)(3) of ERISA and § 4231.3(a)(3)(i) is satisfied for a significantly affected plan if all of the following requirements are met:

(1) Expected contributions equal or exceed the estimated amount necessary to satisfy the minimum funding requirement of section 431 of the Code for the ten plan years beginning on or after the proposed effective date of the transaction.

(2) The plan's expected fair market value of assets immediately after the transaction equal or exceed the total amount of expected benefit payments for the first ten plan years beginning on or after the proposed effective date of the transaction.

(3) Expected contributions for the first plan year beginning on or after the proposed effective date of the transaction equal or exceed expected benefit payments for that plan year.

(4) Expected contributions for the amortization period equal or exceed unfunded accrued benefits plus expected normal costs. The actuary may select as the amortization period either—

(i) The first 15 plan years beginning on or after the proposed effective date of the transaction, or

(ii) The amortization period for the resulting base when the combined charge base and the combined credit base are offset under section 431(b)(5) of the Code.

(c) *Rules for determinations.* In determining whether a transaction satisfies the plan solvency requirements set forth in this section, the following rules apply:

(1) Expected contributions after a merger or transfer must be determined by assuming that contributions for each plan year will equal contributions for the last full plan year ending before the date on which the notice of merger or transfer is filed with PBGC. If expected contributions include withdrawal liability payments, such payments must be shown separately. If the withdrawal liability payments are not the assessed amounts, or are not in accordance with the schedule of payments, or include future assessments, include the basis for such differences, with supporting data, calculations, assumptions, and methods. In addition, contributions must be adjusted to reflect—

(i) The merger or transfer;

(ii) Any change in the rate of employer contributions that has been negotiated (whether or not in effect); and

(iii) Any trend of changing contribution base units over the preceding five plan years or other period of time that can be demonstrated to be more appropriate.

(2) Expected normal costs must be determined under the funding method and assumptions expected to be used by the plan actuary for purposes of determining the minimum funding requirement under section 431 of the Code. If the plan uses an aggregate funding method, normal costs must be determined under the entry age normal method.

(3) Expected benefit payments must be determined by assuming that current benefits remain in effect and that all scheduled increases in benefits occur.

(4) The plan's expected fair market value of assets immediately after the merger or transfer must be based on the most recent data available immediately before the date on which the notice is filed.

(5) Expected investment earnings must be determined using the same interest assumption to be used for determining the minimum funding requirement under section 431 of the Code.

(6) Expected expenses must be determined using expenses in the last plan year ending before the notice is filed, adjusted to reflect any anticipated changes.

(7) Expected plan assets for a plan year must be determined by adjusting the most current data on the plan's fair market value of assets to reflect expected contributions, investment earnings, benefit payments and expenses for each plan year between the date of the most current data and the beginning of the plan year for which expected assets are being determined.

§ 4231.7 De minimis mergers and transfers.

(a) *Special plan solvency rule.* The determination of whether a de minimis merger or transfer satisfies the plan solvency requirement in § 4231.6(a) may be made without regard to any other de minimis mergers or transfers that have occurred since the most recent actuarial valuation.

(b) *De minimis merger defined.* A merger is *de minimis* if the present value of accrued benefits (whether or not vested) of one plan is less than 3 percent of the other plan's fair market value of assets.

(c) *De minimis transfer defined.* A transfer of assets or liabilities is *de minimis* if—

(1) The fair market value of assets transferred, if any, is less than 3 percent of the fair market value of assets of all of the transferor plan's assets;

(2) The present value of the accrued benefits transferred (whether or not vested) is less than 3 percent of the fair market value of assets of all of the transferee plan's assets; and

(3) The transferee plan is not a plan that has terminated under section 4041A(a)(2) of ERISA.

(d) *Value of assets and benefits.* For purposes of paragraphs (b) and (c) of this section, the value of plan assets and accrued benefits may be determined as of any date prior to the proposed effective date of the transaction, but not earlier than the date of the most recent actuarial valuation.

(e) *Aggregation required.* In determining whether a merger or transfer is de minimis, the assets and accrued benefits transferred in previous *de minimis* mergers and transfers within the same plan year must be aggregated as described in paragraphs (e)(1) and (2) of this section. For the purposes of those paragraphs, the value of plan assets may be determined as of the date during the plan year on which the total value of the plan's assets is the highest.

(1) A merger is not de minimis if the total present value of accrued benefits merged into a plan, when aggregated with all prior de minimis mergers of and transfers to that plan effective within the same plan year, equals or exceeds 3 percent of the value of the plan's assets.

(2) A transfer is not de minimis if, when aggregated with all previous de minimis mergers and transfers effective within the same plan year—

(i) The value of all assets transferred from a plan equals or exceeds 3 percent of the value of the plan's assets; or

(ii) The present value of all accrued benefits transferred to a plan equals or exceeds 3 percent of the plan's assets.

§ 4231.8 Filing requirements; timing and method of filing.

(a) *When to file.* Except as provided in paragraph (g) of this section, a notice of a proposed merger or transfer, and, if applicable, a request for a compliance determination or facilitated merger (which may be filed separately or combined), must be filed not less than the following number of days before the proposed effective date of the transaction—

(1) 270 days in the case of a facilitated merger under § 4231.12;

(2) 120 days in the case of a merger (other than a facilitated merger) for which a compliance determination under § 4231.10 is requested, or a transfer; or

(3) 45 days in the case of a merger for which a compliance determination under § 4231.10 is not requested.

(b) *Method of filing.* PBGC applies the rules in subpart A of part 4000 of this

chapter to determine permissible methods of filing with PBGC under this part.

(c) *Computation of time.* PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for filing under this part.

(d) *Who must file.* The plan sponsors of all plans involved in a merger or transfer, or the duly authorized representative(s) acting on behalf of the plan sponsors, must jointly file the notice required by subpart A of this part, and, if applicable, a request for a facilitated merger under § 4231.12.

(e) *Where to file.* See § 4000.4 of this chapter for information on where to file.

(f) *Date of filing.* PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date a submission under this part was filed with PBGC. For purposes of paragraph (a) of this section, the notice, and, if applicable, a request for a compliance determination or facilitated merger, is not considered filed until all of the information required under this part has been submitted.

(g) *Waiver of timing of notice.* PBGC may waive the timing requirements of paragraph (a) of this section and section 4231(b)(1) of ERISA if—

(1) A plan sponsor demonstrates to the satisfaction of PBGC that failure to complete the merger or transfer in less than the applicable notice period set forth in paragraph (a) of this section will cause harm to participants or beneficiaries of the plans involved in the transaction;

(2) PBGC determines that the transaction complies with the requirements of section 4231 of ERISA; or

(3) PBGC completes its review of the transaction.

§ 4231.9 Notice of merger or transfer.

Each notice of proposed merger or transfer required under section 4231(b)(1) of ERISA and this subpart must contain the following information:

(a) For each plan involved in the merger or transfer—

(1) The name of the plan;

(2) The name, address and telephone number of the plan sponsor and of the plan sponsor's duly authorized representative, if any; and

(3) The plan sponsor's EIN and the plan's PN and, if different, the EIN or PN last filed with PBGC. If no EIN or PN has been assigned, the notice must so indicate.

(b) Whether the transaction being reported is a merger or transfer, whether it involves any plan that has terminated under section 4041A(a)(2) of ERISA, whether any significantly affected plan is involved in the transaction (and, if so, identifying each such plan), and whether it is a de minimis transaction as defined in § 4231.7 (and, if so, including an enrolled actuary's certification to that effect).

(c) The proposed effective date of the transaction.

(d) A copy of each plan provision stating that no participant's or beneficiary's accrued benefit will be lower immediately after the effective date of the merger or transfer than the benefit immediately before that date.

(e) For each plan that exists after the transaction, one of the following statements, certified by an enrolled actuary:

(1) A statement that the plan satisfies the applicable plan solvency test set forth in § 4231.6, indicating which is the applicable test, and including the supporting data, calculations, assumptions, and methods.

(2) A statement of the basis on which the actuary has determined under § 4231.3(a)(3)(ii) that benefits under the plan are not reasonably expected to be subject to suspension under section 4245 of ERISA, including the supporting data, calculations, assumptions, and methods.

(f) For each plan that exists before a transaction (unless the transaction is de minimis and does not involve a request for financial assistance, or any plan that has terminated under section 4041A(a)(2) of ERISA), a copy of the most recent actuarial valuation report that satisfies the requirements of § 4231.5.

(g) For each significantly affected plan that exists after the transaction, the following information used in making the plan solvency determination under § 4231.6(b):

(1) The present value of the accrued benefits and plan's fair market value of assets under the valuation required by § 4231.5, allocable to the plan after the transaction.

(2) The fair market value of assets in the plan after the transaction (determined in accordance with § 4231.6(c)(4)).

(3) The expected benefit payments for the plan in the first plan year beginning on or after the proposed effective date of the transaction (determined in accordance with § 4231.6(c)(3)).

(4) The contribution rates in effect for the plan for the first plan year beginning on or after the proposed effective date of the transaction.

(5) The expected contributions for the plan in the first plan year beginning on or after the proposed effective date of the transaction (determined in accordance with § 4231.6(c)(1)).

§ 4231.10 Request for compliance determination.

(a) *General.* The plan sponsor(s) of one or more plans involved in a merger or transfer, or the duly authorized representative(s) acting on behalf of the plan sponsor(s), may file a request for a determination that the transaction complies with the requirements of section 4231 of ERISA. If the plan sponsor(s) requests a compliance determination, the request must be filed with the notice of merger or transfer under § 4231.3(a)(4), and must contain the information described in paragraph (c) of this section, as applicable.

(b) *Single request permitted for all de minimis transactions.* A plan sponsor may submit a single request for a compliance determination covering all de minimis mergers or transfers that occur between one plan valuation and the next. However, the plan sponsor must still notify PBGC of each de minimis merger or transfer separately, in accordance with §§ 4231.8 and 4231.9. The single request for a compliance determination may be filed concurrently with any one of the notices of a de minimis merger or transfer.

(c) *Contents of request.* A request for a compliance determination concerning a merger or transfer that is not de minimis must contain—

(1) A copy of the merger or transfer agreement; and

(2) For each significantly affected plan, other than a plan that is a significantly affected plan only because the merger or transfer involves a plan that has terminated by mass withdrawal under section 4041A(a)(2) of ERISA, copies of all actuarial valuations performed within the 5 years preceding the date of filing the notice required under § 4231.3(a)(4).

§ 4231.11 Actuarial calculations and assumptions.

(a) *Most recent valuation.* All calculations required by this part must be based on the most recent actuarial valuation as of the date of filing the notice, updated to show any material changes.

(b) *Assumptions.* All calculations required by this part must be performed by an enrolled actuary based on methods and assumptions each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

(c) *Updated calculations.* PBGC may require updated calculations and representations based on the actual effective date of a merger or transfer if

that date is more than one year after the notice is filed, based on revised actuarial assumptions, or based on other good cause.

Subpart B—Additional Rules for Facilitated Mergers

§ 4231.12 Request for facilitated merger.

(a) *General.* (1) The plan sponsors of the plans involved in a proposed merger may request that PBGC facilitate the merger. Facilitation may include training, technical assistance, mediation, communication with stakeholders, and support with related requests to other government agencies. Facilitation may also include financial assistance to the merged plan. PBGC has discretion under section 4231(e) of ERISA to take such actions as it deems appropriate to facilitate the merger of two or more multiemployer plans if it determines, after consultation with the Advocate, that the proposed merger is in the interests of the participants and beneficiaries of at least one of the plans, and is not reasonably expected to be adverse to the overall interests of the participants and beneficiaries of any of the plans involved in the proposed merger. For a facilitated merger, including a financial assistance merger, the requirements of section 4231(b) of ERISA and subpart A of this part must be satisfied in addition to the requirements of section 4231(e) of ERISA and this subpart. The procedures set forth in this subpart represent the exclusive means by which PBGC will approve a request for a facilitated merger under section 4231(e) of ERISA.

(2) *Financial assistance.* Subject to the requirements in section 4231(e) of ERISA and this subpart, in the case of a request for a financial assistance merger, PBGC may in its discretion provide financial assistance (within the meaning of section 4261 of ERISA). Such financial assistance will be with respect to the guaranteed benefits payable under the critical and declining status plan(s) involved in the facilitated merger.

(b) *Information requirements.* (1) A request for a facilitated merger, including a request for a financial assistance merger, must be filed with the notice of merger under § 4231.3(a)(4), and must contain the information described in § 4231.10, and a detailed narrative description with supporting documentation demonstrating that the proposed merger is in the interests of participants and beneficiaries of at least one of the plans, and is not reasonably expected to be adverse to the overall interests of the participants and beneficiaries of any of the plans. If a financial assistance merger is requested, the narrative description and supporting documentation may consider the effect of financial assistance in making these demonstrations.

(2) If a financial assistance merger is requested, the request must contain the information required in §§ 4231.13 through 4231.16 in addition to the information required in paragraph (b)(1) of this section.

(3) *Additional information.* PBGC may require the plan sponsors to submit additional information to determine whether the requirements of section 4231(e) of ERISA are met or to enable it to facilitate the merger.

(c) *Duty to amend and supplement.* During any time in which a request for a facilitated merger, including a request for a financial assistance merger, is pending final action by PBGC, the plan sponsors must promptly notify PBGC in writing of any material fact or representation contained in or relating to the request, or in any supporting documents, that is no longer accurate or was omitted.

§ 4231.13 Plan information for financial assistance merger.

A request for a financial assistance merger must include the following information for each plan involved in the merger:

(a) The most recent trust agreement, including all amendments adopted since the last restatement.

(b) The most recent plan document, including all amendments adopted since the last restatement.

(c) The most recent summary plan description (SPD), and all summaries of material modification issued since the most recent SPD.

(d) If applicable, the most recent rehabilitation plan (or funding improvement plan), including all subsequent amendments and updates, and the percentage of total contributions received under each schedule of the rehabilitation plan (or funding improvement plan) for the most recent plan year available.

(e) A copy of the plan's most recent IRS determination letter.

(f) A copy of the plan's most recent Form 5500 (Annual Report Form) and all schedules and attachments (including the audited financial statement).

(g) A current listing of employers who have an obligation to contribute to the plan, and the approximate number of participants for whom each employer is currently making contributions.

(h) A schedule of withdrawal liability payments collected in each of the most recent five plan years.

(i) If applicable, a copy of the plan sponsor's application for suspension of benefits under section 305(e)(9)(G) of ERISA (including all attachments and exhibits).

§ 4231.14 Description of financial assistance merger.

A request for a financial assistance merger must include the following information about the proposed financial assistance merger:

(a) A detailed description of the proposed financial assistance merger, including any larger integrated transaction of which the merger is a part (including, but not limited to, an application for suspension of benefits under section 305(e)(9)(G) of ERISA).

(b) A narrative description of the events that led to the plan sponsors' decision to submit a request for a financial assistance merger.

(c) A narrative description of significant risks and assumptions relating to the proposed financial assistance merger and the projections provided in support of the request.

(d) A detailed description of the estimated total amount of financial assistance the plan sponsors request for each year, including the supporting data, calculations, assumptions, and a description of the methodology used to determine the estimated amounts.

§ 4231.15 Actuarial and financial information for financial assistance merger.

A request for a financial assistance merger must include the following actuarial and financial information for the plans involved in the merger:

(a) A copy of the actuarial valuation performed for each of the two plan years before the most recent actuarial valuation filed in accordance with § 4231.5.

(b) If applicable, a copy of the plan actuary's most recent annual actuarial certification under section 305(b)(3) of ERISA, including a detailed description of the assumptions used in the certification, and the basis under which they were determined. The description must include information about the assumptions used for the projection of future contributions, withdrawal liability payments, and investment returns, and any other assumption that may have a material effect on projections.

(c) A detailed statement certified by an enrolled actuary that the merger is necessary for one or more of the plans involved to avoid or postpone insolvency, including the basis for the conclusion, supporting data, calculations, assumptions, and a description of the methodology. This

statement must demonstrate for each critical and declining status plan involved in the merger that the date the plan projects to become insolvent (without reflecting the merger) is earlier than the date the merged plan projects to become insolvent (the merged plan may reflect the proposed financial assistance). Include as an exhibit annual cash flow projections for each critical and declining status plan involved in the merger through the date the plan projects to become insolvent (using an open group valuation and without reflecting the merger). Annual cash flow projections must reflect the following information:

(1) Fair market value of assets as of the beginning of the year.

(2) Contributions and withdrawal liability payments.

(3) Benefit payments organized by participant type (*e.g.,* active, retiree, terminated vested).

(4) Administrative expenses.

(5) Fair market value of assets as of the end of the year.

(d) For each critical and declining status plan involved in the merger, a long-term projection (at least 50 to 90 years) of benefit disbursements by participant type (*e.g.,* active, retiree, terminated vested) (without reflecting the merger) reflecting reduced benefit disbursements at the PBGC-guarantee level beginning with the proposed effective date of the merger (using a closed group valuation and no accruals after the proposed effective date of the merger).

(e) For each critical and declining status plan involved in the merger, a long-term projection (at least 50 to 90 years) of benefit disbursements by participant type (*e.g.,* active, retiree, terminated vested) (without reflecting the merger) reflecting maximum benefit suspensions that would be permissible under section 305(e)(9) of ERISA beginning with the proposed effective date of the merger (using an open group valuation).

(f) A detailed statement certified by an enrolled actuary that financial assistance is necessary for the merged plan to become or remain solvent, including the basis for the conclusion, supporting data, calculations, assumptions, and a description of the methodology. Include as an exhibit annual cash flow projections for the merged plan with the proposed financial assistance (based on the actuarial assumptions and methods that will be used under the merged plan). Annual cash flow projections must reflect the information listed in paragraphs (c)(1) through (5) of this section. In addition, include as an exhibit a statement of whether the merged plan would be in critical status for purposes of paragraph (f)(1) or (2) of this section, including the basis for the conclusion.

(1) If the merged plan would be in critical status immediately following the merger without the proposed financial assistance (as reasonably determined by the enrolled actuary), the enrolled actuary's certified statement must demonstrate that the merged plan will avoid insolvency under section 305(e)(9)(D)(iv) of ERISA and the regulations thereunder (excluding stochastic projections) with the proposed financial assistance.

(2) If the merged plan would not be in critical status immediately following the merger without the proposed financial assistance (as reasonably determined by the enrolled actuary), the enrolled actuary's certified statement must demonstrate that the merged plan is not projected to become insolvent during the 20 plan years beginning after the proposed effective date of the merger with the proposed financial assistance (using the methodologies set forth under section 305(b)(3)(B)(iv) of ERISA and the regulations thereunder). If such a demonstration is possible without the proposed financial assistance, or if the amount of financial assistance requested exceeds the amount needed to satisfy this demonstration, the enrolled actuary's certified statement must demonstrate that financial assistance is necessary to mitigate the adverse effects of the merger on the merged plan's ability to remain solvent.

(g) If applicable, a copy of the plan actuary's certification under section 305(e)(9)(C)(i) of ERISA.

(h) The rules in § 4231.6(c) apply to the solvency projections described in § 4231.15(c) and (f), unless section 305(e)(9)(D)(iv) of ERISA and the regulations thereunder apply and specify otherwise.

§ 4231.16 Participant census data for financial assistance merger.

A request for a financial assistance merger must include a copy of the census data used for the projections described in § 4231.15(c) and (f), including:

(a) Participant type (retiree, beneficiary, disabled, terminated vested, active, alternate payee).

(b) Gender.

(c) Date of birth.

(d) Credited service for guarantee calculation (*i.e.,* number of years of participation).

(e) Vested accrued monthly benefit.

(f) Monthly benefit guaranteed by PBGC.

(g) Monthly benefit reduced by the maximum benefit suspension permissible under section 305(e)(9) of ERISA.

(h) Benefit commencement date (for participants in pay status and others for which the reported benefit will not be payable at normal retirement age).

(i) For each participant in pay status—

(1) Form of payment, and

(2) Data relevant to the form of payment, including:

(i) For a joint-and-survivor benefit, the beneficiary's benefit amount and the beneficiary's date of birth;

(ii) For a Social Security level income benefit, the date of any change in the benefit amount, and the benefit amount after such change;

(iii) For a 5-year certain or 10-year certain benefit (or similar benefit), the relevant defined period; or

(iv) For a form of payment not otherwise described in this section, the data necessary for the valuation of the form of payment.

(j) If an actuarial increase for postponed retirement applies, or if the form of annuity is a Social Security level income option, the monthly vested benefit payable at normal retirement age in normal form of annuity.

§ 4231.17 PBGC action on a request for facilitated merger.

(a) *General.* PBGC may approve or deny a request for a facilitated merger, including a request for a financial assistance merger, at its discretion if the requirements of section 4231 of ERISA are satisfied. PBGC will notify the plan sponsor(s) in writing of its decision on a request. If PBGC denies the request, PBGC's written decision will state the reason(s) for the denial. If PBGC approves a request for a financial assistance merger, PBGC will provide a financial assistance agreement detailing the total amount and terms of the financial assistance as soon as practicable thereafter.

(b) *Final agency action.* PBGC's decision to approve or deny a request for a facilitated merger, including a request for a financial assistance merger, is a final agency action for purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*).

§ 4231.18 Jurisdiction over financial assistance merger.

(a) *General.* PBGC will retain jurisdiction over the merged plan resulting from a financial assistance merger to carry out the purposes, terms, and conditions of the financial

assistance merger, the financial assistance agreement, sections 4231 and 4261 of ERISA, and the regulations thereunder.

(b) *Financial assistance agreement.* PBGC may, upon providing notice to the plan sponsor, make changes to the financial assistance agreement in response to changed circumstances consistent with sections 4231 and 4261 of ERISA and the regulations thereunder.

Issued in Washington, DC, this 25th day of May, 2016.

W. Thomas Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2016–13083 Filed 6–2–16; 11:15 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0329]

RIN 1625–AA00

Safety Zone; Casco Bay Islands Swim/Run, Casco Bay, Portland, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of Portland Harbor and Casco Bay to be enforced during the Casco Bay Islands Swim/Run marine event. The event involves athletes tethered together by a line in which they will run and swim on and between eight islands of the Casco Bay archipelago. This safety zone will facilitate the protection of the event participants, their support vessels, and the maritime public from the hazards associated with the event. This proposed rulemaking would prohibit persons and vessels from entering into, transiting through, mooring, or anchoring within this safety zone during periods of enforcement unless authorized by the Coast Guard Sector Northern New England Captain of the Port (COTP) or the COTP's designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before July 6, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0329 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rulemaking, call or email MSTC Bains, Sector Northern New England Waterways Management Division, U.S. Coast Guard; telephone 207–347–5003, email *Chris.D.Bains@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

DHS Department of Homeland Security
U.S.C. United States Code
CFR Code of Federal Regulation
FR Federal Register
NPRM Notice of Proposed Rulemaking
NAD 83 North American Datum of 1983

II. Background, Purpose, and Legal Basis

On December 15, 2015, the Coast Guard was notified of a swimming and running event that will occur within the Casco Bay Islands archipelago from 7:30 a.m. to 11:00 a.m. on August 14, 2016. The name of the marine event is called the Casco Bay Islands Swim/Run. Participants will begin the event with a run on Great Chebeague Island to Little Chebeague Island. From Little Chebeague Island they will start the swim/run process with a 470 yard swim to Long Island. After a short run, the athletes will swim an additional 900 yards on the east side of the island to a point back on Long Island. Next, the participants will swim 1,300 yards to Cow Island and then an additional 540 yards to Great Diamond Island. From Great Diamond Island, the participants will swim 700 yards to Peaks Island, then an additional 500 yards to another point on the southern end of Peaks Island. The participants will then swim 700 yards to House Island. From House Island the participants will swim 800 yards to the Little Diamond Island Landing. The final swim leg is a 650 yard swim from the Little Diamond Island Landing back to Peaks Island. Hazards associated with this marine event include accidental collisions with the event participants and the maritime public. The COTP has determined that potential hazards associated with the marine event will be a safety concern for event participants, the support vessels, and the maritime public.

The purpose of this rulemaking is to ensure the safety of event participants, the support vessels, the maritime public, and the navigable waters within a 200-feet radius of the event participants, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a temporary safety zone from 6:30 a.m. to 12:00 p.m. on August 14, 2016. The safety zone would cover all navigable waters within the geographic locations specified in the regulatory text on the navigable waters of Casco Bay, Portland, Maine. Vessels not associated with the event shall maintain a distance of at least 200 feet from the participants. The duration of the zone is intended to ensure the safety of event participants, support vessels, the maritime public, and these navigable waters before, during, and after the scheduled 7:30 a.m. to 11:00 a.m. event. No vessel or person would be permitted to enter the safety zone without first obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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

We expect the economic impact of this rule to be minimal. This regulation may have an impact on the general public, but that potential impact will likely be minimal for several reasons. First, this safety zone will be in effect for only five and a half hours in the morning when vessel traffic is expected to be light. In addition, vessels may enter or pass through the safety zone during an enforcement period with the permission of the COTP or the designated representative. Lastly, the Coast Guard will provide notification to the public through Broadcast Notice to

Mariners and the Local Notice to Mariners publication well in advance of the event.

B. Impact on Small Entities

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

For all of the reasons discussed in the REGULATORY PLANNING AND REVIEW section, this rule would not 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 (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under 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 proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order. 13132.

Also, this proposed rule does not have tribal implications under Executive Order 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have 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. This proposed rule involves a safety zone lasting five and half hours that would prohibit entry within 200 feet of the participants and vessels in support of the event. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–3029 to read as follows:

§ 165.T01–0329 Safety Zone—Casco Bay Islands Swim Event—Casco Bay, Portland, Maine.

(a) *General.* Establish a temporary safety zone:

(1) *Location.* The following area is a safety zone: All navigable waters, from surface to bottom, within (200) feet from the participants and vessels in support of events in Casco Bay, Portland, ME, and enclosed by a line connecting the following points (NAD 83):

Latitude	Longitude
43°42′47″ N	70°07′07″ W.; thence to.
43°38′09″ N	70°11′57″ W.; thence to.
43°38′57″ N	70°12′55″ W.; thence to.
43°41′31″ N	70°11′37″ W.; thence to.
43°43′25″ N	70°08′25″ W.; thence to point of origin.

(2) *Effective and Enforcement Period.* This rule will be effective on August 14, 2016, from 6:30 a.m. to 12:00 p.m.

(b) *Regulations.* While this safety zone is being enforced, the following regulations, along with those contained in 33 CFR 165.23, apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the Captain of the Port (COTP) or the COTP's representatives. However, any vessel that is granted permission by the COTP or the COTP's representatives must proceed through the area with caution and operate at a speed no faster than that speed necessary to maintain a safe course, unless otherwise required by the Navigation Rules.

(2) Any person or vessel permitted to enter the safety zone shall comply with the directions and orders of the COTP or the COTP's representatives. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means, the operator of a vessel within the zone shall proceed as directed. Any person or vessel within the safety zone shall exit the zone when directed by the COTP or the COTP's representatives.

(3) To obtain permissions required by this regulation, individuals may reach the COTP or a COTP representative via VHF channel 16 or 207–767–0302 (Sector Northern New England Command Center).

(c) *Penalties.* Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 1226.

(d) *Notification.* Coast Guard Sector Northern New England will give notice through the Local Notice to Mariners, Broadcast Notice to Mariners, and to mariners for the purpose of enforcement of this temporary safety zone. Sector Northern New England will also notify the public to the greatest extent possible of any period in which the Coast Guard will suspend enforcement of this safety zone.

(e) *COTP Representative.* The COTP's representative may be any Coast Guard commissioned, warrant, or petty officer or any Federal, state, or local law enforcement officer who has been designated by the COTP to act on the COTP's behalf. The COTP's representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, a state or local law enforcement vessel, or a location on shore.

Dated: May 16, 2016.

M.A. Baroody,

Captain, U. S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2016–13342 Filed 6–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 14, 19, 22, 25, 28, 43, 47, 49, 52, and 53

[FAR Case 2015–035; Docket 2015–0035; Sequence 1]

RIN 9000–AN23

Federal Acquisition Regulation; Removal of Regulations Relating to Telegraphic Communication

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to delete the use of ''telegram'', ''telegraph'', and related terms. The objective is to delete reference to obsolete technologies no longer in use and replace with references to electronic communications. In addition, conforming changes are proposed covering expedited notice of termination and change orders.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before August 5, 2016 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments in response to FAR Case 2015–035 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2015–035''. Select the link ''Comment Now'' that corresponds with FAR Case 2015–035. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2015–035'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2015–035, in all correspondence related to this case. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAR case 2015–035.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to amend the FAR to delete the use of the terms ''telegram'', ''telegraph'', ''telegraphic'', and related terminology.

The word ''telegram'' emerged shortly after the invention of the electrical telegraph in the 1840s. This terminology and way of communicating was incorporated into the first issue of the FAR, effective April 1, 1984. The emergence of electronic means of communication, starting with the facsimile machine, and then followed by email and mobile-phone text

messages in the 1990s, resulted in the sparing use of telegraph services and use of telegrams. On this basis, the Councils are proposing to delete telegraphic services from the FAR and replace these terms with an option for electronic communications.

This case is consistent with the Office of Federal Procurement Policy (OFPP) Memorandum dated December 4, 2014 on transforming the marketplace, which describes ongoing actions to support the needs of a 21st century Government.

II. Discussion and Analysis

(1) This rulemaking proposes to delete all references to ''telegraph'' and ''telegram'' and replace these terms with an option for electronic communication.

(2) At FAR 49.601–1, a revised policy statement is added to allow the use of electronic means to notify the contractor of a termination for convenience. The objective is to provide an expeditious way to notify the contractor of the termination. This change is necessary because the abbreviated version of the notice of termination for the convenience of the Government is currently linked with the telegraphic notice procedure.

(3) At FAR 49.102, a conforming change is added to allow the use of electronic means to notify the contractor of a termination whether the termination is for convenience or default.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared consistent with 5 U.S.C. 603. The analysis is summarized as follows:

The reason for this action is to delete the use of ''telegram'', ''telegraph'', and related terms. The Councils are proposing to replace these terms with an option for electronic communications. The objective is to delete reference to obsolete technologies no longer in use within the context of the FAR requirements. The proposed rule would apply to all entities, both small and other than small, performing as contractors or subcontractors on U.S. Government contracts. In 2014 there were about 350,000 active registrants in the System for Award Management (SAM). DoD, GSA, and NASA estimate approximately half of the registrants in SAM (175,000) are small entities that will receive a contract or subcontract in a given year. In 2014 small entities received 1,398,605 or about 9 percent of all actions in that year per the Federal Procurement Data System (FPDS). However, the small entities will not be materially affected by this rule, as the only change provided in this rule is recognition of current options for transmitting documents between the Government and contractors. It does not change the policy requiring the Government to notify contractors of a contract termination. The Government is still responsible to obtain evidence of receipt of termination from the contractor.

There are no reporting or recordkeeping requirements associated with this rule.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There were no significant alternatives identified that would meet the objective of the rule.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2015–035), in correspondence.

V. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 5, 14, 19, 22, 25, 28, 43, 47, 49, 52, and 53

Government procurement.

Dated: May 31, 2016.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 5, 14, 19, 22, 25, 28, 43, 47, 49, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 5, 14, 19, 22, 25, 28, 43, 47, 49, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.504 [Amended]

■ 2. Amend section 5.504 by removing from paragraph (d) '', telegrams,''.

PART 14—SEALED BIDDING

14.201–6 [Amended]

■ 3. Amend section 4.201–6 by removing and reserving paragraph (g).

14.202–2 [Removed and Reserved]

■ 4. Remove and reserve section 14.202–2.

■ 5. Amend section 14.208 by revising paragraph (b) to read as follows:

14.208 Amendment of invitation for bids.

* * * * *

(b) Before amending an invitation for bids, the contracting officer shall consider the period of time remaining until bid opening and the need to extend this period.

* * * * *

14.301 [Amended]

■ 6. Amend section 14.301 by removing and reserving paragraph (b).

■ 7. Revise section 14.302 to read as follows:

14.302 Bid submission.

Bids shall be submitted so that they will be received in the office designated in the invitation for bids not later than the exact time set for opening of bids.

■ 8. Amend section 14.303 by revising paragraph (a) to read as follows:

14.303 Modification or withdrawal of bids.

(a)(1) Bids may be modified or withdrawn by any method authorized by the solicitation, if notice is received in the office designated in the solicitation not later than the exact time set for opening of bids. If the solicitation authorizes facsimile bids, bids may be modified or withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision prescribed in 14.201–6(v). Modifications

received by facsimile shall be sealed in an envelope by a proper official. The official shall write on the envelope:

(i) The date and time of receipt and by whom; and

(ii) The number of the invitation for bids, and shall sign the envelope.

(2) No information contained in the envelope shall be disclosed before the time set for bid opening.

* * * * *

14.407–3 [Amended]

■ 9. Amend section 14.407–3 by removing paragraph (g)(4), and redesignating paragraph (g)(5) as (g)(4).

14.408–1 [Amended]

■ 10. Amend section 14.408–1 by removing from paragraph (d)(2) ''telegrams or electronic transmissions,'' and adding ''electronic communications,'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.302 [Amended]

■ 11. Amend section 19.302 by removing from paragraph (d)(1)(ii) ''telegram,''.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1003–3 [Amended]

■ 12. Amend section 22.1003–3 by removing from paragraph (d) ''telegraph,''.

PART 25—FOREIGN ACQUISITION

25.401 [Amended]

■ 13. Amend section 25.401 in the table, by removing from paragraph (b)(2)(iii) the words ''telegraph services,'', and removing ''47 U.S.C. 153(20))'' and adding ''47 U.S.C. 153(24))'' in its place.

PART 28—BONDS AND INSURANCE

28.101–4 [Amended]

■ 14. Amend section 28.101–4 by removing paragraph (c)(6), and redesignating paragraphs (c)(7) through (9) as paragraphs (c)(6) through (8), respectively.

PART 43—CONTRACT MODIFICATIONS

■ 15. Amend section 43.201 by revising paragraph (c) to read as follows:

43.201 General.

* * * * *

(c) The contracting officer may issue a change order by electronic means without a SF 30 under unusual or urgent circumstances, *provided* that the message contains substantially the information required by the SF 30 and immediate action is taken to issue the SF 30.

PART 47—TRANSPORTATION

■ 16. Amend section 47.305–10 by revising paragraph (c) to read as follows:

47.305–10 Packing, marking, and consignment instructions.

* * * * *

(c) If necessary to meet required delivery schedules, the contracting officer may issue instructions by telephone or electronic means. The contracting officer shall confirm telephonic instructions in writing, and confirm electronic instructions if the contracting officer did not receive confirmation of receipt.

* * * * *

PART 49—TERMINATION OF CONTRACTS

■ 17. Amend section 49.102, paragraph (a), by revising the first and second sentences of the introductory text, to read as follows:

49.102 Notice of termination.

(a) *General.* The contracting officer shall terminate contracts for convenience or default only by a written notice to the contractor. The notice of termination may be expedited by means of electronic communication capable of providing confirmation of receipt by the contractor. When the notice is mailed, it shall be sent by certified mail, return receipt requested. * * *

* * * * *

■ 18. Amend section 49.601–1 by—

■ a. Revising the section heading; and adding an introductory paragraph;

■ b. Removing from paragraph (a) ''telegraphic'', ''[insert ''immediately'' '', and ''Telegraph'', and adding ''electronic'', ''[insert ''immediately'', (today's date)'', and ''Provide by electronic means'' in their places, respectively; and

■ c. Removing from paragraph (b) ''telegraphic'', ''[insert ''immediately'' '', and ''Telegraph'', and adding ''electronic'', ''[insert ''immediately'', (today's date)'', and ''Provide by electronic means'' in their places, respectively.

The revision and addition reads as follows:

49.601–1 Electronic notice.

The contracting officer may provide expedited notice of termination, by electronic means, that includes a requirement for the contractor to confirm receipt. If the contractor does not confirm receipt promptly, the contracting officer shall resend the notice electronically, and expedite the letter notice described in 49.601–2. If confirmation of the electronic notice is received, and the electronic notice includes all content in 49.601–2, the contracting officer, at her or his discretion, need not send the letter notice described in 49.601–2.

* * * * *

■ 19. Amend section 49.601–2 by—

■ a. Revising the third and fourth sentences of the introductory paragraph;

■ b. Removing from paragraph (a) ''telegram'' and adding ''electronic notice'' in their places, two times; and

■ c. Revising the introductory paragraph of the Alternate notice.

The revisions read as follows:

49.601–2 Letter notice.

* * * This notice shall be sent by certified mail, return receipt requested, or electronically, provided evidence of receipt is received by the contracting officer. If no prior electronic notice was issued, or if no confirmation of an electronic notice was received, use the alternate notice that follows this notice.

* * * * *

Alternate notice. Substitute the following paragraph (a) for paragraph (a) of 49.601–2, Notice of Termination to Prime Contractors, if no prior electronic notice was issued, or if no confirmation of an electronic notice was received:

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 20. Amend section 52.214–3 by—

■ a. Revising the date of the provision; and

■ b. Revising paragraph (b).

The revisions read as follows:

52.214–3 Amendments to Invitations for Bids.

* * * * *

Amendments to Invitations for Bids (Date)

* * * * *

(b)(1) Bidders shall acknowledge receipt of any amendment to this solicitation:

(i) By signing and returning the amendment;

(ii) By identifying the amendment number and date in space provided for this purpose on the form for submitting a bid;

(iii) By letter;

(iv) By facsimile, if facsimile bids are authorized in the solicitation; or

(v) By email, if email bids are authorized in the solicitation.

(2) The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

■ 21. Amend section 52.214–5 by—

■ a. Revising the date of the provision;

■ b. Removing paragraph (c); and

■ c. Redesignating paragraphs (d) and (e), as paragraphs (c) and (d), respectively.

The revision reads as follows:

52.214–5 Submission of Bids.

* * * * *

Submission of Bids (Date)

* * * * *

52.214–13 [Removed and Reserved]

■ 22. Remove and reserve section 52.214–13.

PART 53—FORMS

53.213 [Amended]

■ 23. Amend section 53.213 by removing from paragraph (b) ''(*10/83*)'' and adding ''(*Date*)'' in its place.

53.215–1 [Amended]

■ 24. Amend section 53.215–1 by removing from paragraph (b) ''(*10/83*)'' and adding ''(*Date*)'' in its place.

53.243 [Amended]

■ 25. Amend section 53.243 introductory text by removing ''(*10/83*)'' and adding ''(*Date*)'' in its place.

■ 26. Revise section 53.301–30 to read as follows:

53.301–30 Standard Form 30, Amendment of Solicitation/Modification of Contract.

BILLING CODE 6820–EP–P

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES

2. AMENDMENT/MODIFICATION NUMBER	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQUISITION NUMBER	5. PROJECT NUMBER *(If applicable)*

6. ISSUED BY	CODE	7. ADMINISTERED BY *(If other than Item 6)*	CODE

8. NAME AND ADDRESS OF CONTRACTOR *(Number, street, county, State and ZIP Code)*	(X)	9A. AMENDMENT OF SOLICITATION NUMBER
	☐	9B. DATED *(SEE ITEM 11)*
	☐	10A. MODIFICATION OF CONTRACT/ORDER NUMBER
		10B. DATED *(SEE ITEM 13)*
CODE FACILITY CODE		

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended. ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA *(If required)*

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NUMBER AS DESCRIBED IN ITEM 14.

CHECK ONE	
☐	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NUMBER IN ITEM 10A.
☐	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office, appropriation data, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
☐	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
☐	D. OTHER *(Specify type of modification and authority)*

E. IMPORTANT: Contractor ☐ is not ☐ is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER *(Type or print)*		16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)*	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		*(Signature of Contracting Officer)*	

Previous edition unusable

STANDARD FORM 30 (REV. [DATE])
Prescribed by GSA FAR (48 CFR) 53.243

INSTRUCTIONS *(Back Page)*:

Instructions for items other than those that are self-explanatory, are as follows:

(a) Item 1 (Contract ID Code). Insert the contract type identification code that appears in the title block of the contract being modified.

(b) Item 3 (Effective date).

(1) For a solicitation amendment, change order, or administrative change, the effective date shall be the issue date of the amendment, change order, or administrative change.

(2) For a supplemental agreement, the effective date shall be the date agreed to by the contracting parties.

(3) For a modification issued as an initial or confirming notice of termination for the convenience of the Government, the effective date and the modification number of the confirming notice shall be the same as the effective date and modification number of the initial notice.

(4) For a modification converting a termination for default to a termination for the convenience of the Government, the effective date shall be the same as the effective date of the termination for default.

(5) For a modification confirming the contracting officer's determination of the amount due in settlement of a contract termination, the effective date shall be the same as the effective date of the initial decision.

(c) Item 6 (Issued By). Insert the name and address of the issuing office. If applicable, insert the appropriate issuing office code in the code block.

(d) Item 8 (Name and Address of Contractor). For modifications to a contract or order, enter the contractor's name, address, and code as shown in the original contract or order, unless changed by this or a previous modification.

(e) Items 9, (Amendment of Solicitation Number - Dated), and 10, (Modification of Contract/Order Number - Dated). Check the appropriate box and in the corresponding blanks insert the number and date of the original solicitation, contract, or order.

(f) Item 12 (Accounting and Appropriation Data). When appropriate, indicate the impact of the modification on each affected accounting classification by inserting one of the following entries:

(1) Accounting classification .....
Net increase $ .....

(2) Accounting classification .....
Net decrease $ .....

NOTE: If there are changes to multiple accounting classifications that cannot be placed in block 12, insert an asterisk and the words "See continuation sheet".

(g) Item 13. Check the appropriate box to indicate the type of modification. Insert in the corresponding blank the authority under which the modification is issued. Check whether or not contractor must sign this document. (See FAR 43.103.)

(h) Item 14 (Description of Amendment/Modification).

(1) Organize amendments or modifications under the appropriate Uniform Contract Format (UCF) section headings from the applicable solicitation or contract. The UCF table of contents, however, shall not be set forth in this document.

(2) Indicate the impact of the modification on the overall total contract price by inserting one of the following entries:

(i) Total contract price increased by $ .....

(ii) Total contract price decreased by $ .....

(iii) Total contract price unchanged.

(3) State reason for modification.

(4) When removing, reinstating, or adding funds, identify the contract items and accounting classifications.

(5) When the SF 30 is used to reflect a determination by the contracting officer of the amount due in settlement of a contract terminated for the convenience of the Government, the entry in Item 14 of the modification may be limited to --

(i) A reference to the letter determination; and

(ii) A statement of the net amount determined to be due in settlement of the contract.

(6) Include subject matter or short title of solicitation/contract where feasible.

(i) Item 16B. The contracting officer's signature is not required on solicitation amendments. The contracting officer's signature is normally affixed last on supplemental agreements.

STANDARD FORM 30 (REV. [DATE]) **BACK**

[FR Doc. 2016–13189 Filed 6–3–16; 8:45 am]
BILLING CODE 6820–EP–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160301164–6164–01]

RIN 0648–BF87

Fisheries of the Northeastern United States; Northeast Skate Complex Fishery; Framework Adjustment 3 and 2016–2017 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: This rule proposes regulations to approve and implement measures in Framework Adjustment 3 and 2016–2017 Specifications (Framework 3) to the Northeast Skate Complex Fishery Management Plan (FMP). Framework 3 would implement skate fishery specifications and a new seasonal quota allocation for the skate wing fishery. The action is necessary to update the Skate FMP to be consistent with the most recent scientific information, and improve management of the skate fisheries. The proposed action is expected to help conserve skate stocks, while maintaining economic opportunities for the skate fisheries.

DATES: Comments must be received on or before June 21, 2016.

ADDRESSES: Copies of the framework, including the Environmental Assessment and Regulatory Impact Review (EA/RIR) and other supporting documents for the action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The framework is also accessible via the Internet at: *http://www.greateratlantic.fisheries.noaa.gov.*

You may submit comments, identified by NOAA–NMFS–2016–0054, by any one of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0054,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Skate Framework 3.''

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. 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) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council is responsible for developing management measures for skate fisheries in the northeastern U.S. through the Northeast Skate Complex Fishery Management Plan (Skate FMP). Seven skate species are managed under the Skate FMP: Winter; little; thorny; barndoor; smooth; clearnose; and rosette. The Council's Scientific and Statistical Committee reviews the best available information on the status of skate populations and makes recommendations on acceptable biological catch (ABC) for the skate complex (all seven species). This recommendation is then used as the basis for catch limits and other management measures for the skate fisheries.

The regulations implementing the Skate FMP at 50 CFR part 648, subpart O, outline the management procedures and measures for the skate fisheries. Specifications including the annual catch limit (ACL), annual catch target (ACT), total allowable landings (TALs) for the skate wing and bait fisheries, and possession limits may be specified for up to 2 years. The current specifications were implemented as part of Framework Adjustment 2 to the Skate FMP (79 FR 51504, August 29, 2014). The Council is required to develop new specifications for the 2016 and 2017 fishing years. The existing specifications and possession limits remain in effect until they are replaced. In addition to setting specifications, the Council desired to modify the in-season management of the skate wing fishery, including a new seasonal allocation of the quota in a framework adjustment.

In September 2015, the Council's Scientific and Statistical Committee reviewed updated information on the status of the seven species in the skate complex, including new research on discard mortality rates, and recommended an ABC of 31,081 mt for 2016 and 2017 (a 12-percent reduction from 2015). The recommended catch reduction is based on trawl survey biomass declines in little and clearnose skates, as well as adjustments to historical catch estimates derived from the new discard mortality rate data (lower than previously assumed). According to the most recent stock status information, no skates are experiencing overfishing, and only thorny skate is in an overfished condition. Thorny skate continues to be a prohibited species as part of its long-term stock rebuilding plan. More details are provided in the EA (see **ADDRESSES**).

The Council's Skate Oversight Committee and Advisory Panel (AP) met in October 2015 to develop specification recommendations for Council consideration, following the procedures in Amendment 3 to the Skate FMP (75 FR 34049, June 16, 2010). Following these procedures, the recommended ABC reduction, in addition to increases in the skate discard rate in recent years, resulted in a 23-percent decline in the total allowable landings (TAL) from 2015 levels. Due to the 23-percent reduction in the TAL, the Committee and AP discussed tradeoffs between reducing possession limits versus seasonally allocating the TAL in an effort to avoid in-season closures and maintain a steady supply of skate wings across the year.

Proposed Framework Adjustment Measure

The Council ultimately decided to recommend status quo possession limits (see *Proposed Specification Measures*), but to use a framework adjustment to allocate 57 percent of the skate wing TAL to a Season 1 quota (May 1–August 31). Under this action, the Regional Administrator would be given the authority to reduce the skate wing possession limit from 2,600 lb (1,179 kg) to an incidental catch level of 500 lb (227 kg) when 85 percent of the Season 1 quota is projected to be landed. If 85 percent of the Season 1 quota is projected to be landed between May 1

and August 17, the Regional Administrator would be required to reduce the possession limit. However, if 85 percent of the quota is projected to be landed between August 18 and August 31, the Regional Administrator would have discretion on whether or not to reduce the possession limit. The directed fishery would re-open with a 4,100-lb (1,860-kg) possession limit on September 1 with the remainder of the annual skate wing TAL available in Season 2.

In Season 2, the Regional Administrator may reduce the possession limit to 500 lb (227 kg) when 85 percent of the annual skate wing TAL is projected to be landed, consistent with the existing authority provided in the regulations implemented in Framework Adjustment 1 to the Skate FMP (76 FR 28328, May 17, 2011). These in-season possession limit reductions are designed to mitigate the potential for prolonged closures for the directed skate fishery, while still allowing some incidental catches to be landed.

Proposed Specification Measures

The Council has recommended, and NMFS is proposing in this rule, the following specifications for the skate fisheries for the 2016–2017 fishing years:

1. Skate Complex ABC and ACL of 31,081 mt;

2. Skate Complex ACT of 23,311 mt;

3. A TAL of 8,372 mt for the skate wing fishery, with 4,772 mt (57 percent) allocated to Season 1 (May 1–August 31), and the remainder of the TAL (at least 43 percent) allocated to Season 2 (September 1–April 30);

4. Status quo skate wing possession limits, as defined in § 648.322(b): 2,600 lb (1,179 kg) wing weight per trip for Season 1 (May 1 through August 31), and 4,100 lb (1,860 kg) wing weight per trip for Season 2 (September 1 through April 30) for vessels fishing on a Northeast Multispecies, Monkfish, or Scallop day-at-sea. The Northeast Multispecies Category-B day-at-sea possession limit remains at 220 lb (100 kg) wing weight per trip, and the non-day-at-sea incidental possession limit remains at 500 lb (227 kg) wing weight per trip;

5. A TAL of 4,218 mt for the skate bait fishery, divided into three seasons according to the current regulations at § 648.322; and

6. Status quo skate bait possession limit, as defined in § 648.322(c): 25,000 lb (11,340 kg) whole weight per trip for vessels carrying a valid Skate Bait Letter of Authorization.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Skate FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purpose of E.O. 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of Framework 3, the EA for Framework 3, and this preamble to the proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from the Council (see **ADDRESSES**). The following is a summary of the IRFA.

Description of the Reasons Why Action by the Agency Is Being Considered and Statement of Objectives of, and Legal Basis for, This Proposed Rule

A description of the action, why it is being considered, and the legal basis for this action are contained in the Background section of the preamble and in the **SUMMARY** of this proposed rule.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

This action does not introduce any new reporting, recordkeeping, or other compliance requirements.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

This proposed rule would impact fishing vessels, including commercial fishing entities. In 2014, there were 2,012 vessels that held an open access skate permit. However, only 431 of those permit holders were active participants in the commercial skate fishery (*i.e.,* landed any amount of skates). If two or more vessels have identical owners, these vessels are considered to be part of the same firm. In 2014, there were 67 vessels within affiliate groups; therefore, the total number of active entities is 364. According to the Small Business Administration (SBA), firms are classified as finfish or shellfish firms based on the activity from which they derive the most revenue. Using the $5.5M cutoff for shellfish firms (NAICS 114112) and the $20.5M cutoff for finfish firms (NAICS 114111), 361 of the 364 entities were small businesses in 2014; only three entities (0.8%) qualified as large businesses. On average, for small entities, skate is responsible for a small fraction of total landings, and active participants derive a small share of gross receipts from the skate fishery.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

This proposed rule includes management measure alternatives for (1) the skate complex ACL and associated ACT and TALs, (2) possession limits in the skate wing and bait fisheries, and (3) seasonal allocation alternatives in the skate wing fishery.

With respect to the latter two management measures, the proposed action includes the alternatives that are expected to minimize any potential economic impacts compared to the other alternatives. This action proposes to maintain the current skate bait and skate wing trip limits. It would also apportion a percentage of the wing TAL to each season and establish an in-season trigger for season one. Therefore, the remainder of this summary will focus on the first management measure alternatives (*i.e.,* ACLs).

The proposed ACL alternative described in the preamble of this proposed rule represents a reduction in the allowable catch and landings as compared to the no action alternative. Therefore, as compared to the proposed action, the no action alternative would result in less short-term economic impacts. During 2014, total revenues from skate landings were valued at approximately $8.9 million. Compared to the no action alternative, the proposed reduction in the skate TALs (23 percent) could reduce potential annual skate revenues. However, actual skate landings in recent years have been close to the proposed TAL, suggesting that it is unlikely that potential revenue losses would be directly commensurate with the TAL reduction. If skate landings in 2016 and 2017 are comparable to those observed in 2014 and 2015, then most skate vessels may experience little loss of skate revenue, and the fishery may actually come closer to fully harvesting the available amount of landings. According to the

analysis in the EA (see **ADDRESSES**), based on 2014 data, most entities (95 percent) would experience total landings revenue losses of less than 10 percent. Approximately 12 affiliate groups would experience losses of 10–15 percent, and 7 affiliate groups would experience losses greater than 15 percent.

The no action alternative is not expected to result in any additional short-term reductions in landings revenue. Given the recent performance of the skate fisheries, the no action alternative could minimize economic impacts and still achieve the stated objectives of this action. However, the no action alternative does not include all of the most recent information on skate stock status and discard mortality rates, and could result in a higher risk of overfishing the skate complex resulting in long-term economic impacts.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 26, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.322, revise paragraphs (a)(1) and (b)(2) to read as follows:

§ 648.322 Skate allocation, possession, and landing provisions.

(a) * * *

(1) A total of 66.5 percent of the annual skate complex TAL shall be allocated to the skate wing fishery. All skate products that are landed in wing form, for the skate wing market, or classified by Federal dealers as food as required under § 648.7(a)(1)(i), shall count against the skate wing fishery TAL. The annual skate wing fishery TAL shall be allocated in two seasonal quota periods as follows:

(i) Season 1—May 1 through August 31, 57 percent of the annual skate wing fishery TAL shall be allocated;

(ii) Season 2—September 1 through April 30, the remainder of the annual skate wing fishery TAL not landed in Season 1 shall be allocated.

* * * * *

(b) * * *

(2) *In-season adjustment of skate wing possession limits.* The Regional Administrator shall, through a notice in the **Federal Register** consistent with the Administrative Procedure Act, reduce the skate wing possession limit to 500 lb (227 kg) of skate wings (1,135 lb (515 kg) whole weight or any prorated combination of the allowable landing forms defined at paragraph (b)(4) of this section) for the remainder of the applicable quota season, under the following circumstances:

(i) When 85 percent of the Season 1 skate wing quota is projected to be landed between May 1 and August 17, the Regional Administrator shall reduce the skate wing possession limit to the incidental level described in paragraph (b)(2) of this section.

(ii) When 85 percent of the Season 1 skate wing quota is projected to be landed between August 18 and August 31, the Regional Administrator may reduce the skate wing possession limit to the incidental level described in paragraph (b)(2) of this section.

(iii) In Season 2, when 85 percent of the annual skate wing fishery TAL is projected to be landed, the Regional Administrator shall reduce the skate wing possession limit to the incidental level described in this paragraph, unless such a reduction would be expected to prevent attainment of the annual TAL.

* * * * *

[FR Doc. 2016–13236 Filed 6–3–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 108
Monday, June 6, 2016

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

Forest Service

Forest Resource Coordinating Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Resource Coordinating Committee (Committee) will meet via teleconference. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C. App. II), and the Food, Conservation, and Energy Act of 2008 (the Act) (Pub. L. 110–246). Committee information can be found at the following Web site at *http://www.fs.fed.us/spf/coop/frcc/.*

DATES: The teleconference will be held on July 20, 2016, from 12:00 p.m. to 1:30 p.m., Eastern Daylight Time (EDT).

All meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held via teleconference. For anyone who would like to attend the teleconference, please visit the Web site listed in the *''Summary''* section or contact Andrea Bedell-Loucks at *abloucks@fs.fed.us* for further details.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments placed on the Committee's Web site listed above.

FOR FURTHER INFORMATION CONTACT: Andrea Bedell-Loucks, Designated Federal Officer, Cooperative Forestry staff, 202–205–1190.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Follow up on action items from May 2016 meeting, and
2. Deliver presentation on area of interest.

The teleconference is open to the public. However, the public is strongly encouraged to RSVP prior to the teleconference to ensure all related documents are shared with public meeting participants. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing 10 days before the planned meeting to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments and time requests for oral comments must be sent to Lori McKean, 1400 Independence Avenue SW., Mailstop 1123, Washington, DC 20250; or by email to *lmckean@fs.fed.us.* A summary of the meeting will be posted on the Web site listed above within 21 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 17, 2016.

James E. Hubbard,

Deputy Chief, State and Private Forestry.

[FR Doc. 2016–13220 Filed 6–3–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Socially-Disadvantaged Groups Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service announces competitive grant funds for the Fiscal Year (FY) 2016 Socially-Disadvantaged Groups Grant (SDGG) program, formerly known as the Small Socially-Disadvantaged Producer Grant program, as authorized by the Consolidated Appropriations Act, 2016 (Pub. L. 114–113). The purpose of this program is to provide technical assistance to Socially-Disadvantaged Groups in rural areas. Eligible applicants include Cooperatives, Groups of Cooperatives, and Cooperative Development Centers. The Agency is encouraging applications that direct grants to projects based in or serving census tracts with poverty rates greater than or equal to 20 percent. This emphasis will support Rural Development's (RD) mission of improving the quality of life for rural Americans and commitment to directing resources to those who most need them.

DATES: Completed applications for grants must be submitted on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than August 5, 2016. You may also hand carry your application to one of our field offices, but it must be received by close of business on the deadline date.

Electronic copies must be received by *http://www.grants.gov* no later than midnight Eastern time August 1, 2016. Late applications are not eligible for funding under this Notice and will not be evaluated.

ADDRESSES: You should contact the USDA Rural Development State Office (State Office) located in the State where you are headquartered if you have questions. Contact information for State Offices can be found at: *http://www.rd.usda.gov/contact-us/state-offices.* You are encouraged to contact your State Office well in advance of the application deadline to discuss your project and ask any questions about the application process. Program guidance as well as application templates may be obtained at *http://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant* or by contacting your USDA Rural Development State Office.

If you want to submit an electronic application, follow the instructions for the SDGG funding announcement located at *http://www.grants.gov.* Please review the *Grants.gov* Web site at *http://grants.gov/applicants/organization_registration.jsp* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the electronic application deadline. You are strongly encouraged to file your application early and allow sufficient time to manage any technical issues that may arise. If you want to submit a paper application, send it to the State Office located in the State where you are headquartered. If you are headquartered in Washington, DC, please contact the Grants Division, Cooperative Programs, Rural Business-Cooperative Service, at (202) 690–1374 for guidance on where to submit your application.

FOR FURTHER INFORMATION CONTACT: Grants Division, Cooperative Programs, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue, SW., MS 3253, Room 4208-South, Washington, DC 20250–3250, or call 202–690–1374.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency Name: USDA Rural Business Cooperative Service.

Funding Opportunity Title: Socially-Disadvantaged Groups Grant.

Announcement Type: Initial funding request.

Catalog of Federal Domestic Assistance Number: 10.871.

Dates: Application Deadline. You must submit your complete application by August 5, 2016, or it will not be considered for funding. Electronic applications must be received by *http://www.grants.gov* no later than midnight Eastern Time August 1, 2016, or it will not be considered for funding.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0052.

A. Program Description

The SDGG Program is authorized by section 310B (e)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932 (e)(11)). The primary objective of the SDGG program is to provide Technical Assistance to Socially-Disadvantaged Groups. Grants are available for Cooperative Development Centers, individual Cooperatives, or Groups of Cooperatives that serve Socially-Disadvantaged Groups and where a majority of their board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups.

Definitions

The definitions you need to understand are as follows:

Agency—Rural Business-Cooperative Service, an agency of the United States Department of Agriculture (USDA) Rural Development or a successor agency.

Conflict of Interest—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. Examples of conflicts of interest include using grant funds to pay a member of the applicant's board of directors to provide proposed Technical Assistance to Socially-Disadvantaged Groups; pay a cooperative member to provide proposed Technical Assistance to other members of the same cooperative; and pay an immediate family member of the applicant to provide proposed Technical Assistance to Socially-Disadvantaged Groups.

Cooperative—A business or organization owned by and operated for the benefit of those using its services and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. Profits and earnings generated by the cooperative are distributed among the members, also known as user-owners.

Cooperative Development Center—A nonprofit corporation or institution of higher education operated by the grantee for cooperative or business development and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. It may or may not be an independent legal entity separate from the grantee.

Feasibility Study—An analysis of the economic, market, technical, financial, and management feasibility of a proposed Project.

Group of Cooperatives—A group of Cooperatives whose primary focus is to provide assistance to Socially-Disadvantaged Groups and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups.

Operating Cost—The day-to-day expenses of running a business; for example: utilities, rent on the office space a business occupies, salaries, depreciation, marketing and advertising, and other basic overhead items.

Participant Support Costs — Direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

Project—Includes all activities to be funded by the Socially-Disadvantaged Groups Grant.

Rural and Rural Area—Any area of a State:

(1) Not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States; and

(2) The contiguous and adjacent urbanized area,

(3) Urbanized areas that are rural in character as defined by 7 U.S.C. 1991 (a)(13).

(4) For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self-government, and legal powers set forth in a charter granted by the State. Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu census designated place (CDP) or the San Juan CDP.

Rural Development—A mission area within USDA consisting of the Office of Under Secretary for Rural Development, Rural Business-Cooperative Services, Rural Housing Service, and Rural Utilities Service and any successors.

Socially-Disadvantaged Group—A group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as

members of a group without regard to their individual qualities.

State—Includes each of the 50 states, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate and lawful, the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau.

Technical Assistance—An advisory service performed for the purpose of assisting Cooperatives or groups that want to form Cooperatives such as market research, product and/or service improvement, legal advice and assistance, Feasibility Study, business planning, marketing plan development, and training.

B. Federal Award Information

Type of Award: Competitive Grant.
Fiscal Year Funds: FY 2016.
Total Funding: $3,000,000.
Maximum Award: $175,000.
Project Period: 1 year.
Anticipated Award Date: September 30, 2016.

C. Eligibility Information

Applicants must meet all of the following eligibility requirements. Applications which fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further.

1. *Eligible Applicants.* Grants may be made to individual Cooperatives, Groups of Cooperatives, and Cooperative Development Centers that serve Socially-Disadvantaged Groups and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. Federally-recognized Tribes and tribal entities must demonstrate that they meet all definition requirements for one of the three eligible applicant types. You must be able to verify your legal structure in the State in which you are incorporated. Grants may not be made to public bodies or to individuals.

(a) An applicant is ineligible if they have been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ''Debarment and Suspension.'' In addition, an applicant will be considered ineligible for a grant due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), is delinquent on the payment of Federal income taxes, or is delinquent on Federal debt.

(b) Any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds appropriated by the Consolidated Appropriations Act, 2016 (Pub. L. 114–113), unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

2. *Cost Sharing or Matching.* No matching funds are required.

3. *Other Eligibility Requirements.*

Use of Funds: Your application must propose Technical Assistance that will benefit Socially-Disadvantaged Groups. Cooperatives that are recipients of Technical Assistance must have a membership that consists of a majority of members from Socially-Disadvantaged Groups. Please review section D (6) of this Notice, ''Funding Restrictions,'' carefully.

Project Area Eligibility: The proposed Project must take place in a Rural Area as defined in this Notice.

Grant Period Eligibility: Your application must include a grant period of one-year or less or it will not be considered for funding. The proposed time frame should begin no earlier than the grant award date and end no later than December 31, 2017. However, you should note that the anticipated award date is September 30, so your proposed start date should be after September 30, 2016. Projects must be completed within the 12-months or less time frame. The Agency may approve requests to extend the grant period for up to an additional 12 months at its discretion. Further guidance on grant period extensions will be provided in the award document.

However, you may not have more than one active SDGG during the same grant period. If you receive another SDGG during the next grant cycle, the first grant must be closed before funds can be obligated for the new grant. Applications that request funds for a time period ending after December 31, 2017, will not be considered for funding.

Satisfactory performance eligibility: If you have an existing SDGG award, you must be performing satisfactorily to be considered eligible for a new SDGG award. Satisfactory performance includes being up-to-date on all financial and performance reports and being current on all tasks as approved in the work plan. The Agency will use its discretion to make this determination. In addition, if you have an existing award from the Rural Cooperative Development Grant (RCDG) program, you must discuss the status of your existing RCDG award at application time and be performing satisfactorily to be considered for a new SDGG award.

Completeness Eligibility: Your application must provide all of the information requested in Section D (2) of this Notice. Applications lacking sufficient information to determine eligibility and scoring will be considered ineligible.

Multiple Grant Eligibility: You may only submit one SDGG grant application each funding cycle.

D. Application and Submission Information

1. Address To Request Application Package

The application template for applying on paper for this funding opportunity is located at *http://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant.* Use of the application template is strongly recommended to assist you with the application process. You may also contact your USDA Rural Development State Office for more information. Contact information for State Offices is located at *http://www.rd.usda.gov/contact-us/state-offices.* You may also obtain an application package by calling 202–690–1374.

2. Content and Form of Application Submission

You may submit your application in paper form or electronically through *Grants.gov.* Your application must contain all required information.

To submit an application electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov.* Please note that we cannot accept emailed or faxed applications.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Catalog of Federal Domestic Assistance Number for this program.

When you enter the *Grants.gov* Web site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

To use *Grants.gov*, you must already have a DUNS number and you must also be registered and maintain registration in SAM. We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov*.

You must submit all of your application documents electronically through *Grants.gov*. Applications must include electronic signatures. Original signatures may be required if funds are awarded.

After electronically submitting an application through *Grants.gov*, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

If you want to submit a paper application, send it to the State Office located in the State where you are headquartered. You can find State Office contact information at: *http://www.rd.usda.gov/contact-us/state-offices*.

Your application must also contain the following required forms and proposal elements:

(a) Form SF–424, ''Application for Federal Assistance,'' to include your DUNS number and SAM Commercial and Government Entity (CAGE) code and expiration date. Because there are no specific fields for a CAGE code and expiration date, you may identify them anywhere you want to on the form. If you do not include the CAGE code and expiration date and the DUNS number in your application, it will not be considered for funding.

(b) Form SF–424A, ''Budget Information-Non-Construction Programs.'' This form must be completed and submitted as part of the application package.

(c) Form SF–424B, ''Assurances—Non-Construction Programs.'' This form must be completed, signed, and submitted as part of the application package.

(d) Form AD–3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants,'' if you are a corporation. A corporation is any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands, or the various territories of the United States including American Samoa, Guam, Midway Islands, the Commonwealth of the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands. Corporations include both for profit and non-profit entities.

(e) You must certify that there are no current outstanding Federal judgments against your property and that you will not use grant funds to pay for any judgment obtained by the United States. To satisfy the Certification requirement, you should include this statement in your application: ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against its property and will not use grant funds to pay any judgments obtained by the United States.'' A separate signature is not required.

(f) Table of Contents. Your application must contain a detailed Table of Contents (TOC). The TOC must include page numbers for each part of the application. Page numbers should begin immediately following the TOC.

(g) Executive Summary. A summary of the proposal, not to exceed one page, must briefly describe the Project, tasks to be completed, and other relevant information that provides a general overview of the Project.

(h) Eligibility Discussion. A detailed discussion, not to exceed four pages, must describe how you meet the following requirements:

(1) Applicant Eligibility. You must describe how you meet the definition of a Cooperative, Group of Cooperatives, or Cooperative Development Center. Your application must show that your individual Cooperative, Group of Cooperatives or Cooperative Development Center serves Socially-Disadvantaged Groups and a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. Your application must include a list of your board of directors/governing board and the percentage of board of directors/governing board that are members of Socially-Disadvantaged Groups. NOTE: Your application will not be considered for funding if you fail to show that a majority of your board of directors/governing board is comprised of individuals who are members of Socially-Disadvantaged Groups.

If applying as a Cooperative or a Group of Cooperatives, you must verify your incorporation and status in the State that you have applied by providing the State's Certificate of Good Standing and your Articles of Incorporation. If applying as a nonprofit corporation, you must provide evidence of your status as a nonprofit corporation in good standing and your Articles of Incorporation. If applying as an institution of higher education, you must qualify as an Institution of Higher Education as defined at 20 U.S.C. 1001. You must apply as only one type of applicant. If the requested verification documents are not included, your application will not be considered for funding.

(2) Use of Funds. You must provide a detailed discussion on how the proposed Project activities meet the definition of Technical Assistance and identify the Socially-Disadvantaged Groups that will be assisted.

(3) Project Area. You must provide specific information that details the location of the Project area and explain how the area meets the definition of ''Rural Area.''

(4) Grant Period. You must provide a time frame for the proposed Project and discuss how the Project will be completed within that time frame. You must have a time frame of one year or less.

(5) Satisfactory Performance. If you have an existing SDGG and/or RCDG award, you must discuss the current status of the award(s).

(6) Indirect Costs. Your negotiated indirect cost rate approval does not need to be included in your application, but you will be required to provide it if a grant is awarded. Approval for indirect costs that are requested in an application without an approved indirect cost rate agreement is at the discretion of the Agency.

(i) Scoring Criteria. Each of the scoring criteria in this Notice must be addressed in narrative form, with a maximum of two pages for each individual scoring criterion, unless otherwise specified. Failure to address each scoring criteria will result in the application being determined ineligible.

(j) The Agency has established annual performance evaluation measures to evaluate the SDGG program. You must provide estimates on the following performance evaluation measures as part of your narrative:

- Number of cooperatives assisted; and
- Number of socially disadvantaged groups assisted.

3. DUNS Number and SAM

In order to be eligible (unless you are excepted under 2 CFR 25.110(b), (c) or (d), you are required to:

(a) Provide a valid DUNS number in your application, which can be obtained at no cost via a toll-free request line at (866) 705–5711;

(b) Register in SAM before submitting your application. You may register in SAM at no cost at *https://www.sam.gov/portal/public/SAM/;* and

(c) Continue to maintain an active SAM registration with current information at all times during which you have an active Federal award or an application or plan under consideration by a Federal awarding agency.

The Agency may not make a Federal award to you until you have complied with all applicable DUNS and SAM requirements. If you have not fully complied with requirements by the time the Agency is ready to make a Federal award, the Agency may determine that the applicant is not qualified to receive a Federal award and the Agency may use this determination as a basis for making an award to another applicant.

4. Submission Dates and Times

Application Deadline Date: August 5, 2016.

Explanation of Deadlines: Paper applications must be postmarked and mailed, shipped, or sent overnight by August 5, 2016. The Agency will determine whether your application is late based on the date shown on the postmark or shipping invoice. You may also hand carry your application to one of our field offices, but it must be received by close of business on the deadline date. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day. Late applications are not eligible for funding and will not be evaluated further.

Electronic applications must be RECEIVED by *http://www.grants.gov* by midnight Eastern time August 1, 2016, to be eligible for funding. Please review the *Grants.gov* Web site at *http://grants.gov/applicants/organization_registration.jsp* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the electronic application deadline. *Grants.gov* will not accept applications submitted after the deadline.

5. Intergovernmental Review

Executive Order (EO) 12372, Intergovernmental Review of Federal Programs, is listed as applying to this program, however since this program is comprised of the provision of technical assistance which is of a non-construction nature the intergovernmental review process is not required.

You are also encouraged to contact Cooperative Programs at 202–690–1374 or *cpgrants@wdc.usda.gov* if you have questions about this process.

6. Funding Restrictions

Grant funds must be used for Technical Assistance. No funds made available under this solicitation shall be used to:

(a) Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

(b) Purchase, rent, or install fixed equipment, including processing equipment;

(c) Purchase vehicles, including boats;

(d) Pay for the preparation of the grant application;

(e) Pay expenses not directly related to the funded Project;

(f) Fund political or lobbying activities;

(g) To fund any activities considered unallowable by the applicable grant cost principles, including 2 CFR part 200, subpart E and the Federal Acquisition Regulation;

(h) Fund architectural or engineering design work for a specific physical facility;

(i) Fund any direct expenses for the production of any commodity or product to which value will be added, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility;

(j) Fund research and development;

(k) Purchase land;

(l) Duplicate current activities or activities paid for by other Federal grant programs;

(m) Pay costs of the Project incurred prior to the date of grant approval;

(n) Pay for assistance to any private business enterprise that does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(o) Pay any judgment or debt owed to the United States;

(p) Pay any Operating Costs of the Cooperative, Group of Cooperatives, or Cooperative Development Center not directly related to the Project;

(q) Pay expenses for applicant employee training; or

(r) Pay for any goods or services from a person who has a Conflict of Interest with the grantee.

(s) Pay for Technical Assistance provided to a Cooperative that does not have a membership that consists of a majority of members from Socially-Disadvantaged Groups.

In addition, your application will not be considered for funding if it does any of the following:

- Requests more than the maximum grant amount;
- Proposes ineligible costs that equal more than 10 percent of total grant funds requested; or
- Proposes Participant Support Costs that equal more than 10 percent of total grant funds requested.

We will consider your application for funding if it includes ineligible costs of 10 percent or less of total grant funds requested, as long as it is determined eligible otherwise. However, if your application is successful, those ineligible costs must be removed and replaced with eligible costs before the Agency will make the grant award or the amount of the grant award will be reduced accordingly. If we cannot determine the percentage of ineligible costs, your application will not be considered for funding.

7. Other Submission Requirements

(a) You should not submit your application in more than one format. You must choose whether to submit your application in hard copy or electronically. Applications submitted in hard copy should be mailed or hand-delivered to the State Office located in the State where you are headquartered. You can find State Office contact information at: *http://www.rd.usda.gov/contact-us/state-offices.your State Office*. To submit an application electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov*. A password is not required to access the Web site.

(b) National Environmental Policy Act. This Notice has been reviewed in accordance with 7 CFR part 1970 ''Environmental Policies and Procedures''. We have determined that an Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the Agency's National Environmental Policy Act (NEPA) regulation found at 7 CFR 1970.53(f). We have determined that this Notice does not constitute a major Federal action significantly affecting the quality of the human environment. Individual awards under this Notice are hereby classified as Categorical Exclusions according to 7 CFR 1970.53(b), the award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analyses, which do not require any additional documentation.

(c) Civil Rights Compliance Requirements. All grants made under this Notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A), Section 504 of the Rehabilitation Act of 1973, Age Act of 1975, and Executive Order 13166 Limited English Proficiency. As such, the Agency will conduct Civil Rights Compliance Reviews on recipients to identify the collection of racial and ethnic data on

Program beneficiaries. In addition, the Compliance review will ensure that equal access to the Program benefits and activities are provided for persons with disabilities and language barriers.

E. Application Review Information

1. Scoring Criteria

All eligible and complete applications will be evaluated based on the following criteria. Failure to address any one of the following criteria by the application deadline will result in the application being determined ineligible and the application will not be considered for funding. Evaluators will base scores only on the information provided or cross-referenced by page number in each individual scoring criterion. The total points possible for the criteria are 60.

(a) *Technical Assistance (maximum score of 15 points).* A panel of USDA employees will evaluate your application to determine your ability to assess the needs of Socially-Disadvantaged Groups. You must explain why the proposed Technical Assistance is needed and provide a detailed plan that describes your method of providing assistance. You must also identify the expected outcomes of the proposed Technical Assistance.

Higher points are awarded if you identify specific needs of the Socially-Disadvantaged Groups to be assisted; clearly explain a logical and detailed plan of assistance for addressing those needs; and discuss realistic outcomes of planned assistance.

(b) *Experience (maximum score of 15 points).* A panel of USDA employees will evaluate your length of experience for identified staff or consultants in providing Technical Assistance, as defined in this Notice. You must describe the specific type of Technical Assistance experience for each identified staff member or consultant, as well as years of experience in providing that assistance. In addition, resumes for each individual staff member or consultant must be included as an attachment, listing their experience for the type of Technical Assistance proposed. The attachments will not count toward the maximum page total. We will compare the described experience to the work plan to determine relevance of the experience. Applications that do not include the attached resumes will not be considered for funding.

Higher points will be awarded if a majority of identified staff or consultants demonstrate 5 or more years of experience in providing relevant Technical Assistance in accordance with the work plan. Maximum points will be awarded if all of the identified staff or consultants demonstrate 5 or more years of experience in providing relevant Technical Assistance.

(c) *Commitment (maximum of 10 points).* A panel of USDA employees will evaluate your commitment to providing Technical Assistance to Socially-Disadvantaged Groups in Rural Areas. You must list the number and location of Socially-Disadvantaged Groups that will directly benefit from the assistance provided. If you define and describe the underserved and economically distressed areas within your service area and provide current and relevant statistics that support your description of the service area, you will score higher on this factor.

(d) *Work Plan/Budget (maximum of 15 points)—Four page limit.* Your work plan must provide specific and detailed descriptions of the tasks and the key project personnel that will accomplish the project's goals. Budget will be reviewed for completeness. You must list what tasks are to be done, when it will be done, who will do it, and how much it will cost. Reviewers must be able to understand what is being proposed and how the grant funds will be spent. The budget must be a detailed breakdown of estimated costs. These costs should be allocated to each of the tasks to be undertaken. The amount of grant funds requested will be reduced if the applicant does not have justification for all costs.

A panel of USDA employees will evaluate your work plan for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic, and efficient plans will result in a higher score. You must discuss at a minimum:

(i) Specific tasks to be completed using grant funds;

(ii) How customers will be identified;

(iii) Key personnel; and

(iv) The evaluation methods to be used to determine the success of specific tasks and overall project objectives. Please provide qualitative methods of evaluation. For example, evaluation methods should go beyond quantitative measurements of completing surveys or number of evaluations.

(e) *Local support (maximum of 5 points).* A panel of USDA employees will evaluate your application for local support of the Technical Assistance activities. Applicants that demonstrate strong support from potential beneficiaries and other developmental organizations will receive more points than those not showing such support.

(i) 0 points are awarded if you do not adequately address this criterion.

(ii) 1 point is awarded if you provide 2–3 support letters that show support from potential beneficiaries and/or support from local organizations.

(iii) 2 points are awarded if you provide 4 -5 support letters that show support from potential beneficiaries and/or support from local organizations.

(iv) 3 points are awarded if you provide 6–7 support letters that show support from potential beneficiaries and/or support from local organizations.

(v) 4 points are awarded if you provide 8–9 support letters that show support from potential beneficiaries and/or support from local organizations.

(vi) 5 points are awarded if you provide 10 support letters that show support from potential beneficiaries and/or support from local organizations.

You may submit a maximum of 10 letters of support. Support letters should come from potential beneficiaries and other local organizations. Letters received from Congressional members and Technical Assistance providers will not be included in the count of support letters received. Additionally, identical form letters signed by multiple potential beneficiaries and/or local organizations will not be included in the count of support letters received. Support letters should be included as an attachment to the application and will not count against the maximum page total. Additional letters from industry groups, commodity groups, Congressional members, and similar organizations should be referenced, but not included in the application package. When referencing these letters, provide the name of the organization, date of the letter, the nature of the support, and the name and title of the person signing the letter.

2. Review and Selection Process

The State Offices will review applications to determine if they are eligible for assistance based on requirements in this Notice, and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of USDA employees in accordance with the point allocation specified in this Notice. The panel will consist of USDA employees with expertise in providing Technical Assistance to Socially-Disadvantaged Groups. The review panel will convene to reach a consensus on the scores for each of the eligible applications. A recommendation will be submitted to the Administrator to fund applications in highest ranking order. Applications that cannot be fully funded may be offered partial funding at the Agency's

discretion. If your application is ranked and not funded, it will not be carried forward into the next competition.

F. Federal Award Administration Information

1. Federal Award Notices

If you are selected for funding, you will receive a signed notice of Federal award by postal mail, containing instructions on requirements necessary to proceed with execution and performance of the award.

If you are not selected for funding, you will be notified in writing via postal mail and informed of any review and appeal rights. Funding of successfully appealed applications will be limited to available FY 2016 funding.

2. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this program can be found in 2 CFR parts 200, 215, 400, 415, 417, 418, and 421. All recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation (See 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act reporting requirements (See 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)). These regulations may be obtained at *http://www.gpoaccess.gov/cfr/index.html.*

The following additional requirements apply to grantees selected for this program:

- Agency approved Grant Agreement.
- Letter of Conditions.
- Form RD 1940–1, ''Request for Obligation of Funds.''
- Form RD 1942–46, ''Letter of Intent to Meet Conditions.''
- Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''
- Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.''
- Form AD–1049, ''Certification Regarding a Drug-Free Workplace Requirement (Grants).''
- Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.'' Must be signed by corporate applicants who receive an award under this Notice.
- Form RD 400–4, ''Assurance Agreement.''
- SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

3. Reporting

After grant approval and through grant completion, you will be required to provide the following:

a. A SF–425, ''Federal Financial Report,'' and a project performance report will be required on a semiannual basis (due 30 working days after end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the following: A comparison of actual accomplishments to the objectives established for that period;

b. Reasons why established objectives were not met, if applicable;

c. Reasons for any problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

d. Objectives and timetable established for the next reporting period.

e. Provide a final project and financial status report within 90 days after the expiration or termination of the grant.

f. Provide outcome project performance reports and final deliverables.

G. Agency Contacts

For general questions about this announcement and for program Technical Assistance, please contact the appropriate State Office as indicated in the **ADDRESSES** section of this Notice. You may also contact National Office staff: Melinda Martin, SDGG Program Lead, *Melinda.C.Martin@wdc.usda.gov,* or call 202–690–1374.

H. Other Information

Non Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *fax:* (202) 690–7442; or

(3) *email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Dated: May 31, 2016.

Samuel H. Rikkers,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2016–13288 Filed 6–3–16; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Rural Energy Savings Program; Measurement, Verification, Training and Technical Assistance; Correction

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Utilities Service (RUS) published in the **Federal Register**, on May 24, 2016, a Notice of Comment Solicitation, Rural Energy Savings Program: Measurement, Verification, Training and Technical Assistance. Inadvertently, an inaccurate citation to the Code of Federal Register (CFR) was included in the Notice. This document removes the inaccurate CFR citation and replaces it with the correct citation to the **Federal Register**. The corrected citation directs readers to the

CFR regulation that describes types of eligible borrowers who are entities that may also participate in the Rural Energy Savings Program (RESP).

DATES: Effective on June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Titilayo Ogunyale, Senior Advisor, Office of the Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1510, Room 5136–S, Washington, DC 20250–1510; Telephone: (202) 720–0736; Email: *Titilayo.Ogunyale@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) published in the **Federal Register** on May 24, 2016, at 81 FR 32719, a Notice of Comment Solicitation seeking input on the Rural Energy Savings Program. Inadvertently, an inaccurate citation to the Code of Federal Register (CFR) was included in the Notice. This document removes all references to the inaccurate CFR citation published on May 24, 2016, and replaces it with the correct citation to the CFR.

In the Notice of Comment Solicitation FR Doc. 2016–12192 published May 24, 2016, at 81 FR 32719, make the following correction. Remove ''7 CFR 1710.10'' and add in its place ''7 CFR 1710.101'' on the following page:

Page 32719, third column, ''Entities eligible to borrow from RUS and relend to consumers pursuant to RESP are not restricted to electric utilities per se; entities owned or controlled by current or former RUS borrowers and those entities described in 7 CFR 1710.101 may also participate in the RESP program.''

Dated: May 26, 2016.

Brandon McBride,

Administrator, Rural Utilities Service.

[FR Doc. 2016–13248 Filed 6–3–16; 8:45 am]

BILLING CODE 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 Correction to the Initiation of Antidumping Duty Changed Circumstances Review

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

FOR FURTHER INFORMATION CONTACT: Alice Maldonado, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4682.

SUPPLEMENTARY INFORMATION: On August 13, 2015, the Department of Commerce (the Department) published in the **Federal Register** the initiation of the antidumping duty changed circumstances review on tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People's Republic of China (PRC) to determine whether to reinstate the antidumping duty order with respect to Shanghai General Bearing Co., Ltd. (SGBC/SKF).[1] The period of review is June 1, 2014, through May 31, 2015. In the *Initiation,* the Department incorrectly stated in two places that if we determine in this changed circumstances review that SGBC/SKF resumed dumping, ''effective on the date of the publication of our *final* results,'' [2] we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of TRBs manufactured in the PRC and exported by SGBC/SKF. However, we intended to state the following: ''If we *preliminarily* determine in this changed circumstances review that SGBC/SKF resumed dumping, we will direct CBP to suspend liquidation of all entries of TRBs manufactured in the PRC, and exported, by SGBC/SKF'' (emphasis also added). As a result, we now correct the *Initiation* as noted above.

This correction to the initiation of the antidumping duty changed circumstances review is issued and published in accordance with section 751(b)(1) of the Tariff Act of 1930, as amended.

Dated: May 26, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13203 Filed 6–3–16; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Notice of Correction to the Initiation of Antidumping Duty Changed Circumstances Review,* 80 FR 48493 (August 13, 2015) (*Initiation*).

[2] *Id.,* at 48493 and 48497 (emphasis added).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Review and Amended Final Results of the Antidumping Duty Administrative Review; 2011–2012

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

SUMMARY: On May 11, 2016, the United States Court of International Trade (the Court) sustained our final remand redetermination pertaining to the administrative review of the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China covering the period November 1, 2011, through October 31, 2012 (third administrative review).[1] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department of Commerce (the Department) is notifying the public that the Court's final judgment in this case is not in harmony with the *AR3 Final Results* [2] and that the Department is amending the *AR3 Final Results* with respect to the PRC-wide entity, including the ATM Single Entity.[3]

DATES: Effective Date: May 21, 2016.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Minoo Hatten, AD/CVD Operations, Office I, Enforcement

[1] *See Gang Yan Diamond Products, Inc.* v. *United States,* Court No. 14–00148, slip op. 16–49, 2016 Ct. Intl. Trade LEXIS 49 (Ct. Int'l Trade May 11, 2016); Final Remand Redetermination pursuant to *Gang Yan Diamond Products, Inc.* v. *United States,* Court No. 14–00148, slip op. 15–127, (Ct. Int'l Trade Nov. 9, 2015), dated February 8, 2016, and available at *http://enforcement.trade.gov/remands/15-127.pdf* (*AR3 Remand Redetermination*), *aff'd, Gang Yan Diamond Products, Inc.* 2016 Ct. Intl. Trade LEXIS 49.

[2] *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 79 FR 35723 (June 24, 2014) (*AR3 Final Results*).

[3] The ATM Single Entity includes Advanced Technology & Materials Co., Ltd., Beijing Gang Yan Diamond Products Co., HXF Saw Co., Ltd., AT&M International Trading Co., Ltd., and Cliff International Ltd. *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012,* 78 FR 77098, 77099 (December 20, 2013), unchanged in *AR3 Final Results.*

and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5760 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 24, 2014, the Department published the *AR3 Final Results,* in which we assigned the PRC-wide rate of 164.09 percent to companies including the ATM Single Entity that comprise the PRC-wide entity.[4] The ATM Single Entity challenged our decision to treat it as part of the PRC-wide entity and assign the PRC-wide rate to it. On November 9, 2015, the Court remanded the *AR3 Final Results* to the Department to reconsider the PRC-wide rate in light of the remand redeterminations for the two previous reviews that the Department issued after the publication of the *AR3 Final Results*.[5] In these two remand redeterminations, the Department found that the ATM Single Entity was not entitled to a separate rate and, therefore, was part of the PRC-wide entity, and revised the PRC-wide rate using the simple average of the margins that had been calculated for the ATM Single Entity in the underlying administrative reviews and the petition rate in the less-than-fair-value investigation, *i.e.,* 164.09 percent.[6] On remand for the third administrative review, the Department revised the PRC-wide rate consistent with the immediately preceding administrative review, *i.e.,* the second administrative review.[7] On May 11, 2016, the Court upheld our *AR3 Remand Redetermination* in its entirety.[8]

Timken Notice

In its decision in *Timken,* as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's final judgment affirming the *AR3 Remand Redetermination* constitutes the Court's final decision which is not in harmony with the *AR3 Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending a final and conclusive court decision.

Amended Final Results of Review

Because there is now a final court decision, the Department is amending the *AR3 Final Results* with respect to the PRC-wide entity, which includes the ATM Single Entity, as follows:

Exporter	Weighted-average dumping margin (%)
PRC-Wide Entity (which includes the ATM Single Entity)	82.05

In the event the Court's ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, the Department will instruct the U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise based on the revised rate the Department determined and listed above.

Cash Deposit Requirements

The current cash deposit rate for the PRC-wide entity is 82.05 percent, and thus same as the cash deposit rate established in the *AR3 Remand Redetermination*.[9] Therefore, there is no need to update the cash deposit rate for the PRC-wide entity as a result of these amended final results.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13279 Filed 6–3–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–017]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Initiation of Countervailing Duty New Shipper Review; 2014–2016

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

SUMMARY: On February 25, 2016, the Department received a timely request for a new shipper review (NSR) from Shandong Xinghongyuan Tire Co., Ltd. (SXT), in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c). The Department of Commerce (the Department) has determined that the request for a NSR of the countervailing duty order on certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (PRC) meets the statutory and regulatory requirements for initiation. The period of review (POR) is December 1, 2014, through January 31, 2016.

DATES: *Effective Date:* June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3148.

SUPPLEMENTARY INFORMATION:

Background

The Department published the countervailing duty order on passenger tires from the PRC in the **Federal Register** on August 10, 2015.[1] On February 25, 2016, pursuant to section

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[4] *See AR3 Final Results,* 79 FR at 35724, n.7.

[5] *See Gang Yan Diamond Products, Inc.* v. *United States,* Court No. 14–00148, slip op. 15–127 (Ct. Int'l Trade Nov. 9, 2015).

[6] *See* Final Results of Redetermination pursuant to *Diamond Sawblades Manufacturers' Coalition* v. *United States,* Court No. 13–00078, slip op. 14–50 (Ct. Int'l Trade Apr. 29, 2014), dated April 10, 2015, and available at *http://enforcement.trade.gov/remands/14-50.pdf, aff'd, Diamond Sawblades Manufacturers' Coalition* v. *United States,* Court No. 13–00078, slip op. 15–105 (Ct. Int'l Trade Sept. 23, 2015), and Final Remand Redetermination pursuant to *Diamond Sawblades Manufacturers Coalition* v. *United States,* Court No. 13–00241, slip op. 14–112 (Ct. Int'l Trade Sept. 23, 2014), dated May 18, 2015, and available at *http://enforcement.trade.gov/remands/14-112.pdf, aff'd, Diamond Sawblades Manufacturers' Coalition* v. *United States,* Court No. 13–00241, slip op. 15–116 (Ct. Int'l Trade Oct. 21, 2015).

[7] *See AR3 Remand Redetermination. See also Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Review and Amended Final Results of the Antidumping Duty Administrative Review,* 81 FR 2843 (January 19, 2016), for the revision of the PRC-wide rate for the second administrative review.

[8] *See Gang Yan Diamond Products, Inc.,* 2016 Ct. Intl. Trade LEXIS 49.

[9] *See Diamond Sawblades and Parts Thereof From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 32344, 32345 (June 8, 2015).

[1] *See Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 47902 (August 10, 2015).

751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.214(b) and (c), the Department received a timely request for a NSR from SXT. Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), SXT certified that it is the exporter and producer of the passenger tires for which the request for a NSR is based, and certified that it did not export passenger tires to the United States during the period of investigation (POI).[2] Moreover, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), SXT certified that, since the investigation was initiated, it never has been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation.[3] Further, as required by 19 CFR 351.214(b)(2)(v), it certified that it informed the government of the PRC that the government will be required to provide a full response to the Department's questionnaires.[4]

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), SXT submitted documentation establishing the following: (1) The date of its first sale to an unaffiliated customer in the United States; (2) the date on which the passenger tires were first entered for consumption; (3) the volume of that shipment.[5]

The Department queried the database of U.S. Customs and Border Protection (CBP) in an attempt to confirm that the shipment reported by SXT had entered the United States for consumption and that liquidation had been suspended as subject to the countervailing duty order. The information which the Department examined was consistent with that provided by SXT in its request.[6] In particular, the CBP data confirmed the price and quantity reported by SXT for the sale that forms the basis for this NSR request.

Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request a NSR within one year of the date on which its subject merchandise was first entered. Moreover, 19 CFR 351.214(d)(1) states that if the request for the review is made during the six-month period ending with the end of the semiannual anniversary month, the Department will initiate a NSR in the calendar month immediately following the semiannual anniversary month. Further, 19 CFR 351.214(g)(2) and 19 CFR 351.213(e)(2)(ii) state that the first review period after an order normally will cover entries or exports from the date of suspension of liquidation to the end of the most recently completed calendar year. However, since SXT's shipment entered the United States after the end of 2015, and because SXT has requested a concurrent NSR of the antidumping duty order covering the same shipment, we are expanding the POR by one month.[7] Therefore, the POR is December 1, 2014, through January 31, 2016.[8]

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and the information on the record, the Department finds that SXT's request meets the threshold requirements for initiation of a NSR and, therefore, is initiating a NSR of SXT. If the information supplied by STX is found to be incorrect or insufficient during the course of this proceeding, the Department may rescind the review for STX or apply facts available pursuant to section 776 of the Act, depending on the facts on the record. Absent a determination that the new shipper review is extraordinarily complicated, the Department intends to issue the preliminary results within 180 days after the date on which this review is initiated and the final results within 90 days after the date on which we issue the preliminary results.[9]

On February 24, 2016, the President signed into law the ''Trade Facilitation and Trade Enforcement Act of 2015,'' H.R. 644, which made several amendments to section 751(a)(2)(B) of the Act. We will conduct this new shipper review in accordance with section 751(a)(2)(B) of the Act, as amended by the Trade Facilitation and Trade Enforcement Act of 2015.[10]

Interested parties requiring access to proprietary information in this proceeding should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: May 27, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–13204 Filed 6–3–16; 8:45 am]

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[2] *See* SXT's request for a NSR dated February 25, 2016, at Exhibit 2.

[3] *Id.*

[4] *Id.*

[5] *Id.* at Exhibit 1.

[6] *See* Memorandum to the File from Spencer Toubia, ''New Shipper Review of the Countervailing Duty Order on Passenger Vehicle and Light Truck Tires from the People's Republic of China: Customs Entries from January 1, 2013,'' dated March 31, 2016.

[7] *See Raw Flexible Magnets From the People's Republic of China: Initiation of Countervailing Duty New Shipper Review,* 75 FR 22741 (April 30, 2010) (expanding the POR for a NSR of a CVD order); *see also Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27320 (May 19, 1997) (The Department's regulations ''provide the Department with sufficient flexibility to resolve any problems that may arise {when the requestor's first shipment occurs after the calendar year in question} by modifying the standard review period.'').

[8] *See* 19 CFR 351.214(g)(1)(i)(B).

[9] *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i).

[10] The Trade Facilitation and Trade Enforcement Act of 2015 removed from section 751(a)(2)(B) of the Act the provision directing the Department to instruct CBP to allow an importer the option of posting a bond or security in lieu of a cash deposit during the pendency of a new shipper review.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–869]

Certain New Pneumatic Off-the-Road Tires From India: Postponement of Preliminary Determination of Antidumping Duty Investigation

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

DATES: Effective June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian at (202) 482–6412 or Trisha Tran at (202) 482–4852; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2016, the Department of Commerce (Department) published a notice of initiation of an antidumping duty investigation on certain new pneumatic off-the-road tires (off road tires) from India.[1] Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1) state the Department will make a preliminary determination no later than 140 days after the date of the initiation. The current deadline for the preliminary

[1] *See Certain New Pneumatic Off-the-Road Tires from India and the People's Republic of China: Initiation of Less-Than-Fair Value Investigations,* 81 FR 7073 (February 10, 2016).

determination of this investigation is no later than June 22, 2016.

Postponement of Preliminary Determination

On May 3, 2016, Titan Tire Corporation and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (USW) (collectively, Petitioners) made a timely request, pursuant to 19 CFR 351.205(e), for postponement of the preliminary determination, in order to provide the Department with sufficient time to develop the record in this proceeding through additional questionnaires, which Petitioners will in turn need to analyze and possibly comment on. Because there are no compelling reasons to deny Petitioners' request, in accordance with section 773(c)(1)(A) of the Act, the Department is postponing the deadline for the preliminary determination by 50 days.

For the reasons stated above, the Department, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination to no later than 190 days after the date on which the Department initiated this investigation. Therefore, the new deadline for the preliminary determination is August 11, 2016. In accordance with section 735(a)(1) of the Act, the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13278 Filed 6–3–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804, A–412–801]

Ball Bearings and Parts Thereof From Japan and the United Kingdom: Notice of Court Decision Not in Harmony With the Final Results of Antidumping Duty Administrative Reviews; 2009–2010

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

SUMMARY: On May 10, 2016, the United States Court of International Trade (the Court) sustained the *Final Remand Redetermination* pertaining to the administrative reviews of the antidumping duty orders on ball bearings and parts thereof from Japan and the United Kingdom covering the period May 1, 2009, through April 30, 2010.[1] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department of Commerce (the Department) is notifying the public that the Court's final judgment in this case is not in harmony with the *Final Results,* and that the Department is amending the *Final Results* with respect to all respondents that were subject to these administrative reviews.[2]

DATES: Effective May 20, 2016.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0410 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 2015, the Court remanded the *Final Results* for the Department to apply a differential pricing analysis.[3] On remand, the Department applied a differential pricing analysis, under protest, and as a result, the weighted-average dumping margin for each respondent subject to these administrative reviews changed. On May 10, 2016, the Court upheld the *Final Remand Redetermination* in full.[4]

Timken Notice

In its decision in *Timken,* as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The *Remand Affirmation* sustaining the *Final Remand Redetermination* constitutes a final decision of the Court which is not in harmony with the *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court decision, the Department is amending the *Final Results* with respect to all respondents as follows:

Company	Rate (percent)
JAPAN	
Asahi Seiko Co., Ltd.	1.33
Audi AG	4.58
Bosch Corporation	4.58
Bosch Packaging Technology K.K.	4.58
Bosch Rexroth Corporation	4.58
Caterpillar Japan Ltd.	4.58
Caterpillar Overseas S.A.R.L.	4.58
Caterpillar Group Services S.A.	4.58
Caterpillar Brazil Ltd.	4.58
Caterpillar Africa Pty. Ltd.	4.58
Caterpillar of Australia Pty. Ltd.	4.58

[1] *See* Final Results of Remand Redetermination (*Final Remand Redetermination*) Pursuant to *The Timken Company* v. *United States,* 79 F. Supp. 3d 1350 (CIT 2015) (*Remand Order*), *aff'd The Timken Company* v. *United States,* Consol. Court No. 14–00155, slip op. 16–47, 2016 Ct. Intl. Trade LEXIS 45 (Ct. Int'l Trade May 10, 2016) (*Remand Affirmation*).

[2] *See Ball Bearings and Parts Thereof from Japan and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part; 2009–2010,* 79 FR 35312 (June 20, 2014) (*Final Results*).

[3] *See Remand Order,* 79 F. Supp. 3d at 1361.

[4] *See Remand Affirmation* at 26.

Company	Rate (percent)
Caterpillar S.A.R.L.	4.58
Caterpillar Americas Mexico, S. de R.L. de C.V.	4.58
Caterpillar Logistics Services China Ltd.	4.58
Caterpillar Mexico, S.A. de C.V.	4.58
Hagglunds Ltd.	4.58
Hino Motors Ltd.	4.58
JTEKT Corporation (formerly known as Koyo Seiko Co., Ltd.)	4.58
Kongskilde Limited	4.58
Mazda Motor Corporation	4.58
Mori Seiki Co., Ltd.	0.65
Nachi-Fujikoshi Corporation	4.58
Nissan Motor Company, Ltd.	4.58
NSK Ltd.	2.79
NTN Corporation and NTN Kongo Corporation	6.37
Perkins Engines Company Limited	4.58
Volkswagen AG	4.58
Volkswagen Zubehor GmbH	4.58
Yamazaki Mazak Trading Corporation	4.58
UNITED KINGDOM	
Alcatel Vacuum Technology	6.47
Bosch Rexroth Ltd.	6.47
Caterpillar S.A.R.L.	6.47
Caterpillar Group Services S.A.	6.47
Caterpillar of Australia Pty Ltd.	6.47
Caterpillar Overseas S.A.R.L.	6.47
Caterpillar Marine Power UK	6.47
NSK Bearings Europe Ltd.	6.47
Perkins Engines Company Ltd.	6.47
SKF (U.K.) Limited and SKF Aeroengine Bearings U.K.	6.47

In the event the Court's ruling is not appealed, or if it is appealed and upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of the subject merchandise exported by the companies listed above. In accordance with 19 CFR 351.212(b)(1), for Asahi Seiko Co., Ltd., Mori Seiki Co., Ltd., NSK Ltd., NSK Bearings Europe Ltd., and NTN Corporation and NTN Kongo Corporation, we calculated importer-specific assessment rates by dividing the total amount of dumping for the reviewed sales by the total entered vale of those reviewed sales for each importer.

For entries of subject merchandise during the period of reviews produced by Asahi Seiko Co., Ltd., Mori Seiki Co., Ltd., NSK Ltd., NSK Bearings Europe Ltd., and NTN Corporation and NTN Kongo Corporation, for which they did not know their merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the country-specific all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

For all other companies listed above, which were not selected for individual examination, we will instruct CBP to assess antidumping duties at a rate equal to the weighted-average dumping margin listed above to all entries of subject merchandise produced and/or exported by such firms.

Cash Deposit Requirements

Because we revoked the antidumping duty orders on ball bearings and parts thereof from Japan and the United Kingdom effective September 15, 2011, no cash deposits for estimated antidumping duties on future entries of subject merchandise will be required.[5]

This notice is issued and published in accordance with sections 516(A)(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13280 Filed 6–3–16; 8:45 am]

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[5] *See Ball Bearings and Parts Thereof From Japan and the United Kingdom: Final Results of Sunset Reviews and Revocation of Antidumping Duty Orders,* 79 FR 16771 (March 26, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–016]

Passenger Vehicle and Light Truck Tires From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2015–2016

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

SUMMARY: On February 25, 2016, the Department received a timely request for a new shipper review (NSR) from Shandong Xinghongyuan Tire Co., Ltd. (''SXT''), in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c). The Department of Commerce (Department) has determined that the request for a NSR of the antidumping duty order on Passenger Vehicle and Light Truck Tires (passenger tires) from the People's Republic of China (PRC) meets the statutory and regulatory requirements for initiation. The period of review (POR) is August 1, 2015, through, January 31, 2016.

DATES: Effective June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Chien-Min Yang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5484.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on passenger tires from the PRC in the **Federal Register** on August 10, 2015.[1] On February 25, 2016, the Department received a timely request for a NSR from SXT.[2] SXT certified that it is the exporter and producer of the passenger tires upon which the request for a NSR is based.[3] Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), SXT certified that it did not export passenger tires for sale to the United States during the period of investigation (POI).[4] Moreover, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), SXT certified that, since the investigation was initiated, it never has been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation.[5] Further, as required by 19 CFR 351.214(b)(2)(iii)(B), it certified that its export activities are not controlled by the central government of the PRC.[6] SXT also certified it had no subsequent shipments of subject merchandise.[7]

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), SXT submitted documentation establishing the following: (1) The date of its first sale to an unaffiliated customer in the United States; (2) the date on which the passenger tires were first entered; and (3) the volume of that shipment.[8]

The Department queried the database of U.S. Customs and Border Protection (CBP) in an attempt to confirm that the shipment reported by SXT had entered the United States for consumption and that liquidation had been properly suspended for antidumping duties. The information which the Department examined was consistent with that provided by SXT in its request.[9] In particular, the CBP data confirmed the price and quantity reported by SXT for the sale that forms the basis for this NSR request.

Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request a NSR within one year of the date on which its subject merchandise was first entered. Moreover, 19 CFR 351.214(d)(1) states that if the request for the review is made during the six-month period ending with the end of the semiannual anniversary month, the Secretary will initiate a NSR in the calendar month immediately following the semiannual anniversary month. Further, 19 CFR 315.214(g)(1)(i)(B) states that if the NSR was initiated in the month immediately following the semiannual anniversary month, the POR will be the six-month period immediately preceding the semiannual anniversary month. SXT made the request for a NSR, that included all documents and information required by the statute and regulations, within one year of the date on which its passenger tires first entered. Its request was filed in February, which is the semiannual anniversary month of the order. Therefore, the POR is August 1, 2015, through January 31, 2016.[10]

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and the information on the record, the Department finds that SXT's request meets the threshold requirements for initiation of a NSR and, therefore, is initiating a NSR of SXT. The Department intends to issue the preliminary results within 180 days after the date on which this review is initiated and the final results within 90 days after the date on which we issue the preliminary results.[11]

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate (*i.e.,* a separate rate) provide evidence of *de jure* and *de facto* absence of government control over the company's export activities.[12] Accordingly, the Department will issue questionnaires to SXT, which will include a section requesting information with regard to its export activities for the purpose of establishing its eligibility for a separate rate. The review will proceed if the responses provide sufficient indication that SXT is not subject to either *de jure* or *de facto* government control with respect to its exports of passenger tires.

On February 24, 2016, the President signed into law the ''Trade Facilitation and Trade Enforcement Act of 2015,'' H.R. 644, which made several amendments to section 751(a)(2)(B) of the Act. We will conduct this new shipper review in accordance with section 751(a)(2)(B) of the Act, as amended by the Trade Facilitation and Trade Enforcement Act of 2015.[13]

Interested parties requiring access to proprietary information in this proceeding should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: May 25, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–13205 Filed 6–3–16; 8:45 am]

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[1] *See Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order.* 80 FR 47902 (August 10, 2015).

[2] *See* Shandong Xinghongyuan 's request for a NSR dated February 25, 2016.

[3] *Id.* at Exhibit 2.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.* at page 2.

[8] *Id.* at Exhibit 1.

[9] *See* Memorandum to the File, ''New Shipper Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires from the People's Republic of China: Customs Entries from January 27, 2015, to January 31, 2016,'' dated March 31, 2016.

[10] *See* 19 CFR 351.214(g)(1)(i)(B).

[11] *See* section 751(a)(2)(B)(iv) of the Act.

[12] *See* Import Administration Policy Bulletin, Number: 05.1. (*http://ia.ita.doc.gov/policy/bull05-1.pdf*).

[13] The Trade Facilitation and Trade Enforcement Act of 2015 removed from section 751(a)(2)(B) of the Act the provision directing the Department to instruct Customs and Border Protection to allow an importer the option of posting a bond or security in lieu of a cash deposit during the pendency of a new shipper review.

DEPARTMENT OF COMMERCE

International Trade Administration

United States Investment Advisory Council: Meeting of the United States Investment Advisory Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Investment Advisory Council (Council) will hold its inaugural meeting on Tuesday, June 21, 2016. The Council was chartered on April 6, 2016, to advise the Secretary of Commerce on matters relating to foreign direct investment into the United States. At the meeting, members will be sworn-in and will begin a discussion of the work they will undertake during their term. They are expected to discuss

issues impacting foreign direct investment into the United States, including investment opportunities across U.S. regions, regulations and visas, in addition to other topics. The agenda may change to accommodate Council business. The final agenda will be posted on the Department of Commerce Web site for the Council at *http://trade.gov/IAC,* at least one week in advance of the meeting.

DATES: Tuesday, June 21, 2016, 9 a.m.–12 p.m. EDT.

ADDRESSES: The United States Investment Advisory Council meeting will be broadcast via live webcast on the Internet at *http://whitehouse.gov/live.*

FOR FURTHER INFORMATION CONTACT: Li Zhou, the United States Investment Advisory Council, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *IAC@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Council advises the Secretary of Commerce on matters relating to the promotion and retention of foreign direct investment in the United States.

Public Participation: The public is invited to submit written statements to the United States Investment Advisory Council. Statements must be received by 5:00 p.m. EDT June 14, 2016 by either of the following methods:

a. Electronic Submissions

Submit statements electronically to Li Zhou, Executive Secretary, United States Investment Advisory Council via email: *IAC@trade.gov.*

b. Paper Submissions

Send paper statements to Li Zhou, Executive Secretary, United States Investment Advisory Council, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230. Statements will be posted on the United States Investment Advisory Council Web site (*http://trade.gov/IAC*) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make publicly available.

Meeting minutes: Copies of the Council's meeting minutes will be available within ninety (90) days of the meeting.

Dated: June 1, 2016.

Li Zhou,

Executive Secretary, United States Investment Advisory Council.

[FR Doc. 2016–13284 Filed 6–3–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Circular Welded Carbon Steel Pipes and Tubes From Turkey: Notice of Court Decision Not in Harmony With Final Results of Countervailing Duty Administrative Review and Notice of Amended Final Results of Countervailing Duty Administrative Review; 2012

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

SUMMARY: On May 11, 2016, the United States Court of International Trade (the Court) issued *Toscelik II,*[1] which sustained the Final Remand Results [2] that the Department of Commerce (the Department) issued in connection with *Toscelik I,*[3] concerning the Department's final results of administrative review of the countervailing duty order on circular welded carbon steel pipes and tubes from Turkey covering the period of review January 1, 2012, through December 31, 2012 (POR).[4]

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken,*[5] as clarified by *Diamond Sawblades,*[6] the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *2012 Final Results.* The Department is also amending the *2012 Final Results* with respect to Toscelik Profil Ve SAC Endustrisi A.S. (Toscelik).

DATES: Effective May 21, 2016.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

On August 27, 2014, the Department issued the *2012 Final Results.*[7] In the *2012 Final Results,* the Department assigned Toscelik the total net subsidy rate it had calculated for Toscelik in the prior review of that company, the *2011 Final Results.*[8] Toscelik had challenged its rate in the *2011 Final Results* at the Court and, as a result of remand redetermination and the Court's affirmance thereof, Toscelik's rate from the *2011 Final Results* decreased.[9] Toscelik then challenged the Department's *2012 Final Results,* contending that the results of its challenge to the rate from the *2011 Final Results* should extent to the rate the Department assigned Toscelik for the 2012 POR. At issue in the instant litigation was whether the Department should apply the rate the Department determined in the *2011 Amended Final Results* to the *2012 Final Results,* instead of the rate originally assigned to Toscelik, notwithstanding that Toscelik failed to exhaust its administrative remedies on this issue.

The Court held that absent the administrative record underlying the 2011 subsidy rate (pulled forward to 2012), Toscelik lacked an argument ''that could have resulted in redress of the error in the eleventh review.'' [10] The Court further held that the 2012 determination with regard to Toscelik represented a ''derivative action'' that ''turns wholly on the lawfulness *vel non* of the {2011 review}.'' [11] The Court, thus, considered that in this case the law did not require Toscelik to file an administrative brief merely to preserve the right to appeal and directed Commerce to consider in its remand the

[1] *See Toscelik Profil Ve SAC Endustrisi A.S.* v. *United States,* Court No. 14–00211, Slip. Op. 16–50 (CIT May 11, 2016) (*Toscelik II*).

[2] *See* Final Results Of Redetermination Pursuant To Court Remand, Court No. 14–00211, Slip Op. 16–50 (May 11, 2016, May 11, 2016) (Final Remand Results), which is available at *http://enforcement.trade.gov/remands/index.html.*

[3] *See Toscelik Profil Ve SAC Endustrisi A.S.* v. *United States,* Court No. 14–00211, Slip. Op. 15–144 (CIT December 21, 2015) (*Toscelik I*).

[4] *See Circular Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Rescission of Countervailing Duty Administrative Review, in Part,* 79 FR 51140 (Aug. 27, 2014) and accompanying Issues and Decisions Memorandum (*2012 Final Results*).

[5] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[6] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[7] *See 2012 Final Results.*

[8] *See Circular Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2011;* 78 FR 64916, dated October 30, 2013.

[9] *See Circular Welded Carbon Steel Pipes and Tubes From Turkey Toscelik Profil ve Sac Endustrisi AS* v. *United States* Court No. 13–00371; Slip Op. 14–126 (CIT 2014), dated February 13, 2015.

[10] *See Toscelik I,* at 10.

[11] *Id.* at 11.

amended final results of the 2011 review.

On April 15, 2016, the Department filed the Final Remand Results with the Court, in which it assigned Toscelik for the 2012 review Toscelik's amended *de minimis* rate from the *2011 Amended Final Results,* which was de minimis.[12] On May 11, 2016, the Court entered judgment sustaining the Final Remand Results.[13]

Timken Notice

In *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* 626 F.3d at 1381, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's judgment in *Toscelik II* sustaining the Final Remand Results constitutes a final decision of the Court that is not in harmony with the Department's *2012 Final Results.* This notice is published in fulfillment of the publication requirement of *Timken.*

Amended Final Results

Because there is now a final court decision, the Department is amending the *2012 Final Results* with respect to Toscelik. The revised net subsidy rate for Toscelik during the period January 1, 2012, through December 31, 2012, is as follows:

Producer/exporter	Total net subsidy rate
Toscelik Profil ve Sac Endustrisi A.S.	0.44 percent, *de minimis*.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld in a final and conclusive court decision, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by the above listed exporters at the rate listed above.

Cash Deposit Requirements

Since the *2012 Final Results,* the Department has established a new cash deposit rate for Toscelik.[14] Therefore, the cash deposit rate for Toscelik does not need to be updated as a result of these amended final results.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 27, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13282 Filed 6–3–16; 8:45 am]

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[12] *See* Final Remand Results at 5–6. While subject to the 2011 review, Toscelik was not selected for individual examination.

[13] *See Toscelik II* at 1.

[14] *See Circular Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2013 and Rescission of Countervailing Duty Administrative Review, in Part,* 80 FR 61361 (October 13, 2015).

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Dates:* June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''the Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (''Q&V'') Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2017.

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Antidumping Duty Proceedings	
RUSSIA: Solid Fertilizer-Grade Ammonium Nitrate, A–821–811	4/1/15–3/31/16
JSC Acron/JSC Dorogobuzh.	
MCC EuroChem/OJSC NAK Azot/OJSC Nevinnomyssky Azot.	
THE PEOPLE'S REPUBLIC OF CHINA: Activated Carbon, A–570–904	4/1/15–3/31/16
AmeriAsia Advanced Activated Carbon Products Co., Ltd.	
Anhui Handfull International Trading (Group) Co., Ltd.	
Anhui Hengyuan Trade Co. Ltd.	
Anyang Sino-Shon International Trading Co., Ltd.	
Baoding Activated Carbon Factory.	
Beijing Broad Activated Carbon Co., Ltd.	
Beijing Embrace Technology Co., Ltd.	
Beijing Haijian Jiechang Environmental Protection Chemicals.	
Beijing Hibridge Trading Co., Ltd.	
Beijing Pacific Activated Carbon Products Co., Ltd.	
Bengbu Jiuton Trade Co., Ltd.	
Calgon Carbon (Tianjin) Co., Ltd.	
Carbon Activated Tianjin Co., Ltd.	
Changji Hongke Activated Carbon Co., Ltd.	
Chengde Jiayu Activated Carbon Factory.	
China National Building Materials and Equipment Import and Export Corp.	
China National Nuclear General Company Ningxia Activated Carbon Factory.	
China Nuclear Ningxia Activated Carbon Plant.	
China SDIC International Trade Co., Ltd.	
Da Neng Zheng Da Activated Carbon Co., Ltd.	
Datong Carbon Corporation.	
Datong Changtai Activated Carbon Co., Ltd.	
Datong City Zuoyun County Activated Carbon Co., Ltd.	
Datong Fenghua Activated Carbon.	
Datong Forward Activated Carbon Co., Ltd.	
Datong Fuping Activated Carbon Co. Ltd.	
Datong Guanghua Activated Co., Ltd.	
Datong Hongtai Activated Carbon Co., Ltd.	
Datong Huanqing Activated Carbon Co., Ltd.	
Datong Huaxin Activated Carbon.	
Datong Huibao Activated Carbon Co., Ltd.	
Datong Huibao Active Carbon Co., Ltd.	
Datong Huiyuan Cooperative Activated Carbon Plant.	
Datong Juqiang Activated Carbon Co., Ltd.	
Datong Kaneng Carbon Co. Ltd.	
Datong Locomotive Coal & Chemicals Co., Ltd.	
Datong Municipal Yunguang Activated Carbon Co., Ltd.	
Datong Tianzhao Activated Carbon Co., Ltd.	
Datong Tri-Star & Power Carbon Plant.	
Datong Weidu Activated Carbon Co., Ltd.	
Datong Xuanyang Activated Carbon Co., Ltd.	
Datong Zuoyun Biyun Activated Carbon Co., Ltd.	
Datong Zuoyun Fu Ping Activated Carbon Co., Ltd.	
Dezhou Jiayu Activated Carbon Factory.	
Dongguan Baofu Activated Carbon.	
Dongguan SYS Hitek Co., Ltd.	
Dushanzi Chemical Factory.	
Fijian Zhixing Activated Carbon Co., Ltd.	
Fu Yuan Activated Carbon Co., Ltd.	
Fujian Active Carbon Industrial Co., Ltd.	
Fujian Jianyang Carbon Plant.	
Fujian Nanping Yuanli Activated Carbon Co., Ltd.	
Fujian Xinsen Carbon Co., Ltd.	
Fujian Yuanli Active Carbon Co., Ltd.	
Fujian Yuanli Active Carbon Industrial Co., Ltd.	
Fuzhou Taking Chemical.	
Fuzhou Yihuan Carbon.	
Great Bright Industrial.	
Hangzhou Hengxing Activated Carbon.	
Hangzhou Hengxing Activated Carbon Co., Ltd.	
Hangzhou Linan Tianbo Material (HSLATB).	
Hangzhou Nature Technology.	
Hangzhou Waterland Environment Technologies Co., Ltd.	
Hebei Foreign Trade and Advertising Corporation.	
Hebei Luna Trading Co., Ltd.	
Hebei Shenglun Import & Export Group Company.	
Hegongye Ninxia Activated Carbon Factory.	
Heilongjiang Provincial Hechang Import & Export Co., Ltd.	

	Period to be reviewed
Hongke Activated Carbon Co., Ltd.	
Huaibei Environment Protection Material Plant.	
Huairen Huanyu Purification Material Co., Ltd.	
Huairen Jinbei Chemical Co., Ltd.	
Huaiyushan Activated Carbon Group.	
Huatai Activated Carbon.	
Huzhou Zhonglin Activated Carbon.	
Inner Mongolia Taixi Coal Chemical Industry Limited Company.	
Itigi Corp. Ltd.	
J&D Activated Carbon Filter Co. Ltd.	
Jacobi Carbons AB.	
Jiangle County Xinhua Activated Carbon Co., Ltd.	
Jiangsu Taixing Yixin Activated Carbon Technology Co., Ltd.	
Jiangxi Hanson Import Export Co.	
Jiangxi Huaiyushan Activated Carbon.	
Jiangxi Huaiyushan Activated Carbon Group Co.	
Jiangxi Huaiyushan Suntar Active Carbon Co., Ltd.	
Jiangxi Jinma Carbon.	
Jiangxi Yuanli Huaiyushan Active Carbon Co., Ltd.	
Jianou Zhixing Activated Carbon.	
Jiaocheng Xinxin Purification Material Co., Ltd.	
Jilin Bright Future Chemicals Company, Ltd.	
Jilin Province Bright Future Industry and Commerce Co., Ltd.	
Jing Mao (Dongguan) Activated Carbon Co., Ltd.	
Kaihua Xingda Chemical Co., Ltd.	
Kemflo (Nanjing) Environmental Tech.	
Keyun Shipping (Tianjin) Agency Co., Ltd.	
Kunshan Actview Carbon Technology Co., Ltd.	
Langfang Winfield Filtration Co.	
Link Shipping Limited.	
Longyan Wanan Activated Carbon.	
Meadwestvaco (China) Holding Co., Ltd.	
Mindong Lianyi Group.	
Nanjing Mulinsen Charcoal.	
Nantong Ameriasia Advanced Activated Carbon Product Co., Ltd.	
Ningxi Baiyun Carbon Co., Ltd.	
Ningxia Baota Activated Carbon Co., Ltd.	
Ningxia Baota Active Carbon Plant.	
Ningxia Guanghua A/C Co., Ltd.	
Ningxia Blue-White-Black Activated Carbon (BWB).	
Ningxia Fengyuan Activated Carbon Co., Ltd.	
Ningxia Guanghua Activated Carbon Co., Ltd.	
Ningxia Guanghua Chemical Activated Carbon Co., Ltd.	
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.	
Ningxia Haoqing Activated Carbon Co., Ltd.	
Ningxia Henghui Activated Carbon.	
Ningxia Honghua Carbon Industrial Corporation.	
Ningxia Huahui Activated Carbon Co., Ltd.	
Ningxia Huinong Xingsheng Activated Carbon Co., Ltd.	
Ningxia Jirui Activated Carbon.	
Ningxia Lingzhou Foreign Trade Co., Ltd.	
Ningxia Luyuangheng Activated Carbon Co., Ltd.	
Ningxia Mineral & Chemical Limited.	
Ningxia Pingluo County Yaofu Activated Carbon Plant.	
Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd.	
Ningxia Pingluo Yaofu Activated Carbon Factory.	
Ningxia Taixi Activated Carbon.	
Ningxia Tianfu Activated Carbon Co., Ltd.	
Ningxia Tongfu Coking Co, Ltd.	
Ningxia Weining Active Carbon Co., Ltd.	
Ningxia Xingsheng Coal and Active Carbon Co., Ltd.	
Ningxia Xingsheng Coke & Activated Carbon Co., Ltd.	
Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd.	
Ningxia Yirong Alloy Iron Co., Ltd.	
Ningxia Zhengyuan Activated.	
Nuclear Ningxia Activated Carbon Co., Ltd.	
OEC Logistic Qingdao Co., Ltd.	
OEC Logistics Co., Ltd. (Tianjin).	
Panshan Import and Export Corporation.	
Pingluo Xuanzhong Activated Carbon Co., Ltd.	
Pingluo Yu Yang Activated Carbon Co., Ltd.	
Shanghai Activated Carbon Co., Ltd.	
Shanghai Astronautical Science Technology Development Corporation.	

	Period to be reviewed
Shanghai Coking and Chemical Corporation.	
Shanghai Goldenbridge International.	
Shanghai Jiayu International Trading (Dezhou Jiayu and Chengde Jiayu).	
Shanghai Jinhu Activated Carbon (Xingan Shenxin and Jiangle Xinhua).	
Shanghai Light Industry and Textile Import & Export Co., Ltd.	
Shanghai Mebao Activated Carbon.	
Shanghai Xingchang Activated Carbon.	
Shanxi Blue Sky Purification Material Co., Ltd.	
Shanxi Carbon Industry Co., Ltd.	
Shanxi Dapu International Co., Ltd.	
Shanxi Dapu International Trade Co., Ltd.	
Shanxi DMD Corporation.	
Shanxi Industry Technology Trading Co., Ltd.	
Shanxi Newtime Co., Ltd.	
Shanxi Qixian Foreign Trade Corporation.	
Shanxi Qixian Hongkai Active Carbon Goods.	
Shanxi Sincere Industrial Co., Ltd.	
Shanxi Supply and Marketing Cooperative.	
Shanxi Tianli Ruihai Enterprise Co.	
Shanxi Tianxi Purification Filter Co., Ltd.	
Shanxi U Rely International Trade.	
Shanxi Xiaoyi Huanyu Chemicals Co., Ltd.	
Shanxi Xinhua Activated Carbon Co., Ltd.	
Shanxi Xinhua Chemical Co., Ltd. (formerly Shanxi Xinhua Chemical Factory).	
Shanxi Xinhua Protective Equipment.	
Shanxi Xinshidai Import Export Co., Ltd.	
Shanxi Xuanzhong Chemical Industry Co., Ltd.	
Shanxi Zuoyun Yunpeng Coal Chemistry.	
Shenzhen Sihaiweilong Technology Co.	
Shijiazhuang Xinshuang Trade Co., Ltd.	
Sincere Carbon Industrial Co. Ltd.	
Sinoacarbon International Trading Co, Ltd.	
Taining Jinhu Carbon.	
Taiyuan Hengxinda Trade Co., Ltd.	
Tancarb Activated Carbon Co., Ltd.	
Tangshan Solid Carbon Co., Ltd.	
Tianchang (Tianjin) Activated Carbon.	
Tianjin Century Promote International Trade Co., Ltd.	
Tianjin Channel Filters Co., Ltd.	
Tianjin Jacobi International Trading Co. Ltd.	
Tianjin Maijin Industries Co., Ltd.	
Tonghua Bright Future Activated Carbon Plant.	
Tonghua Xinpeng Activated Carbon Factory.	
Top One International Trading Co., Ltd.	
Triple Eagle Container Line.	
Uniclear New-Material Co., Ltd.	
United Manufacturing International (Beijing) Ltd.	
Valqua Seal Products (Shanghai) Co.	
VitaPac (HK) Industrial Ltd.	
Wellink Chemical Industry.	
Xi Li Activated Carbon Co., Ltd.	
Xi'an Shuntong International Trade & Industrials Co., Ltd.	
Xiamen All Carbon Corporation.	
Xingan County Shenxin Activated Carbon Factory.	
Xinhua Chemical Company Ltd.	
Xuanzhong Chemical Industry.	
Yangyuan Hengchang Active Carbon.	
Yicheng Logistics.	
Yinchuan Lanqiya Activated Carbon Co., Ltd.	
Zhejiang Quizhou Zhongsen Carbon.	
Zhejiang Topc Chemical Industry Co.	
Zhejiang Xingda Activated Carbon Co., Ltd.	
Zhejiang Yun He Tang Co., Ltd.	
Zhuxi Activated Carbon.	
Zuoyun Bright Future Activated Carbon Plant.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Threaded Rod, A–570–932	4/1/14–3/31/15
Aerospace Precision Corp. (Shanghai) Industry Co., Ltd.	
Aihua Holding Group Co. Ltd.	
Autocraft Industry (Shanghai) Ltd.	
Autocraft Industry Ltd.	
Billion Land Ltd.	
Bolt MFG. Trade Ltd.	
Billiongold Hardware Co. Ltd.	

	Period to be reviewed
Brother Holding Group Co. Ltd. C and H International Corporation. Certified Products International Inc. Changshu City Standard Parts Factory. China Friendly Nation Hardware Technology Limited. D.M.D. International Co. Ltd. Dongxiang Accuracy Hardware Co., Ltd. EC International (Nantong) Co., Ltd. Fastco (Shanghai) Trading Co., Ltd. Fasten International Co., Ltd. Fastwell Industry Co. Ltd. Fook Shing Bolts & Nuts Co. Ltd. Fuda Xiongzhen Macyinery Co., Ltd. Fuller Shanghai Co Ltd. Gem-Year Industrial Co. Ltd. Guangdong Honjinn Metal & Plastic Co., Ltd. Hainan Zhongyan United Development Co. Hainan Zhongda Fastener Co., Ltd. Haiyan Chaqqiang Standard Fasterner. Haiyan Dayu Fasterners Co., Ltd. Haiyan Evergreen Standard Parts Co. Ltd. Haiyan Fuxin High Strength Fasterner. Haiyan Hurras Import & Export Co. Ltd. Haiyan Jianhe Hardward Co. Ltd. Haiyan Julong Standard Part Co. Ltd. Haiyan Yuxing Nuts Co. Ltd. Hangzhou Everbright Imp. & Exp. Co. Ltd. Hangzhou Grand Imp & Exp. Co., Ltd. Hangzhou Great Imp & Exp. Co. Ltd. Hangzhou Lizhan Hardware Co. Ltd. Hangzhou Tongwang Machinery Co., Ltd. Hong Kong Sunrise Fasterners Co. Ltd. Hong Kong Sunrise Fasteners Co. Ltd. Jiangsu Zhongweiyu Communication Equipment Co. Ltd. Jiashan Steelfit Trading Co. Ltd. Jiashan Zhongsheng Metal Products Co., Ltd. Jiaxing Brother Standard Part Co., Ltd.; IFI & Morgan Ltd.; and RMB Fasteners Ltd. Jiaxing Jinhow Import & Export Co., Ltd. Jiaxing Xinyue Standard Part Co. Ltd. Jiaxing Yaoliang Import & Export Co., Ltd. Jinan Banghe Industry & Trade Co., Ltd. King Socket Screw Company Ltd. L&W Fasteners Company. Macropower Industrial Inc. Mai Seng International Trading Co., Ltd. MB Services Company. Midas Union Co., Ltd. Nanjing Prosper Import & Export Corporation Ltd. New Pole Power System Co. Ltd. Ningbiao Bolts & Nuts Manufacturing Co. Ningbo Beilun Milfast Metalworks Co. Ltd. Ningbo Beilun Pingxin Hardware Co., Ltd. Ningbo Dexin Fastener Co. Ltd. Ningbo Dongxin High-Strength Nut Co., Ltd. Ningbo Fastener Factory. Ningbo Fengya Imp. And Exp. Co. Ltd. Ningbo Fourway Co., Ltd. Ningbo Haishu Holy Hardware Import and Export Co. Ltd. Ningbo Haishu Wit Import & Export Co. Ltd. Ningbo Haishu Yixie Import & Export Co. Ltd. Ningbo Jinding Fastening Pieces Co., Ltd. Ningbo MPF Manufacturing Co. Ltd. Ningbo Panxiang Imp. & Exp., Co. Ltd. Ningbo Yili Import & Export Co., Ltd. Ningbo Yinzhou Dongxiang Accuarcy Hardware Co., Ltd. Ningbo Yinzhou Foreign Trade Co., Ltd. Ningbo Yinzhou Woafan Industry &Trade Co., Ltd. Ningbo Zhenghai Yongding Fastener Co., Ltd. Ningbo Zhongjiang High Strength Bolts Co. Ltd. Ningbo Zhongjiang Petroleum Pipes & Machinery Co., Ltd. Orient International Holding Shanghai Rongheng Intl Trading Co. Ltd. Pol Shin Fastener (Zhejiang) Co. Prosper Business and Industry Co., Ltd.	

	Period to be reviewed
Qingdao Free Trade Zone Health Intl.	
Qingdao Top Steel Industrial Co. Ltd.	
Shaanxi Succeed Trading Co., Ltd.	
Shanghai Autocraft Co., Ltd.	
Shanghai East Best Foreign Trade Co.	
Shanghai East Best International Business Development Co., Ltd.	
Shanghai Fortune International Co. Ltd.	
Shanghai Furen International Trading.	
Shanghai Hunan Foreign Economic Co., Ltd.	
Shanghai Jiabao Trade Development Co. Ltd.	
Shanghai Nanshi Foreign Economic Co.	
Shanghai Overseas International Trading Co. Ltd.	
Shanghai Prime Machinery Co. Ltd.	
Shanghai Printing & Dyeing and Knitting Mill.	
Shanghai Printing & Packaging Machinery Corp.	
Shanghai Recky International Trading Co., Ltd.	
Shanghai Sinotex United Corp. Ltd.	
SRC Metal (Shanghai) Co., Ltd.	
Suntec Industries Co., Ltd.	
Suzhou Henry International Trading Co., Ltd.	
T and C Fastener Co. Ltd.	
T and L Industry Co. Ltd.	
Tianjin Port Free Trade Zone Star Pipe International Trade Co., Ltd.	
Wisechain Trading Limited.	
Wuxi Metec Metal Co. Ltd.	
Zhejiang Heirrmu Mechanical and Electrical Equipment Manufacturing Co Ltd.	
Zhejiang Heiter Industries Co., Ltd.	
Zhejiang Heiter MFG & Trade Co. Ltd.	
Zhejiang Jin Zeen Fasteners Co. Ltd.	
Zhejiang Junyue Standard Part Co., Ltd.	
Zhejiang Laibao Precision Technology Co. Ltd.	
Zhejiang Metals & Minerals Imp & Exp Co. Ltd.	
Zhejiang Morgan Brother Technology Co. Ltd.	
Zhejiang New Century Imp & Exp Co. Ltd.	
Zhejiang New Oriental Fastener Co., Ltd.	
Zhejiang Zhenglian Industry Development Co., Ltd.	
Zhoushan Zhengyuan Standard Parts Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Drawn Stainless Steel Sinks, A–570–983	4/1/15–3/31/16
B&R Industries Limited.	
Elkay (China) Kitchen Solutions, Co., Ltd.	
Feidong Import and Export Co., Ltd.	
Foshan Shunde MingHao Kitchen Utensils Co., Ltd.	
Foshan Zhaoshun Trade Co., Ltd.	
Franke Asia Sourcing Ltd.	
Grand Hill Work Company.	
Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	
Guangdong G-Top Import & Export Co., Ltd.	
Guangdong New Shichu Import & Export Company Limited.	
Guangdong Yingao Kitchen Utensils Co., Ltd.	
Hangzhou Heng's Industries Co., Ltd.	
Hubei Foshan Success Imp & Exp Co. Ltd.	
J&C Industries Enterprise Limited.	
Jiangmen Hongmao Trading Co., Ltd.	
Jiangmen New Star Hi-Tech Enterprise Ltd.	
Jiangmen Pioneer Import & Export Co., Ltd.	
Jiangmen Xinhe Stainless Steel Products Co., Ltd.	
Jiangxi Zoje Kitchen & Bath Industry Co., Ltd.	
KaiPing Dawn Plumbing Products, Inc.	
Ningbo Afa Kitchen and Bath Co., Ltd.	
Ningbo Oulin Kitchen Utensils Co., Ltd.	
Primy Cooperation Limited.	
Shenzhen Kehuaxing Industrial Ltd.	
Shunde Foodstuffs Import & Export Company Limited of Guangdong.	
Shunde Native Produce Import and Export Co., Ltd. of Guangdong.	
Xinhe Stainless Steel Products Co., Ltd.	
Yuyao Afa Kitchenware Co., Ltd.	
Zhongshan Newecan Enterprise Development Corporation.	
Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong.	
Zhongshan Superte Kitchenware Co., Ltd.	
Zhuhai Kohler Kitchen & Bathroom Products Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Magnesium Metal, A–570–896	4/1/15–3/31/16
Tianjin Magnesium International Co., Ltd.	
Tianjin Magnesium Metal Co., Ltd.	

	Period to be reviewed
Countervailing Duty Proceedings	
THE PEOPLE'S REPUBLIC OF CHINA: Drawn Stainless Steel Sinks, C–570–984	1/1/15–12/31/15
Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	
Guangdong Yingao Kitchen Utensils Co., Ltd.	
Jiangmen New Star He-Tech Enterprise Ltd.	
Zhongshan Superte Kitchenware Co., Ltd.	
Suspension Agreements	
None	

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[4] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[5] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule*, 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a

[4] *See* section 782(b) of the Act.

[5] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: May 26, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–13277 Filed 6–3–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE648

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Atlantic Bluefish Advisory Panel will hold a public meeting.

DATES: The meeting will be held Monday, June 27, 2016, from 9 a.m. until noon.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their Web site at *www.mafmc.org.*

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* also has details on the proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to create a fishery performance report (FPR) by the Council's Atlantic Bluefish Advisory Panel (AP). The intent of this report is to facilitate a venue for structured input from the AP members for the Atlantic Bluefish specifications process. The FPR will be used by the Council, its Scientific and Statistical Committee (SSC) and the Atlantic Bluefish Monitoring Committee (MC), when reviewing (at future meetings), and if necessary revising, the current measures designed to achieve the recommended Atlantic Bluefish catch and landings limits for 2017.

Special Accommodations

This 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: June 1, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–13266 Filed 6–3–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2016–HQ–0019]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Army proposes to alter the system of records notice A0690–990–2 SAMR, entitled ''Voluntary Leave Transfer Program Records.'' These records are used to manage voluntary leave transfers for Army civilian employees. The recipient's name, position data, organization, and a brief hardship description are published internally for passive solicitation purposes. The Social Security Number (SSN) is sought to effectuate the transfer of leave from the donor's account to the recipient's account.

DATES: Comments will be accepted on or before July 6, 2016. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Rogers, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by calling (703) 428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in the **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.*

The proposed systems reports, as required by 5 U.S.C. 552a of the Privacy Act, as amended, were submitted on May 17, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4 of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About

Individuals,'' revised November 28, 2000 (December 12, 2000 65 FR 77677).

Dated: June 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0690–990–2 SAMR

SYSTEM NAME:

Voluntary Leave Transfer Program Records (September 27, 2002, 67 FR 61078)

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Department of the Army Federal employees who have volunteered to participate in the voluntary leave transfer program as either a donor or a recipient.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Leave and donor recipient records including the individual's name, organization, office telephone number, Social Security Number (SSN), position title, grade, pay level, leave balances, number of hours requested, brief description of the medical or personal hardship which qualifies the individual for inclusion in the program, and the status of that hardship.

The file may also contain medical or physician certifications and agency approvals or denials.

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 6331 *et seq.,* Leave; 10 U.S.C. 3013, Secretary of the Army; 5 CFR part 630, subpart I, Voluntary Leave Transfer Program; Army Regulation 690–990–2, Hours of Duty, Pay and Leave Annotated; and E.O. 9397 (SSN), as amended.''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

Where leave donor and leave recipient are employed by different Federal agencies, to the personnel and pay offices of the Federal agency involved to effectuate the leave transfer.

The DoD Blanket Routine Uses set forth at the beginning of Army's compilation of systems of records notices may apply to this system. The complete list of DoD blanket routine uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx.''*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with ''Paper records and electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''By name and SSN.''

SAFEGUARDS:

Delete entry and replace with ''Records are collected, used, and maintained in controlled areas accessible only to authorized personnel. Physical security differs from site to site, but the automated records are maintained in controlled areas accessible only by authorized personnel. Access to electronic records is restricted by use of Common Access Cards (CACs) and is accessible only by users with an authorized account. The system and electronic backups are maintained in controlled facilities that employ physical restrictions and safeguards such as security guards, identification badges, key cards, and locks.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Keep 1 year after case is closed than destroy by deleting or shredding.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Assistant Secretary of the Army, Manpower and Reserve Affairs Policy and Program Development, 200 Stovall Street, Alexandria, VA 22332–0300.

For verification purposes, the individual should provide full name, current address, SSN, and the request must be signed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

IF EXECUTED OUTSIDE THE UNITED STATES:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United State of America that the foregoing is true and correct. Executed on (date). (Signature)'.

IF EXECUTED WITHIN THE UNITED STATES, ITS TERRITORIES, POSSESSIONS, OR COMMONWEALTHS:

'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Assistant Secretary of the Army, Manpower and Reserve Affairs Policy and Program Development, 200 Stovall Street, Alexandria, VA 22332–0300.

For verification purposes, the individual should provide full name, current address, SSN, and the request must be signed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

IF EXECUTED OUTSIDE THE UNITED STATES:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United State of America that the foregoing is true and correct. Executed on (date). (Signature)'.

IF EXECUTED WITHIN THE UNITED STATES, ITS TERRITORIES, POSSESSIONS, OR COMMONWEALTHS:

'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in 32 CFR part 505, Army Privacy Program, or may be obtained from the system manager.''

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individual, individual's designated representative, individual's leave records, and other federal employees.''

* * * * *

[FR Doc. 2016–13230 Filed 6–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Advisory Committee on Arlington National Cemetery (ACANC). The meeting is open to the public. For more information about the Committee, please visit *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery/Charter*

DATES: The Committee will meet from 10:00 a.m.–3:00 p.m. on Thursday, July 7, 2016.

ADDRESSES: Arlington National Cemetery Welcome Center, Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Ms. Renea Yates; Designated Federal Officer for the Committee, in writing at Arlington National Cemetery, Arlington VA 22211, or by email at *renea.c.yates.civ@mail.mil,* or by phone at 1–877–907–8585.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3.150).

Purpose of the Meeting: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the Committee's advice and recommendations.

Proposed Agenda: The Committee will review ongoing expansion and construction projects, receive an briefing on the 100% Baseline Accountability of all gravesites at Arlington National Cemetery, review ongoing information technology development and receive information on the newly established Department of Defense Cemetery Management Board.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The Arlington National Cemetery conference room is readily accessible to and usable by persons with disabilities. For additional information about public access procedures, contact Ms. Renea Yates, the Committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Committee, in response to the stated agenda of the open meeting or in regard to the Committee's mission in general. Written comments or statements should be submitted to Ms. Renea Yates, the Committee's Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the Committee. The Designated Federal Officer will review all timely submitted written comments or statements with the Designated Federal Officer and the Committee Chairperson, and ensure the comments are provided to all members of the Committee before the meeting. Written comments or statements received after this date may not be provided to the Committee until its next meeting. Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public will be permitted to make verbal comments during the Committee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) days in advance to the Committee's Designated Federal Official, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The Designated Federal Official will log each request, in the order received, and in consultation with the Committee Chair determine whether the subject matter of each comment is relevant to the Committee's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the Designated Federal Official.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–13254 Filed 6–3–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Defense Acquisition University Board of Visitors (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(d). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be found at *http://www.facadatabase.gov/.* The Board provides the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary for Acquisition, Technology, and

Logistics, independent advice and recommendations on organizational management, curricula, methods of instruction, facilities, and other matters of interest to the Defense Acquisition University.

The Board is composed of not more than 14 members who are eminent authorities in the fields of academia, business, and the defense industry. All members of the Board are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, Board members serve without compensation.

Subcommittees will not work independently of the Board and must report all recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. The Board's DFO, pursuant to DoD policy, must be a full-time or permanent part-time DoD employee, and must be in attendance for the duration of each and every Board/subcommittee meeting. The public or interested organizations may submit written statements to Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: June 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–13287 Filed 6–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2016–OS–0067]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant to the Secretary of Defense for Public Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant to the Secretary of Defense for Public Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 5, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Information Collection Clearance Staff, Office of the Assistant to the Secretary of Defense (Public Affairs), Community and Public Outreach, Room 2D982, 1400 Defense Pentagon, Washington, DC 20301–1400 or call 703–695–2036.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Joint Civilian Orientation Conference Program (JCOC) Eligibility of Nominators and Candidates; JCOC Nomination Form, JCOC Registration Form; OMB Control Number 0704–XXXX.

Needs and Uses: The information collection requirement is necessary to administer the JCOC Program; to verify the eligibility of nominators and candidates; and to select those nominated individuals for participation in JCOC.

Affected Public: Individuals or households.

Annual Burden Hours: 25.

Number of Respondents: 100.

Responses per Respondent: 1.

Annual Responses: 100.

Average Burden per Response: 15 minutes.

Frequency: Annually.

Respondents are individuals authorized to nominate candidates for participation in JCOC, and candidates nominated for and selected to participate in JCOC. The JCOC Nomination Form and Registration Form each record the nominator's credentials and contact information and the candidate's credentials and contact information. The completed forms are used to administer the JCOC program, verify the eligibility of nominators and candidates, and to select those nominated individuals for participation in JCOC, which is impossible to do without this information. Ensuring the credentials of nominators and candidates is vital to the integrity and accountability of the JCOC program.

Dated: June 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–13265 Filed 6–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0066]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of

records, DPA 02, entitled ''AFNConnect (AFNC)''. This system is used to document the eligibility and continued validation of authorized Outside the Contiguous United States (OCONUS) individuals who register an America Forces Network (AFN) satellite decoder and/or subscribe to AFN Over the Top (OTT) Live Streaming and Video on Demand (VOD) Services. AFNConnect, AFN OTT Live Streaming, and VOD services provide U.S. military commanders worldwide a means to communicate internal information to OCONUS users. Records may also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, and conducting research.

DATES: Comments will be accepted on or before July 6, 2016. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPD2), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/*. The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, were submitted on May 17, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4 of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' revised November 28, 2000 (December 12, 2000 65 FR 77677).

Dated: June 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DPA 02

SYSTEM NAME:

AFNConnect (AFNC) (October 27, 2015, 80 FR 65722)

CHANGES:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Eligible military personnel (including retirees and reservists), DoD civilian employees, full time direct hire Department of State (DoS) employees, DoD contractors, and their Outside the Continental United States (OCONUS) family members, to include widows, maintaining an American Forces Network (AFN) satellite decoder and/or accessing AFN Over the Top (OTT) Live Streaming and Video on Demand (VOD) services.''

PURPOSE(S):

Delete entry and replace with ''To document the eligibility and continued validation of authorized OCONUS individuals who register an AFN satellite decoder and/or subscribe to AFN OTT Live Streaming and VOD Services. AFNConnect, AFN OTT Live Streaming, and VOD Services provide U.S. military commanders worldwide a means to communicate internal information to OCONUS users. Records may also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, and conducting research.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of State to verify authorized personnel's use of an AFN satellite decoder and/or AFN Over the Top (OTT) Live Streaming, and Video on Demand (VOD) services.

Law Enforcement Routine Use: If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

DISCLOSURES REQUIRED BY INTERNATIONAL AGREEMENTS ROUTINE USE:

A record from a system of records maintained by a DoD Component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of DoD military and civilian personnel.

Congressional Inquiries Disclosure Routine Use: Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure to the Department of Justice for Litigation Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component

may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD Blanket Routine Uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx.''*

SAFEGUARDS:

Delete entry and replace with ''Records are accessible only to personnel on a need-to-know basis to perform their duties. All records are maintained on a protected network. Access to the network where records are maintained requires a valid Common Access Card (CAC). Electronic files and databases are password protected with access restricted to authorized users and networks. Access to physical hardware (*i.e.* webservers, database servers) is controlled via electronic key lock and is monitored by closed circuit TV (CCTV). All data transferred via web technologies is protected via industry standard Secure Socket Layer (SSL) encryption.''

[FR Doc. 2016–13225 Filed 6–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0070]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, Department of Defense, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 5, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Standardization Program Office (DSPO), Defense Logistics Agency, Attention: Ms. Karen Bond, 8725 John J. Kingman Road, Mail Stop 5100, Fort Belvoir, VA 20060–6221, or contact the Defense Standardization Program Office (DSPO) at (703) 767–6871.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and Omb Number: ASSIST Database; Numerous Forms; OMB Control Number 0704–0188.

Needs and Uses: The Data Item Descriptions in the ASSIST database, formerly the Acquisition Management Systems and Data Requirements Control List (AMSDL), contain data requirements used in Department of Defense (DoD) contracts. The information collected will be used by DoD personnel and other DoD contractors to support the design, test, manufacture, training, operation, and maintenance of procured items, including weapons systems critical to the national defense.

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 29,652,480.

Number of Respondents: 1040.

Responses per Respondent: 432.

Annual Responses: 449,280.

Average Burden per Response: 66 hours.

Frequency: On occasion.

The Data Item Descriptions in the ASSIST database, formerly the AMSDL, is a collection of data requirements used in Department of Defense contracts. Information collection requests are contained in DoD contract actions for supplies, services, hardware, and software. This information is collected and used by DoD and its component Military Departments and Agencies to support the design, test, manufacture, training, operation, maintenance, and logistical support of procured items, including weapons systems. The collection of such data is essential to accomplishing the assigned mission of the Department of Defense. Failure to collect this information would have a detrimental effect on the DoD acquisition programs and National Security. Information used to determine the burden hours is contained in the ASSIST Online database.

Dated: June 1, 2016.

Aaron Siegel,

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

[FR Doc. 2016–13262 Filed 6–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–HA–0119]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 6, 2016.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Federal Agency Retail Pharmacy Program; OMB Control Number 0720–0032.

Type of Request: Extension of a currently approved collection.

Number of Respondents: 300.

Responses Per Respondent: 4.

Annual Responses: 1200.

Average Burden Per Response: 8 hours.

Annual Burden Hours: 9600.

Needs and Uses: The Department of Defense (DoD) is extending the information collection requirements under current OMB Control Number 0720–0032. Specifically, under the collection of information, pharmaceutical manufacturers will base refund calculation reporting requirements on the difference between the average non-Federal price of the drug sold by the pharmaceutical manufacturer to wholesalers, as represented by the most recent annual non-Federal average manufacturing prices (non-FAMP) (reported to the Department of Veterans Affairs (VA)) and the corresponding Federal Ceiling Price (FCP) or, in the discretion of the pharmaceutical manufacturer, the difference between the FCP and direct commercial contract sales prices specifically attributable to the reported TRICARE paid pharmaceuticals determined for each applicable National Drug Code (NDC) listing, per Refund Procedures outlined in CFR 199.21. DoD will use the reporting and audit capabilities of the Pharmacy Data Transaction Service (PDTS) to validate refunds owed to the Government. In Fiscal Year (FY) 15, the government received approximately $1.1 billion from pharmaceutical manufacturers as a result of this program/refund calculation reporting requirements.

Affected Public: Business or other for-profit.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Stephanie Tatham.

Comments and recommendations on the proposed information collection should be emailed to Ms. Stephanie Tatham, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: June 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–13247 Filed 6–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Superior Armor Systems

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Superior Armor Systems, a revocable, nonassignable, exclusive license to practice in the fields of use of Multi-Ply Heterogeneous Armor; Polymer Coatings for Enhanced and Field-Repairable Transparent Armor; Body Armor of Ceramic Ball Embedded Polymer; and Polymer-Ceramic Coatings for Blast and Ballistic Mitigation in the United States, the Government-owned inventions described in U.S. Patent No. 8,746,122: Multi-Ply Heterogeneous Armor with Viscoelastic Layers and a Corrugated Front Surface, Navy Case No. 099,870.// U.S. Patent No. 8,789,454: Multi-Ply Heterogeneous Armor with Viscoelastic Layers and Cylindrical Armor Elements, Navy Case No. 099,870.//U.S. Patent No. 9,207,048: Multi-Ply Heterogeneous Armor with Viscoelastic Layers and Hemispherical, Conical and Angled Laminate Strikeface Projections, Navy Case No. 099,870.//U.S. Patent No. 9,285,191: Polymer Coatings for Enhanced and Field-Repairable Transparent Armor, Navy Case No. 102,832.//U.S. Patent No. 9,297,617: Method for Forming Cylindrical Armor Elements, Navy Case No. 099,870.//U.S. Patent Application No. 13/085,130: Multi-Ply Heterogeneous Armor with Viscoelastic Layers, Navy Case No. 099,870.//U.S. Patent Application No. 13/506,376: Body Armor of Ceramic Ball Embedded Polymer, Navy Case No. 101,504.//U.S. Patent No. 14/552,888: Elastomeric Bilayer Armor Incorporating Surface-Hardened Substrates, Navy Case No. 102,635.// U.S. Patent No. 14/751,596: Polymer Coatings with Embedded Hollow Spheres for Armor for Blast and Ballistic Mitigation, Navy Case No. 102,987 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than June 21, 2016.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue SW., Washington, DC 20375–5320, telephone 202–767–3083. Due to U.S. Postal delays, please fax 202–404–7920, email: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: May 31, 2016.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2016–13259 Filed 6–3–16; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, June 27, 2016, 8:30 a.m.–4:00 p.m.

ADDRESSES: Doubletree Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814, 301–652–2000.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, U.S. Department of Energy; SC–26/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: 301–903–0536 or email: *brenda.may@science.doe.gov*. The most current information concerning this meeting can be found on the Web site: *http://science.gov/np/nsac/meetings/*.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda: Agenda will include discussions of the following:

Monday, June 27, 2016

- Perspectives from Department of Energy and National Science Foundation
- Update from the Department of Energy and National Science Foundation's Nuclear Physics Office's
- Presentation of the Committee of Visitor's Report
- Discussion on the Committee of Visitor's Report
- Presentation of New Charge on Molybdenum–99

Note: The NSAC Meeting will be broadcast live on the Internet. You may find out how to access this broadcast by going to the following site prior to the start of the meeting. A video record of the meeting including the presentations that are made will be archived at this site after the meeting ends: *http://www.tvworldwide.com/events/DOE/160627//*

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May, 301–903–0536 or *Brenda.May@science.doe.gov* (email). You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

The minutes of the meeting will be available for review on the U.S. Department of Energy's Office of Nuclear Physics Web site at *http://science.gov/np/nsac/meetings/*.

Issued in Washington, DC, on May 27, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–13267 Filed 6–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Intent To Grant Exclusive License

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

ACTION: Notice of Intent to Grant Exclusive Patent License.

SUMMARY: The Department of Energy (DOE) hereby gives notice that DOE intends to grant an exclusive license to practice the invention described and claimed in U.S. Patent Number 8,389,178 titled ''Electrochemical Energy Storage Device Based on Carbon Dioxide as Electroactive Species'' to Boron Nitride Power, LLC, having its principal place of business at Chicago, Illinois. The patent is owned by United States of America, as represented by DOE.

DATES: Written comments, objections, or nonexclusive license applications must be received at the address listed no later than June 21, 2016.

ADDRESSES: Comments, applications for nonexclusive licenses, or objections relating to the prospective exclusive license should be submitted through *Regulations.gov* or to Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, Room 6F–067, 1000 Independence Ave. SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Marianne Lynch, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, Room 6F–067, 1000 Independence Ave. SW., Washington, DC 20585; Email: *marianne.lynch@hq.doe.gov;* and Phone: (202) 586–3815.

SUPPLEMENTARY INFORMATION: This notice of intent to grant an exclusive license is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). The prospective exclusive license also complies with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

35 U.S.C. 209(c) gives DOE the authority to grant exclusive or partially exclusive licenses in federally-owned inventions where a determination is made, among other things, that the desired practical application of the invention has not been achieved, or is not likely to be achieved expeditiously, under a nonexclusive license. The statute and implementing regulations (37 CFR 404) require that the necessary determinations be made after public notice and opportunity for filing written comments and objections.

Boron Nitride Power has applied for an exclusive license to practice the inventions embodied in the U.S. Patent Number 8,389,178 and has plans for commercialization of the inventions.

Within 15 days of publication of this notice, any person may submit in writing to DOE's Assistant General Counsel for Intellectual Property and Technology Transfer Office (see contact information), either of the following, together with supporting documents:

(i) A statement setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or (ii) An application for a nonexclusive license to the invention, in which applicant states that it already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The proposed license would be exclusive, subject to a license and other rights retained by the United States, and subject to a negotiated royalty. DOE will review all timely written responses to this notice, and will grant the licenses if, after expiration of the 15-day notice period, and after consideration of any written responses to this notice, a determination is made in accordance with 35 U.S.C. 209(c) that the licenses are in the public interest.

John Lucas,

Assistant General Counsel for Technology Transfer and Intellectual Property.

[FR Doc. 2016–13272 Filed 6–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology Open Teleconference; Cancellation

AGENCY: Department of Energy.

ACTION: Notice of cancellation of open teleconference.

SUMMARY: On May 23, 2016, the Department of Energy (DOE) published a notice of open meeting announcing a teleconference on June 6, 2016, of the President's Council of Advisors on Science and Technology. This notice announces the cancellation of this meeting.

DATES: The teleconference scheduled for June 6, 2016, announced in the May 23, 2016, issue of the **Federal Register** (81 FR 32319), is cancelled.

FOR FURTHER INFORMATION CONTACT: Jennifer Michael at *Jennifer_L_Michael@ostp.eop.gov* or (202) 456–4444.

Issued at Washington, DC, on May 27, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–13300 Filed 6–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Laboratory. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, June 23, 2016 8:00 a.m.–3:45 p.m.

The opportunity for public comment is at 11:15 a.m. and 2:45 p.m.

This time is subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Hilton Garden Inn, 700 Lindsay Boulevard, Idaho Falls, ID 83402.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, Idaho 83415. Phone (208) 526–6518; Fax (208) 526–8789 or email: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://inlcab.energy.gov/*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Recent Public Involvement
- Idaho Cleanup Project Overview
- Update on Integrated Waste Treatment Unit (IWTU)
- Update on Waste Isolation Pilot Plant (WIPP)
- Future of the Cleanup Program
- Spent Fuel
- Waste Transportation
- EM SSAB Chairs' Proposed Recommendations: Supplemental Environmental Projects (SEPs), EM SSAB Funding, and Community Investment as a Factor in the Contract Proposal Evaluation Process

Public Participation: The EM SSAB, Idaho National Laboratory, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Robert L. Pence at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site: *http://inlcab.energy.gov/pages/meetings.php.*

Issued at Washington, DC, on May 27, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–13264 Filed 6–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Methane Hydrate Advisory Committee Meeting; Cancellation

AGENCY: Department of Energy.

ACTION: Notice of cancellation of open meeting.

SUMMARY: On Mary 11, 2016, the Department of Energy (DOE) published a notice of open meeting announcing a meeting on June 8, 2016, of the Methane Hydrate Advisory Committee. This notice announces the cancellation of this meeting. The meeting is being cancelled because the board will not have a quorum due to scheduling conflicts by members and presenters. DATES: The meeting scheduled for June 8, 2016, announced in the May 11, 2016, issue of the **Federal Register** (81 FR 29257), is cancelled.

FOR FURTHER INFORMATION CONTACT: Lou Capitanio, U.S. Department of Energy, Office of Oil and Natural Gas, 1000 Independence Avenue SW., Washington, DC 20585; Phone: (202) 586–5098.

Issued at Washington, DC, on May 27, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–13298 Filed 6–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. WH–003]

Notice of Petition for Waiver of Thermal Solutions Products, LLC From the Department of Energy Commercial Water Heater Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Petition for Waiver and Request for Public Comments.

SUMMARY: This notice announces receipt of and publishes a petition for waiver from Thermal Solutions Products, LLC (Thermal Solutions) seeking an exemption from specified provisions applicable to standby loss of the U.S. Department of Energy (DOE) test

procedure for commercial water heating equipment. The waiver request pertains to Thermal Solutions' specified models of commercial instantaneous water heaters containing 10 gallons or more of water. In its petition, Thermal Solutions contends that its specified water heater models that employ tube-type heat exchangers and are designed to be flow activated cannot be accurately tested using the currently applicable DOE test procedure. Consequently, Thermal Solutions seeks to use an alternate test procedure to address certain issues involved in testing the specific basic models identified in its petition. DOE solicits comments, data, and information concerning Thermal Solutions' petition and its suggested alternate test procedure.

DATES: DOE will accept comments, data, and information with respect to the Thermal Solutions Petition until July 6, 2016.

ADDRESSES: You may submit comments, identified by case number WH–003, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AS_Waiver_Requests@ee.doe.gov* Include the case number [Case No. WH–003] in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. WH–003, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mail Stop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov.*

For information on how to submit or review public comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, established the Energy Conservation Program for Certain Industrial Equipment, which includes commercial water heaters, the focus of this notice.[2] Part C specifically includes definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers. (42 U.S.C. 6316) With respect to test procedures, Part C authorizes the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, and estimated annual operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) EPCA also directs DOE to consider amending the existing test procedure for each type of equipment listed each time the industry test procedure is amended for such equipment. (42 U.S.C. 6314(a)(4)) The test procedure for commercial water heaters is contained in the Code of Federal Regulations (CFR) at 10 CFR part 431, subpart G.

DOE's regulations set forth at 10 CFR 431.401 contain provisions that permit a person to seek a waiver from the test procedure requirements for covered equipment if at least one of the following conditions is met: (1) The basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures; or (2) the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 431.401(b)(1)(iii). DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 431.401(l).

II. Petition for Waiver of Test Procedure

On March 9, 2015, Thermal Solutions filed a petition for waiver from the DOE test procedure at 10 CFR 431.106 to measure standby loss of commercial water heating equipment. This petition addresses Thermal Solutions' specified models of commercial instantaneous water heaters containing 10 gallons or more of water. The current DOE efficiency test procedure for commercial water heaters incorporates by reference the relevant industry test standard for measuring thermal efficiency and standby loss, as specified in American National Standards Institute (ANSI) ANSI Z21.10.3–2011, *Gas-Fired Water Heaters, Volume III, Storage Water Heaters, With Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous.* In its petition, Thermal Solutions contends that its identified basic models rely on flow of water through the heater to activate the burner, but because the current DOE test procedure does not take into account such units, it does not provide a proper representation of the standby loss of these models. The current standby loss test procedure is designed to test tank-type water heaters which are thermostatically operated. The models

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

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

for which Thermal Solutions is seeking this test procedure waiver employ tube-type heat exchangers and are designed to be flow activated. To address the apparent shortcomings of ANSI Z21.10.3–2011, Thermal Solutions has submitted to DOE an alternate test procedure for measuring the standby loss of tube-type instantaneous water heaters, as addressed in sections 5.26, 5.27 and E.3 of ANSI Z21.10.3–2013, *Gas-Fired Water Heaters, Volume III, Storage Water Heaters, With Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous.* Thermal Solutions believes this alternative provides a representative measure of the standby loss of these models.

III. Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of products and equipment covered by the statute. (42 U.S.C. 6293(c); 6314(d)) Consistent representations about the energy efficiency of covered products and equipment are important for consumers evaluating products when making purchasing decisions and for manufacturers to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 431.401, DOE will consider setting an alternate test procedure for Thermal Solutions in a subsequent Decision and Order.

Thermal Solutions has submitted to DOE an alternate test procedure for measuring the standby loss of tube-type instantaneous water heaters as addressed in ANSI Z21.10.3–2013 sections 5.26, 5.27, and E.3. Specifically, Thermal Solutions has submitted the following alternate test procedure to accurately represent the standby loss of its commercial instantaneous water heaters containing 10 gallons or more of water:

Note: The following alternate test procedure is presented in the context of proposed changes to the referenced portions of ANSI Z21.10.3–2013.

5.26 Capacities of Storage Vessels

For a water heater including a storage vessel, or any water heater having an input rating of less than 4000 Btu/hr per gallon (1112 kJ/L) of capacity, the storage capacity shall be within ± 5.0 percent of the manufacturer's rated volume.

Method of Test

The storage capacity shall be determined by weighing the system when dry and empty and reweighing it when full or by filling the system with water, the weight of which has been predetermined. The capacity shall then be computed in gallons and compared with the manufacturer's rated volume.

5.27 Capacities of Tube Type Water Heaters

The amount of water contained in a tube type water heater or in a water heater which has not been tested under 5.26 shall be determined if it is 10 gallons or more.

Method of Test

The volume of water contained within the water heater shall be determined. This determination shall include all water contained within the unit from the inlet connection to the outlet connection but not the capacity of any separate storage vessels. The volume of water contained within the water heater shall then be computed in gallons.

Note: The following proposed wording would be added to Annex E: Efficiency Test Procedures of ANSI Z21.10.3–2013.

Standby Loss for tank type water heaters shall be determined using Appendix E.2

Standby Loss for tube type water heaters that contain 10 or more gallons within the water heater, as determined under 5.27, shall be determined using Appendix E.3

E.3 Method of Test for Measuring Standby Loss for Tube Type Instantaneous Water Heaters With 10 or Greater Gallons of Storage

The appliance shall be installed as specified in E.1, Method of Test for Measuring Thermal Efficiency. This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise the water heater shall be put into operation under the same test conditions specified in E.1 and the outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2 °F (21 ± 1°C) above the supply temperature. After the outlet temperatures becomes constant, as indicated by no variation in excess of 2 °F (1 °C) over a 3 minute period, shut down the main burner(s) and, if applicable, wait for the water pump to shut down, and then start the test.

At the start of the test, record the time, ambient temperature, outlet water temperature, supply water temperature and begin measuring the fuel and electric consumption.

During the first hour, outlet water temperature, supply water temperature and the ambient air temperature shall be measured at the end of each 5 minute interval. For the remainder of the test, these measurements shall be made at the end of every 15 minute interval. The duration of this test shall be 24 hours. If the main burner is firing at 24 hours, continue the test until the main burner and the water pump, if applicable, have shut down.

Immediately after the conclusion of the test, record the total fuel flow and electrical energy consumption, the final ambient air temperature and the final outlet water temperature.

Calculate the average of the ambient air temperatures and the supply water temperatures taken at the end of each time interval, including the initial and final values.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [(Cs(Qs)(H) + Ec)/t] - [(\Delta T_4)/(\Delta T_3)(t)E_t]$$

Where:

Cs = correction applied to the heating value of a gas H, when it is metered at temperature and/or pressure conditions other than the standard conditions for which the value of H is based;

H = higher heating value of gas, Btu per cu. ft. (MJ/m3);

Qs = total fuel flow as metered, cu. ft. (m3);

ΔT_3 = difference between the outlet temperature and the average value of the ambient air temperature, °F (°C);

ΔT_4 = difference between the average supply water temperature and the outlet temperature, °F (°C);

t = duration of test, hrs.;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under E.1, Method of Test for Measuring Thermal Efficiency

If the main burner(s) does not cycle on during this test, the hourly average standby loss calculation simplifies to:

$$S = \{(K(Va)(\Delta T_4)/E_t) + E_c\}/t$$

For water heaters that will not initiate or cause actions that will initiate burner operation, the following simplified procedure may be used to measure the hourly standby loss.

This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise, provide the electrical connection as specified in E.1, Method of Test for Measuring Thermal Efficiency, and start the test.

At the start of the test, record the time and begin measuring the electric consumption for one hour. Record the duration of the test and the total electrical consumption during the test.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [(((\Delta T_5)\ k\ V_a/(E_t))/24) + E_c]$$

Where:

ΔT_5 = 70 °F (38.9 °C), difference between the supply and outlet water temperatures;

k= 8.25 Btu/gallon °F (4147.6331 J/l°C), the nominal specific heat of water;

V_a = water contained in the water heater expressed in gallons (L), as determined

under 5.27;
Ec = electrical energy consumption expressed in Btu (kJ); and
Et = thermal efficiency as determined under E.1, Method of Test for Measuring Thermal Efficiency.

The following basic models are included in Thermal Solutions' petition:

EV(A,S,O)0750W**-*A*
EV(A,S,O)1000W**-*A*
EV(A,S,O)1500W**-*A*
EV(A,S,O)2000W**-*A*

IV. Summary and Request for Comments

Through this notice, DOE announces receipt of and is publishing Thermal Solutions' petition for waiver from the DOE test procedure for commercial water heaters for its EV(A,S,O)0750W**-*A*, EV(A,S,O)1000W**-*A*, EV(A,S,O)1500W**-*A*, and EV(A,S,O)2000W**-*A* commercial instantaneous water heater models, which contain 10 gallons or more of water. The petition contains no confidential information. The petition includes a suggested alternate test procedure to determine the thermal efficiency and standby loss of Thermal Solutions' specified basic models of commercial instantaneous water heaters containing 10 gallons or more of water. DOE is considering including this alternate test procedure in its subsequent Decision and Order.

DOE solicits comments from interested parties on all aspects of the petition, including the suggested alternate test procedure and calculation methodology. Pursuant to 10 CFR 431.401(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Mr. Randy Witmer, Engineering Manager, Thermal Solutions Products, LLC, P.O. Box 3244, Lancaster, PA 17604–3244. All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: one copy of the document marked ''confidential'' with all of the information believed to be confidential included, and one copy of the document marked ''non-confidential'' with all of the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on May 31, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

March 9, 2015
U.S. Department of Energy
Building Technologies Program
Test Procedure Waiver
1000 Independence Avenue SW.
Washington, DC 20585–0121

Re: Waiver for Test Procedure for Commercial Water Heating Equipment

To Whom It May Concern:

Pursuant to the provisions of 10 CFR 431.401, Thermal Solutions Products, LLC is hereby applying for a waiver of the standby loss test procedure of 10 CFR 431.106 for the following basic models of commercial instantaneous water heaters containing 10 gallons or more of water (sold under the Thermal Solutions brand name):

- EV(A,S,O)0750W**-*A*
- EV(A,S,O)1000W**-*A*
- EV(A,S,O)1500W**-*A*
- EV(A,S,O)2000W**-*A*

The current Department of Energy efficiency test procedure for commercial water heaters references the relevant test procedures for measuring thermal efficiency and standby loss specified in the standard, ANSI Z21.10.3–2011. The identified basic models rely on flow of water through the heater to activate the burner. As will be explained below, the current test procedure does not provide a proper representation of the standby loss of these models.

The current standby loss test procedure is described in Exhibit G.2 of ANSI Z21.10.3–2011. This procedure is designed to test tank-type water heaters which are thermostatically operated. The basic steps of the procedure are to heat the water within the water heater, turn off the burner or element and then measure all the energy consumption that occurs while the water heater is ''standing by'' for approximately 24 hours with no water being withdrawn from it. The key measurement of the test procedure is the energy consumed by the burner or heating element when the thermostat senses that the water in the tank has cooled down to the point where it needs to be reheated. The current test does not address water heaters that have no means to activate the burner or heating element if no heated water is being drawn from the unit, *i.e.* the standby condition.

The models for which Thermal Solutions Products, LLC is seeking this test procedure waiver employ tube type heat exchangers and are designed to be flow activated. That is, the burner does not turn on until water flow through the unit is sensed. Under the current standby loss test procedure, the burner on these models will not fire at any time during the test, and the resulting standby loss measurement would be nearly zero. That measurement is not representative of the standby loss characteristics of these models. Thermal Solutions Products, LLC believes that the current test procedure evaluates the standby loss of the identified basic models in a manner so unrepresentative of the true energy consumption as to provide materially inaccurate comparative data.

A list of manufacturers of all other basic models marketed in the United States known to Thermal Solutions Products, LLC to incorporate similar design characteristics is included as Attachment A.

An alternative procedure for measuring the standby loss of tube type instantaneous water heaters is included as Attachment B. This alternative procedure is presented as a proposed revision to the ANSI Z21.10.3-*2013* standard, with modified and additional wording to address testing of these particular models. Thermal Solutions Products, LLC believes this alternative provides a representative measure of the standby loss of these models. Thermal Solutions Products, LLC requests that DOE grant it a waiver to use this alternative procedure in lieu of the standby loss procedure specified in the current DOE efficiency test procedures for commercial water heaters.

Respectfully submitted,

Randy Witmer
Engineering Manager
Thermal Solutions Products, LLC

Attachment A: Manufacturers of Commercial Tube Type Water Heaters Containing 10 Gallons of Water or More

A.O. Smith Corporation
11270 W Park Place
PO Box 245008
Milwaukee, WI 53224–3623

HTP, Inc.
120 Braley Rd
P.O. Box 429
East Freetown, MA 02717–1125

Laars Heating Systems Company
20 Industrial Way
Rochester, NH 03867–4296

Lochinvar LLC
300 Maddox Simpson Pkwy
Lebanon, TN 37090–5366

Attachment B: Proposed Alternate Standby Loss Test Procedure for Commercial Tube Type Water Heaters Containing 10 Gallons of Water or More

Note: The following alternate test procedure is presented in the context of proposed changes to the referenced portions of ANSI Z21.10.3–2013.

5.26 Capacities Of Storage Vessels

For a water heater including a storage vessel, or any water heater having an input rating of less than 4000 Btu/hr per gallon (1112 kJ/L) of capacity, the storage capacity shall be within ± 5.0 percent of the manufacturer's rated volume.

Method of Test

The storage capacity shall be determined by weighing the system when dry and empty and reweighing it when full or by filling the system with water, the weight of which has

been predetermined. The capacity shall then be computed in gallons and compared with the manufacturer's rated volume.

5.27 Capacities of Tube Type Water Heaters

The amount of water contained in a tube type water heater or in a water heater which has not been tested under 5.26 shall be determined if it is 10 gallons or more.

Method of Test

The volume of water contained within the water heater shall be determined. This determination shall include all water contained within the unit from the inlet connection to the outlet connection but not the capacity of any separate storage vessels. The volume of water contained within the water heater shall then be computed in gallons.

Note: The following proposed wording would be added to *Annex E: Efficiency Test Procedures* of ANSI Z21.10.3–2013.

Standby Loss for tank type water heaters shall be determined using Appendix E.2.

Standby Loss for tube type water heaters that contain 10 or more gallons within the water heater, as determined under 5.27, shall be determined using Appendix E.3.

E.3 Method of Test for Measuring Standby Loss for Tube Type Instantaneous Water Heaters With 10 or Greater Gallons of Storage

The appliance shall be installed as specified in E.1, Method of Test for Measuring Thermal Efficiency. This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise the water heater shall be put into operation under the same test conditions specified in E.1 and the outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2 °F (21 ± 1°C) above the supply temperature. After the outlet temperatures becomes constant, as indicated by no variation in excess of 2 °F (1°C) over a 3 minute period, shut down the main burner(s) and, if applicable, wait for the water pump to shut down, and then start the test.

At the start of the test, record the time, ambient temperature, outlet water temperature, supply water temperature and begin measuring the fuel and electric consumption.

During the first hour, outlet water temperature, supply water temperature and the ambient air temperature shall be measured at the end of each 5 minute interval. For the remainder of the test, these measurements shall be made at the end of every 15 minute interval. The duration of this test shall be 24 hours. If the main burner is firing at 24 hours, continue the test until the main burner and the water pump, if applicable, have shut down.

Immediately after the conclusion of the test, record the total fuel flow and electrical energy consumption, the final ambient air temperature and the final outlet water temperature.

Calculate the average of the ambient air temperatures and the supply water temperatures taken at the end of each time interval, including the initial and final values.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$S = [(Cs(Qs)(H) + Ec)/t] - [(\Delta T_4)/(\Delta T_3)(t)E_t]$

Where

Cs = correction applied to the heating value of a gas H, when it is metered at temperature and/or pressure conditions other than the standard conditions for which the value of H is based;

H = higher heating value of gas, Btu per cu. ft. (MJ/m3);

Qs = total fuel flow as metered, cu. ft. (m3);

ΔT_3 = difference between the outlet temperature and the average value of the ambient air temperature, °F (°C);

ΔT_4 = difference between the average supply water temperature and the outlet temperature, °F (°C);

t = duration of test, hrs.;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under E.1, Method of Test for Measuring Thermal Efficiency

If the main burner(s) does not cycle on during this test, the hourly average standby loss calculation simplifies to:

$S = \{(K(Va)(\Delta T_4)/E_t) + E_c\}/t$

For water heaters that will not initiate or cause actions that will initiate burner operation, the following simplified procedure may be used to measure the hourly standby loss.

This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise, provide the electrical connection as specified in E.1, Method of Test for Measuring Thermal Efficiency, and start the test.

At the start of the test, record the time and begin measuring the electric consumption for one hour. Record the duration of the test and the total electrical consumption during the test.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$S = [(((\Delta T_5)\ k\ V_a/(E_t))/24) + E_c]$

Where:

ΔT_5 = 70 °F (38.9°C), difference between the supply and outlet water temperatures;

k= 8.25 Btu/gallon °F (4147.6331 J/l°C), the nominal specific heat of water;

V_a = water contained in the water heater expressed in gallons (L), as determined under 5.27;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under E.1, Method of Test for Measuring Thermal Efficiency.

[FR Doc. 2016–13251 Filed 6–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. WH–004]

Notice of Petition for Waiver of Raypak Inc. From the Department of Energy Commercial Water Heater Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver and request for public comments.

SUMMARY: This notice announces receipt of and publishes a petition for waiver from Raypak Inc. (Raypak) seeking an exemption from specified provisions applicable to standby loss of the U.S. Department of Energy (DOE) test procedure for commercial water heating equipment. The waiver request pertains to Raypak's specified models of commercial instantaneous water heaters containing 10 gallons or more of water. In its petition, Raypak contends that its specified water heater models that employ tube-type heat exchangers and are designed to be flow activated cannot be accurately tested using the currently applicable DOE test procedure. Consequently, Raypak seeks to use an alternate test procedure to address certain issues involved in testing the specific basic models identified in its petition. DOE solicits comments, data, and information concerning Raypak's petition and its suggested alternate test procedure.

DATES: DOE will accept comments, data, and information with respect to the Raypak Petition until July 6, 2016.

ADDRESSES: You may submit comments, identified by case number WH–004, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AS_Waiver_Requests@ee.doe.gov.* Include the case number [Case No. WH–004] in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. WH–004, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

• *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

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

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

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mail Stop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov.*

For information on how to submit or review public comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94–163 (42 U.S.C. 6311–6317, as codified), added by Pub. L. 95–619, established the Energy Conservation Program for Certain Industrial Equipment, which includes commercial water heaters, the focus of this notice.[2] Part C specifically includes definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers. (42 U.S.C. 6316) With respect to test procedures, Part C authorizes the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, and estimated annual operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) EPCA also directs DOE to consider amending the existing test procedure for each type of equipment listed each time the industry test procedure is amended for such equipment. (42 U.S.C. 6314(a)(4)) The test procedure for commercial water heaters is contained in the Code of Federal Regulations (CFR) at 10 CFR part 431, subpart G.

DOE's regulations set forth at 10 CFR 431.401 contain provisions that permit a person to seek a waiver from the test procedure requirements for covered equipment if at least one of the following conditions is met: (1) The basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures; or (2) the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 431.401(b)(1)(iii). DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 431.401(l).

II. Petition for Waiver of Test Procedure

On May 5, 2015, Raypak filed a petition for waiver from the DOE test procedure at 10 CFR 431.106 to measure standby loss of commercial water heating equipment. This petition addresses Raypak's specified models of commercial instantaneous water heaters containing 10 gallons or more of water. The current DOE efficiency test procedure for commercial water heaters incorporates by reference the relevant industry test standard for measuring thermal efficiency and standby loss, as specified in American National Standards Institute (ANSI) ANSI Z21.10.3–2011, *Gas-Fired Water Heaters, Volume III, Storage Water Heaters, With Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous.* In its petition, Raypak contends that its identified basic models rely on flow of water through the heater to activate the burner, but because the current DOE test procedure does not take into account such units, it does not provide a proper representation of the standby loss of these models. The current standby loss test procedure is designed to test tank-type water heaters which are thermostatically operated. The models for which Raypak is seeking this test procedure waiver employ tube-type heat exchangers and are designed to be flow activated. To address the apparent shortcomings of ANSI Z21.10.3–2011, Raypak has submitted to DOE an alternate test procedure for measuring the standby loss of tube-type instantaneous water heaters, as addressed in sections E.1 and E.3 of ANSI Z21.10.3–2012, *Gas-Fired Water Heaters, Volume III, Storage Water Heaters, With Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous.* Raypak believes this alternative provides a representative measure of the standby loss of these models.

III. Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of products and equipment covered by the statute. (42 U.S.C. 6293(c); 6314(d)) Consistent representations about the energy efficiency of covered products and equipment are important for consumers evaluating products when making purchasing decisions and for manufacturers to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 431.401, DOE will consider setting an alternate test procedure for Raypak in a subsequent Decision and Order.

Raypak has submitted to DOE an alternate test procedure for measuring the standby loss of tube-type instantaneous water heaters as addressed in ANSI Z21.10.3–2012 sections E.1 and E.3. Specifically, Raypak has submitted the following alternate test procedure to accurately represent the standby loss of its

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

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

commercial instantaneous water heaters containing 10 gallons or more of water:

Z21.10.3–2012 Exhibit E Efficiency Test Procedures

E.1 Method of Test for Measuring Thermal Efficiency

A water heater for installation on combustible floors shall be placed on ¾ in (1.9 cm) plywood platform supported by three 2 x 4 runners. If the water heater is for installation on noncombustible floors, suitable noncombustible material shall be placed on the platform. When the use of the platform for a large water heater is not practical, the water heater may be placed on any suitable flooring. A wall mounted water heater shall be mounted to a simulated wall section.

Placement in the test room shall be in an area protected from drafts.

Inlet and outlet piping shall be immediately turned vertically downward from the connections on a tank-type water heater so as to form heat traps. Any factory supplied heat traps shall be installed per the installation instructions. Thermocouples for measuring inlet and outlet water temperatures shall be installed before the inlet heat trap piping and after the outlet heat trap piping.

Water-tube water heaters shall be installed as shown in Figure 3, Arrangement for Testing Water-tube Type Instantaneous and Circulating Water Heaters.

a. Piping Insulation

Insulate the water piping, including heat traps, for a length of 4 ft (1.22 m) from the connection at the appliance with material having a thermal resistance (R) value of not less than 4 [F·ft ·hr/Btu (0.7 K·m/W)]. Care should be taken so the insulation does not contact any appliance surface except at the location where the pipe connections penetrate the appliance jacket.

b. Temperature and Pressure Relief Valve Insulation

If the manufacturer has not provided a temperature and pressure relief valve, one shall be installed and insulated as specified above.

c. Vent Requirements

1. Appliance Equipped With Draft Hoods

All tests shall be conducted with the natural draft established by the following vent pipe arrangements:

A vertically discharging vent connection shall have attached to and vertically above it, 5 ft (1.52 m) of vent pipe the same size as the outlet. If the vent does not discharge vertically, a suitable elbow shall be installed first.

2. Direct Vent Appliances and Mechanically Vented

The appliance shall be installed with the venting arrangement specified in the manufacturer's instructions. The water heater shall be installed with the manufacturer's specified minimum venting length venting arrangement.

d. Water Supply

During conduct of this test, the temperature of the supply water shall be maintained at 70 ± 2 °F (21 ± 1 °C). The pressure of the water supply shall be maintained between 40 psi (275.8 kPa) and the maximum pressure specified by the manufacturer for the appliance under test. The accuracy of the pressure measuring devices shall be ±1.0 psi (6.9 kPa). For a water-tube water heater, the inlet water temperature shall be maintained at the supply water temperature or as specified by the manufacturer (see 2.1.8).

A tank-type water heater shall be isolated by use of a shutoff valve in the supply line with an expansion tank installed in the supply line downstream of the shutoff valve. There shall be no shutoff means between the expansion tank and the appliance inlet.

e. Gas Supply

The gas rate shall be adjusted as specified in 2.3.3. The outlet pressure of the gas appliance pressure regulator shall be within ± 10 percent of that recommended by the manufacturer. The higher heating value of the gas burned shall be obtained.

f. Installation of Temperature Sensing Means

For tank-type water heaters, six (6) temperature sensing means shall be installed inside the storage tank on the vertical center of each of 6 nonoverlapping sections of approximately equal volume from the top to the bottom of the tank. Each temperature sensing means is to be located as far as possible from any heat source or other irregularity, anodic protective device, or water tank or flue wall. The anodic protective device may be removed in order to install the temperature sensing means and all testing may be carried out with the device removed.

If the temperature sensing means cannot be installed as specified above, placement of the temperature sensing means shall be made at the discretion of the testing agency so comparable water temperature measurements may be obtained.

A temperature sensing means, shielded against direct radiation and positioned at the vertical midpoint of the water heater at a perpendicular distance of approximately 24 in (610 mm) from the surface of the jacket, shall be installed in the test room.

g. Setting Tank Thermostat

Before starting testing of a tank-type water heater, the setting of the thermostat shall first be obtained by starting with the water in the system at 70 ± 2 °F (21 ± 1 °C) and noting the maximum mean temperature of the water after the thermostat reduces the gas supply to a minimum. The temperature shall be 140 ± 5 °F (60 ± 3 °C).

h. Energy Consumption

Instrumentation shall be installed which determines, within ± 1 percent:

1. The quantity and rate of gas consumed.

2. The quantity of electricity consumed by factory supplied water heater components, and of the test loop recirculating pump, if used.

i. Room Ambient Temperature

The ambient air temperature of the test room shall be maintained at 75 ± 10 °F (24 ± 5.5 °C), as measured by the test room temperature sensing means described in ''-f'' above.

The ambient air temperatures shall be measured at 15 minute intervals during conduct of this test. The room temperature shall not vary more than ± 7.0 °F (± 4 °C) from the average during the test, temperature readings being taken by means of a recording thermometer at 15 minute intervals and averaged at the end of the test.

j. Efficiency Measurement

The outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2 °F (21 ± 1 °C) above the supply temperature. After the outlet temperature has become constant, as indicated by no variation in excess of 2 °F (1 °C) over a 3 minute period, the outlet water shall be diverted from the waste line to a weighing container. A scale with an error no greater than 1 percent of the total draw shall be used. Water shall be allowed to flow into the weighing container for exactly 30 minutes. The gas consumption and electrical power consumption of factory supplied heater components and of the test loop-recirculating pump, if used, shall be measured for the 30 minute period. At this time, the outlet water shall be diverted back into the waste

line, the meter readings noted, and the weight of heater water recorded. Throughout the period of test, supply and outlet water temperatures shall be recorded every minute. The temperature, pressure and heating value of the gas metered and barometric pressure shall be obtained.

A water meter with an error no greater than 1 percent of the total draw may be used instead of the scale and weighing container.

Thermal efficiency, Et, shall be computed by use of the following formula:

$$E_t = (KW\ (\theta_2 - \theta_1)/[(CF \times Q \times H) + E_c]) \times 100$$

Where:

K = 1.004 Btu per pound mass degree F (4184 J/kg °C), nominal specific heat of water at 105 °F;

W = total weight of water heated, lbs. (kg);

θ_1 = average temperature of supply water, °F (°C);

θ_2 = average temperature of outlet water, °F (°C);

Q = total gas consumed as metered, cu. ft. (m^3);

C_s = correction applied to the heating value H, when it is metered at temperature and/or pressure conditions other than the standard conditions. At which the heating value of gas is specified [normally 30 inches mercury column (101.3 kPa) and 60 °F (15.5 °C)];

H = total heating value of gas, Btu per cu. ft. (MJ/m_3); and

E_c = electrical consumption of the water heater and, when used, the test setup recirculating pump, specified in Btu (kJ).

Standby Loss for tank type water heaters shall be determined using Appendix E.2

Standby Loss for tube type water heaters that contain 10 or more gallons within the water heater, as determined under 5.27, shall be determined using Appendix E.3

E.3 Method of Test For Measuring Standby Loss for Tube Type Instantaneous Water Heaters With 10 or Greater Gallons of Storage

The appliance shall be installed as specified in G.1, Method of Test for Measuring Thermal Efficiency. This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise, the water heater shall be put into operation under the same test conditions specified in G.1, and the outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2 °F (21 ± 1 °C) above the supply temperature. After the outlet temperatures becomes constant, as indicated by no variation in excess of 2 °F (1 °C) over a 3 minute period, shut down the main burner(s) and, if applicable, wait for the water pump to shut down, and then start the test.

At the start of the test, record the time, ambient temperature, outlet water temperature, supply water temperature, and begin measuring the fuel and electric consumption.

During the first hour, outlet water temperature, supply water temperature and the ambient air temperature shall be measured at the end of each 5 minute interval. For the remainder of the test, these measurements shall be made at the end of every 15 minute interval. The duration of this test shall be 24 hours. If the main burner is firing at 24 hours, continue the test until the main burner and the water pump, if applicable, have shut down.

Immediately after the conclusion of the test, record the total fuel flow and electrical energy consumption, the final ambient air temperature, and the final outlet water temperature.

Calculate the average of the ambient air temperatures and the supply water temperatures taken at the end of each time interval, including the initial and final values.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [(Cs(Qs)(H) + Ec)/t] - [(\Delta T4)/(\Delta T3)(t)Et]$$

Where:

Cs = correction applied to the heating value of a gas H, when it is metered at temperature and/or pressure conditions other than the standard conditions for which the value of H is based;

H = higher heating value of gas, Btu per cu. ft. (MJ/m3);

Qs = total fuel flow as metered, cu. ft. (m3);

ΔT3 = difference between the outlet temperature and the average value of the ambient air temperature, °F (°C);

ΔT4 = difference between the average supply water temperature and the outlet temperature, °F (°C);

t = duration of test, hrs.;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under G1, Method of Test for Measuring Thermal Efficiency

If the main burner(s) does not cycle on during this test, the hourly average standby loss calculation simplifies to:

$$S = \{(K(Va)(\Delta T4)/Et) + Ec\}/t$$

For water heaters that will not initiate or cause actions that will initiate burner operation, the following simplified procedure may be used to measure the hourly standby loss.

This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise provide the electrical connection as specified in G.1, Method of Test for Measuring Thermal Efficiency, and start the test.

At the start of the test, record the time and begin measuring the electric consumption for one hour. Record the duration of the test and the total electrical consumption during the test.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [((\Delta T5\ k\ Va/Et)/24) + Ec]$$

Where:

ΔT_5 = 70 °F (38.9 °C), difference between the supply and outlet water temperatures;

k= 8.25 Btu/gallon °F (4147.6331 J/l °C), the nominal specific heat of water;

Va = water contained in the water heater expressed in gallons (L), as determined under 5.27;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under G1, Method of Test for Measuring Thermal Efficiency.

The following basic models are included in Raypak's petition:

XTherm Model WH7–1005*
XTherm Model WH7–1505*
XTherm Model WH7–2005*
XTherm Model WH7–2505*
XTherm Model WH7–3005*
XTherm Model WH7–3505*
XTherm Model WH7–4005*
MVB Model WH7–2503*
MVB Model WH7–3003*
MVB Model WH7–3503*
MVB Model WH7–4003*

IV. Summary and Request for Comments

Through this notice, DOE announces receipt of and is publishing Raypak's petition for waiver from the DOE test procedure for commercial water heaters for its above-referenced commercial instantaneous water heater models, which contain 10 gallons or more of water. The petition contains no confidential information. The petition includes a suggested alternate test procedure to determine the thermal efficiency and standby loss of Raypak's specified basic models of commercial instantaneous water heaters containing 10 gallons or more of water. DOE is considering including this alternate test procedure in its subsequent Decision and Order.

DOE solicits comments from interested parties on all aspects of the petition, including the suggested alternate test procedure and calculation methodology. Pursuant to 10 CFR 431.401(d), any person submitting written comments to DOE must also

send a copy of such comments to the petitioner. The contact information for the petitioner is: Mr. Robert Glass, Sr. Staff Engineer, Raypak Inc., 2151 Eastman Avenue, Oxnard, CA 93030. All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: one copy of the document marked ''confidential'' with all of the information believed to be confidential included, and one copy of the document marked ''non-confidential'' with all of the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on May 31, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Raypak, A Rheem Company

May 5, 2015

U.S. Department of Energy, Building Technologies Program, MS EE–2J, Test Procedure Waiver, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

Re: Waiver for Test Procedure for Commercial Water Heating Equipment

To Whom It May Concern: Pursuant to the provisions of 10 CFR 431.401, Raypak Inc. is hereby applying for a waiver of the standby loss test procedure of 10 CFR .431.106 for the following basic model(s) of commercial instantaneous water heaters containing 10 gallons or more of water:

Model	Water capacity (gal.)
XTherm Model WH7–1005*	11.8
XTherm Model WH7–1505*	12.4
XTherm Model WH7–2005*	15.6
XTherm Model WH7–2505*	25.0
XTherm Model WH7–3005*	26.0
XTherm Model WH7–3505*	26.9
XTherm Model WH7–4005*	33.8
MVB Model WH7–2503*	10.9
MVB Model WH7–3003*	11.6
MVB Model WH7–3503*	12.2
MVB Model WH7–4003*	12.8

The current Department of Energy efficiency test procedure for commercial water heaters references the relevant test procedures for measuring thermal efficiency and standby loss specified in the standard, ANSI Z21.10.3–2011. The identified basic models rely on flow of water through the heater to activate the burner. As will be explained below, the current test procedure does not provide a proper representation of the standby loss of these models.

The current standby loss test procedure is included as Attachment A. This procedure is designed to test tank-type water heaters which are thermostatically operated. The basic steps of the procedure are to heat the water within the water heater, turn off the burner or element and then measure all the energy consumption that occurs while the water heater is ''standing by'' for approximately 24 hours with no water being withdrawn from it. The key measurement of the test procedure is the energy consumed by the burner or heating element when the thermostat senses that the water in the tank has cooled down to the point where it needs to be reheated. The current test does not address water heaters that have no means to activate the burner or heating element if no heated water is being drawn from the unit, *i.e.* the standby condition.

The models for which Raypak Inc. is seeking this test procedure waiver employ tube type heat exchangers and are designed to be flow activated. That is, the burner does not come on until water flow through the unit is sensed. Under the current standby loss test procedure, the burner on these models will not fire at any time during the test and the resulting standby loss measurement would be nearly zero. That measurement is not representative of the standby loss characteristics of these models. Raypak Inc. believes that the current test procedure evaluates the standby loss of the identified basic models in a manner so unrepresentative of the true energy consumption as to provide materially inaccurate comparative data.

The manufacturers of other basic models marketed in the United States known to Raypak Inc. to incorporate similar design characteristics is included as Attachment B.

An alternative procedure for measuring the standby loss of tube type instantaneous water heater is included as Attachment C. Raypak Inc. believes this alternative provides a representative measure of the standby loss of these models. Raypak Inc. requests that DOE grant it a waiver to use this alternative procedure in lieu of the standby loss procedure specified in the current DOE efficiency test procedures for commercial water heaters.

Respectfully submitted,

Robert Glass
Sr. Staff Engineer
Raypak Inc.
2151 Eastman Avenue,
Oxnard, CA 93030
(805) 278–5300
FAX (800) 872–9725
www.raypak.com

Attachments—Attachment A—Current Standby Loss Test Procedure
Attachment B—Other Affected Manufacturers
Attachment C—Proposed Alternative Procedure for Measuring the Standby Loss of Tube Type Instantaneous Water Heaters Containing More than 10 Gallons

C: Karen Meyers—Rheem Manufacturing Co.
Russell Pate—Rheem Manufacturing Co.

Attachment A: Current Standby Loss Test Procedure

E.2 Method of test for measuring standby loss

The appliance shall be installed as specified in E.1, Method of test for measuring thermal efficiency. The gas to the main burner(s) shall be turned on and the appliance put into operation. After the first cutout, allow the water heater to remain in the standby mode until the next cutout. At this time record the time, ambient temperature and begin measuring the fuel and electric consumption. Record the maximum mean tank temperature that occurs after cutout.

At the end of the first 15 minute interval and at the end of each subsequent 15 minute interval, the mean tank temperature and the ambient air temperature shall be recorded. The duration of this test shall be until the first cutout that occurs after 24 hours or 48 hours, whichever comes first.

Immediately after the conclusion of the test, record the total fuel flow and electrical energy consumption, the final ambient air temperature, and the time duration of the standby loss test (t) in hours rounded to the nearest one hundredth of an hour and the maximum

mean tank temperature that occurs after cutout. Calculate the average of the recorded values of the mean tank temperatures and of the ambient air temperatures taken at the end of each time interval, including the initial and final values.

Determine the difference (ΔT_3) between these two averages by subtracting the latter from the former, and the differences (ΔT_4) between the final and initial mean tank temperatures by subtracting the latter from the former.

The ratio of the average hourly energy consumption to the heat content of the stored water above room temperatures, in percent, rounded to the nearest one hundredth shall be determined by the formula:

$$S = \left\{ \left[\frac{(Cs)(Qs)(H) + Ec}{(K)(Va)(\Delta T3)(t)} \right] - \left[\frac{(\Delta T4)}{(\Delta T3)(t)\left(\frac{Et}{100}\right)} \right] \right\} x\ 100$$

Where

Cs = correction applied to the heating value of a gas H, when it metered at temperature and/or pressure conditions other than the standard conditions for which the value of H is based;

K = 8.25 Btu per gallon °F (4147.6331 J/I °C), the nominal specific heat of water;

Va = tank capacity expressed in gallons (L), as determined under 5.26, Capacities of storage vessels;

H = higher heating value of gas, Btu per cu. Ft. (MJ/m³);

Qs = total fuel flow as metered, cu. Ft. (m³);

ΔT3 = difference between the average value of the mean tank temperature and the average value of the ambient air temperature, °F (°C);

ΔT4 = difference between the final and initial mean tank temperature, °F (°C);

t = duration of test, hrs.;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under E.1, Method of test for measuring thermal efficiency.

Attachment B:

Manufacturers of Commercial Tube Type Water Heaters containing 10 gallons or more

A.O. Smith Corporation, 11270 W Park Place, P.O. Box 245008, Milwaukee, WI 53224–3623

HTP, Inc., 120 Braley Rd., P.O. Box 429, East Freetown, MA 02717–1125

Laars Heating Systems Company, 20 Industrial Way, Rochester, NH 03867–4296

Lochinvar LLC, 300 Maddox Simpson Pkwy., Lebanon, TN 37090–5366

Thermal Solutions Products, LLC, a Subsidiary of Burnham Holdings, P.O. BOX 3244, Lancaster, PA 17604–3244

Attachment C

AHRI Recommended Standby Loss Test Procedure For Commercial Tube-Type Instantaneous Water Heaters And Hot Water Supply Boilers That Contain At Least 10 Gallons Of Water

Z21.10.3–2012
Exhibit E Efficiency Test Procedures

E.1 Method Of Test For Measuring Thermal Efficiency

A water heater for installation on combustible floors shall be placed on ¾ in (1.9 cm) plywood platform supported by three 2 x 4 runners. If the water heater is for installation on noncombustible floors, suitable noncombustible material shall be placed on the platform. When the use of the platform for a large water heater is not practical, the water heater may be placed on any suitable flooring. A wall mounted water heater shall be mounted to a simulated wall section.

Placement in the test room shall be in an area protected from drafts.

Inlet and outlet piping shall be immediately turned vertically downward from the connections on a tank-type water heater so as to form heat traps. Any factory supplied heat traps shall be installed per the installation instructions. Thermocouples for measuring inlet and outlet water temperatures shall be installed before the inlet heat trap piping and after the outlet heat trap piping.

Water-tube water heaters shall be installed as shown in Figure 3, Arrangement for Testing Water-tube Type Instantaneous and Circulating Water Heaters.

a. Piping Insulation

Insulate the water piping, including heat traps, for a length of 4 ft (1.22 m) from the connection at the appliance with material having a thermal resistance (R) value of not less than
4 [F·ft ·hr/Btu (0.7 K·m/W)]. Care should be taken so the insulation does not contact any appliance surface except at the location where the pipe connections penetrate the appliance jacket.

b. Temperature and Pressure Relief Valve Insulation

If the manufacturer has not provided a temperature and pressure relief valve, one shall be installed and insulated as specified above.

c. Vent Requirements

1. Appliance Equipped With Draft Hoods

All tests shall be conducted with the natural draft established by the following vent pipe arrangements:

A vertically discharging vent connection shall have attached to and vertically above it, 5 ft (1.52 m) of vent pipe the same size as the outlet. If the vent does not discharge vertically, a suitable elbow shall be installed first.

2. Direct Vent Appliances and Mechanically Vented

The appliance shall be installed with the venting arrangement specified in the manufacturer's instructions. The water heater shall be installed with the manufacturer's specified minimum venting length venting arrangement.

d. Water Supply

During conduct of this test, the temperature of the supply water shall be maintained at 70 ± 2 °F (21 ± 1 °C). The pressure of the water supply shall be maintained between 40 psi (275.8 kPa) and the maximum pressure specified by the manufacturer for the appliance under test. The accuracy of the pressure measuring devices shall be ±1.0 psi (6.9 kPa). For a water-tube water heater, the inlet water temperature shall be maintained at the supply water temperature or as specified by the manufacturer (see 2.1.8).

A tank-type water heater shall be isolated by use of a shutoff valve in the supply line with an expansion tank installed in the supply line downstream of the shutoff valve. There shall be no shutoff means between the expansion tank and the appliance inlet.

e. Gas Supply

The gas rate shall be adjusted as specified in 2.3.3. The outlet pressure of the gas appliance pressure regulator shall be within ± 10 percent of that recommended by the manufacturer. The higher heating value of the gas burned shall be obtained.

f. Installation of Temperature Sensing Means

For tank-type water heaters, six (6) temperature sensing means shall be installed inside the storage tank on the vertical center of each of 6 nonoverlapping sections of approximately equal volume from the top to the bottom of the tank. Each temperature sensing means is to be located as far as possible from any heat source or other irregularity, anodic protective device, or water tank or flue wall. The anodic protective device may be removed in order to install the temperature sensing means and all testing may be carried out with the device removed.

If the temperature sensing means cannot be installed as specified above, placement of the temperature sensing means shall be made at the discretion of the testing agency so comparable water temperature measurements may be obtained.

A temperature sensing means, shielded against direct radiation and positioned at the vertical midpoint of the water heater at a perpendicular distance of approximately 24 in (610 mm) from the surface of the jacket, shall be installed in the test room.

g. Setting Tank Thermostat

Before starting testing of a tank-type water heater, the setting of the thermostat shall first be obtained by starting with the water in the system at 70 ± 2 °F (21 ± 1 °C) and noting the maximum mean temperature of the water after the thermostat reduces the gas supply to a minimum. The temperature shall be 140 ± 5 °F (60 ± 3 °C).

h. Energy Consumption

Instrumentation shall be installed which determines, within ± 1 percent:

1. The quantity and rate of gas consumed.

2. The quantity of electricity consumed by factory supplied water heater components, and of the test loop recirculating pump, if used.

i. Room Ambient Temperature

The ambient air temperature of the test room shall be maintained at 75 ± 10 °F (24 ± 5.5 °C), as measured by the test room temperature sensing means described in ''-f'' above.

The ambient air temperatures shall be measured at 15 minute intervals during conduct of this test. The room temperature shall not vary more than ± 7.0 °F (± 4°C) from the average during the test, temperature readings being taken by means of a recording thermometer at 15 minute intervals and averaged at the end of the test.

j. Efficiency Measurement

The outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ±2 °F (21 ± 1 °C) above the supply temperature. After the outlet temperature has become constant, as indicated by no variation in excess of 2 °F (1 °C) over a 3 minute period, the outlet water shall be diverted from the waste line to a weighing container. A scale with an error no greater than 1 percent of the total draw shall be used. Water shall be allowed to flow into the weighing container for exactly 30 minutes. The gas consumption and electrical power consumption of factory supplied heater components and of the test loop-recirculating pump, if used, shall be measured for the 30 minute period. At this time, the outlet water shall be diverted back into the waste line, the meter readings noted, and the weight of heater water recorded. Throughout the period of test, supply and outlet water temperatures shall be recorded every minute. The temperature, pressure and heating value of the gas metered and barometric pressure shall be obtained.

A water meter with an error no greater than 1 percent of the total draw may be used instead of the scale and weighing container.

Thermal efficiency, E_t, shall be computed by use of the following formula:

$$E_t = (KW(\theta_2 - \theta_1)/[(CF \times Q \times H) + E_c]) \times 100$$

where

K = 1.004 Btu per pound mass degree F (4184 J/kg °C), nominal specific heat of water at 105 °F;

W = total weight of water heated, lbs. (kg);

θ_1 = average temperature of supply water, °F (°C);

θ_2 = average temperature of outlet water, °F (°C);

Q = total gas consumed as metered, cu. ft. (m^3);

C_s = correction applied to the heating value H, when it is metered at temperature and/or pressure conditions other than the standard conditions. At which the heating value of gas is specified [normally 30 inches mercury column (101.3 kPa) and 60 °F (15.5 °C)];

H = total heating value of gas, Btu per cu. ft. (MJ/m_3); and

E_c = electrical consumption of the water heater and, when used, the test setup recirculating pump, specified in Btu (kJ).

Standby Loss for tank type water heaters shall be determined using Appendix E.2

Standby Loss for tube type water heaters that contain 10 or more gallons within the water heater, as determined under 5.27, shall be determined using Appendix E.3

E.3 Method Of Test For Measuring Standby Loss For Tube Type Instantaneous Water Heaters With 10 or Greater Gallons of Storage

The appliance shall be installed as specified in G.1, Method of Test for Measuring Thermal Efficiency. This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise, the water heater shall be put into operation under the same test conditions specified in G.1, and the outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2 °F (21 ± 1 °C) above the supply temperature. After the outlet temperatures becomes constant, as indicated by no variation in excess of 2 °F (1 °C) over a 3 minute period, shut down the main burner(s) and, if applicable, wait for the water pump to shut down, and then start the test.

At the start of the test, record the time, ambient temperature, outlet water temperature, supply water temperature, and begin measuring the fuel and electric consumption.

During the first hour, outlet water temperature, supply water temperature and the ambient air temperature shall be measured at the end of each 5 minute interval. For the remainder of the test, these measurements shall be made at the end of every 15 minute interval. The duration of this test shall be 24 hours. If the main burner is firing at 24 hours, continue the test until the main burner and the water pump, if applicable, have shut down.

Immediately after the conclusion of the test, record the total fuel flow and electrical energy consumption, the final ambient air temperature, and the final outlet water temperature.

Calculate the average of the ambient air temperatures and the supply water temperatures taken at the end of each time interval, including the initial and final values.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [(Cs(Qs)(H) + Ec)/t] - [(\Delta T4)/(\Delta T3)(t)Et]$$

where

Cs = correction applied to the heating value of a gas H, when it is metered at temperature and/or pressure conditions other than the standard conditions for which the value of H is based;

H = higher heating value of gas, Btu per cu. ft. (MJ/m3);

Qs = total fuel flow as metered, cu. ft. (m3);

ΔT3 = difference between the outlet temperature and the average value of the ambient air temperature, °F (°C);

ΔT4 = difference between the average supply water temperature and the outlet temperature, °F (°C);

t = duration of test, hrs.;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under G1, Method of Test for Measuring Thermal Efficiency

If the main burner(s) does not cycle on during this test, the hourly average standby loss calculation simplifies to:

$$S = \{(K(Va)(\Delta T4)/Et) + Ec\}/t$$

For water heaters that will not initiate or cause actions that will initiate burner operation, the following simplified procedure may be used to measure the hourly standby loss.

This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise provide the electrical connection as specified in G.1, Method of Test for Measuring Thermal Efficiency, and start the test.

At the start of the test, record the time and begin measuring the electric consumption for one hour. Record the duration of the test and the total electrical consumption during the test.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [((\Delta T5\ k\ Va\ /\ Et)/24) + Ec]$$

Where:

ΔT_5 = 70 °F (38.9 °C), difference between the supply and outlet water temperatures;

k= 8.25 Btu/gallon °F (4147.6331 J/l °C), the nominal specific heat of water;

Va = water contained in the water heater expressed in gallons (L), as determined under 5.27;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under G1, Method of Test for Measuring

Thermal Efficiency.

[FR Doc. 2016–13252 Filed 6–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. WH–002]

Notice of Petition for Waiver of HTP, Inc. From the Department of Energy Commercial Water Heater Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver and request for public comments.

SUMMARY: This notice announces receipt of and publishes a petition for waiver from HTP, Inc. (HTP) seeking an exemption from specified provisions applicable to standby loss of the U.S. Department of Energy (DOE) test procedure for commercial water heating equipment. The waiver request pertains to HTP's specified models of commercial instantaneous water heaters containing 10 gallons or more of water. In its petition, HTP contends that its specified water heater models that employ tube-type heat exchangers and are designed to be flow activated cannot be accurately tested using the currently applicable DOE test procedure. Consequently, HTP seeks to use an alternate test procedure to address certain issues involved in testing the specific basic models identified in its petition. DOE solicits comments, data, and information concerning HTP's petition and its suggested alternate test procedure.

DATES: DOE will accept comments, data, and information with respect to the HTP Petition until July 6, 2016.

ADDRESSES: You may submit comments, identified by case number WH–002, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AS_Waiver_Requests@ee.doe.gov.* Include the case number [Case No. WH–002] in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. WH–002, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mail Stop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov.*

For information on how to submit or review public comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, established the Energy Conservation Program for Certain Industrial Equipment, which includes commercial water heaters, the focus of this notice.[2] Part C specifically includes definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers. (42 U.S.C. 6316) With respect to test procedures, Part C authorizes the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, and estimated annual operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) EPCA also directs DOE to consider amending the existing test procedure for each type of equipment listed each time the industry test procedure is amended for such equipment. (42 U.S.C. 6314(a)(4)) The test procedure for commercial water heaters is contained in the Code of Federal Regulations (CFR) at 10 CFR part 431, subpart G.

DOE's regulations set forth at 10 CFR 431.401 contain provisions that permit a person to seek a waiver from the test procedure requirements for covered equipment if at least one of the following conditions is met: (1) The basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures; or (2) the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 431.401(b)(1)(iii). DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 431.401(l).

II. Petition for Waiver of Test Procedure

On February 17, 2015, HTP filed a petition for waiver from the DOE test

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

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

procedure at 10 CFR 431.106 to measure standby loss of commercial water heating equipment. This petition addresses HTP's specified models of commercial instantaneous water heaters containing 10 gallons or more of water. The current DOE efficiency test procedure for commercial water heaters incorporates by reference the relevant industry test standard for measuring thermal efficiency and standby loss, as specified in American National Standards Institute (ANSI) ANSI Z21.10.3–2011, *Gas-Fired Water Heaters, Volume III, Storage Water Heaters, With Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous.* In its petition, HTP contends that its identified basic models rely on flow of water through the heater to activate the burner, but because the current DOE test procedure does not take into account such units, it does not provide a proper representation of the standby loss of these models. The current standby loss test procedure is designed to test tank-type water heaters which are thermostatically operated. The models for which HTP is seeking this test procedure waiver employ tube-type heat exchangers and are designed to be flow activated. To address the apparent shortcomings of ANSI Z21.10.3–2011, HTP has submitted to DOE an alternate test procedure for measuring the standby loss of tube-type instantaneous water heaters, as addressed in sections E.1 and E.3 of ANSI Z21.10.3–2012, *Gas-Fired Water Heaters, Volume III, Storage Water Heaters, With Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous.* HTP believes this alternative provides a representative measure of the standby loss of these models.

III. Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of products and equipment covered by the statute. (42 U.S.C. 6293(c); 6314(d)) Consistent representations about the energy efficiency of covered products and equipment are important for consumers evaluating products when making purchasing decisions and for manufacturers to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 431.401, DOE will consider setting an alternate test procedure for HTP in a subsequent Decision and Order.

HTP has submitted to DOE an alternate test procedure for measuring the standby loss of tube-type instantaneous water heaters as addressed in ANSI Z21.10.3–2012 sections E.1 and E.3. Specifically, HTP has submitted the following alternate test procedure to accurately represent the standby loss of its commercial instantaneous water heaters containing 10 gallons or more of water:

Z21.10.3–2012 Exhibit E Efficiency Test Procedures

E.1 Method of Test For Measuring Thermal Efficiency

A water heater for installation on combustible floors shall be placed on ¾ in (1.9 cm) plywood platform supported by three 2 × 4 runners. If the water heater is for installation on noncombustible floors, suitable noncombustible material shall be placed on the platform. When the use of the platform for a large water heater is not practical, the water heater may be placed on any suitable flooring. A wall mounted water heater shall be mounted to a simulated wall section.

Placement in the test room shall be in an area protected from drafts.

Inlet and outlet piping shall be immediately turned vertically downward from the connections on a tank-type water heater so as to form heat traps. Any factory supplied heat traps shall be installed per the installation instructions. Thermocouples for measuring inlet and outlet water temperatures shall be installed before the inlet heat trap piping and after the outlet heat trap piping.

Water-tube water heaters shall be installed as shown in Figure 3, Arrangement for Testing Water-tube Type Instantaneous and Circulating Water Heaters.

a. Piping Insulation

Insulate the water piping, including heat traps, for a length of 4 ft (1.22 m) from the connection at the appliance with material having a thermal resistance (R) value of not less than 4 [F·ft ·hr/Btu (0.7 K·m/W)]. Care should be taken so the insulation does not contact any appliance surface except at the location where the pipe connections penetrate the appliance jacket.

b. Temperature and Pressure Relief Valve Insulation

If the manufacturer has not provided a temperature and pressure relief valve, one shall be installed and insulated as specified above.

c. Vent Requirements

1. Appliance Equipped With Draft Hoods

All tests shall be conducted with the natural draft established by the following vent pipe arrangements:

A vertically discharging vent connection shall have attached to and vertically above it, 5 ft (1.52 m) of vent pipe the same size as the outlet. If the vent does not discharge vertically, a suitable elbow shall be installed first.

2. Direct Vent Appliances and Mechanically Vented

The appliance shall be installed with the venting arrangement specified in the manufacturer's instructions. The water heater shall be installed with the manufacturer's specified minimum venting length venting arrangement.

d. Water Supply

During conduct of this test, the temperature of the supply water shall be maintained at 70 ± 2 °F (21 ± 1 °C). The pressure of the water supply shall be maintained between 40 psi (275.8 kPa) and the maximum pressure specified by the manufacturer for the appliance under test. The accuracy of the pressure measuring devices shall be ±1.0 psi (6.9 kPa). For a water-tube water heater, the inlet water temperature shall be maintained at the supply water temperature or as specified by the manufacturer (see 2.1.8).

A tank-type water heater shall be isolated by use of a shutoff valve in the supply line with an expansion tank installed in the supply line downstream of the shutoff valve. There shall be no shutoff means between the expansion tank and the appliance inlet.

e. Gas Supply

The gas rate shall be adjusted as specified in 2.3.3. The outlet pressure of the gas appliance pressure regulator shall be within ± 10 percent of that recommended by the manufacturer. The higher heating value of the gas burned shall be obtained.

f. Installation of Temperature Sensing Means

For tank-type water heaters, six (6) temperature sensing means shall be installed inside the storage tank on the vertical center of each of 6 nonoverlapping sections of approximately equal volume from the top to the bottom of the tank. Each temperature sensing means is to be located as far as possible from any heat source or other irregularity, anodic protective device, or water tank or flue wall. The anodic protective device may

be removed in order to install the temperature sensing means and all testing may be carried out with the device removed.

If the temperature sensing means cannot be installed as specified above, placement of the temperature sensing means shall be made at the discretion of the testing agency so comparable water temperature measurements may be obtained.

A temperature sensing means, shielded against direct radiation and positioned at the vertical midpoint of the water heater at a perpendicular distance of approximately 24 in (610 mm) from the surface of the jacket, shall be installed in the test room.

g. Setting Tank Thermostat

Before starting testing of a tank-type water heater, the setting of the thermostat shall first be obtained by starting with the water in the system at 70 ± 2 °F (21 ± 1 °C) and noting the maximum mean temperature of the water after the thermostat reduces the gas supply to a minimum. The temperature shall be 140 ± 5 °F (60 ± 3 °C).

h. Energy Consumption

Instrumentation shall be installed which determines, within ± 1 percent:

1. The quantity and rate of gas consumed.

2. The quantity of electricity consumed by factory supplied water heater components, and of the test loop recirculating pump, if used.

i. Room Ambient Temperature

The ambient air temperature of the test room shall be maintained at 75 ± 10 °F (24 ± 5.5 °C), as measured by the test room temperature sensing means described in ''-f'' above.

The ambient air temperatures shall be measured at 15 minute intervals during conduct of this test. The room temperature shall not vary more than ± 7.0 °F (± 4 °C) from the average during the test, temperature readings being taken by means of a recording thermometer at 15 minute intervals and averaged at the end of the test.

j. Efficiency Measurement

The outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2 °F (21 ± 1 °C) above the supply temperature. After the outlet temperature has become constant, as indicated by no variation in excess of 2 °F (1 °C) over a 3 minute period, the outlet water shall be diverted from the waste line to a weighing container. A scale with an error no greater than 1 percent of the total draw shall be used. Water shall be allowed to flow into the weighing container for exactly 30 minutes. The gas consumption and electrical power consumption of factory supplied heater components and of the test loop-recirculating pump, if used, shall be measured for the 30 minute period. At this time, the outlet water shall be diverted back into the waste line, the meter readings noted, and the weight of heater water recorded. Throughout the period of test, supply and outlet water temperatures shall be recorded every minute. The temperature, pressure and heating value of the gas metered and barometric pressure shall be obtained.

A water meter with an error no greater than 1 percent of the total draw may be used instead of the scale and weighing container.

Thermal efficiency, Et, shall be computed by use of the following formula:

$$E_t = (KW\ (\theta_2 - \theta_1)/[(CF \times Q \times H) + Ec]) \times 100$$

Where:

K = 1.004 Btu per pound mass degree F (4184 J/kg °C), nominal specific heat of water at 105 °F;

W = total weight of water heated, lbs. (kg);

θ_1 = average temperature of supply water, °F (°C);

θ_2 = average temperature of outlet water, °F (°C);

Q = total gas consumed as metered, cu. ft. (m^3);

C_s = correction applied to the heating value H, when it is metered at temperature and/or pressure conditions other than the standard conditions. At which the heating value of gas is specified [normally 30 inches mercury column (101.3 kPa) and 60 °F (15.5 °C)];

H = total heating value of gas, Btu per cu. ft. (MJ/m_3); and

E_c = electrical consumption of the water heater and, when used, the test setup recirculating pump, specified in Btu (kJ).

Standby Loss for Tank Type Water Heaters Shall Be Determined Using Appendix E.2

Standby Loss for Tube Type Water Heaters That Contain 10 or More Gallons Within the Water Heater, as Determined Under 5.27, Shall Be Determined Using Appendix E.3

E.3 Method of Test for Measuring Standby Loss for Tube Type Instantaneous Water Heaters With 10 or Greater Gallons of Storage

The appliance shall be installed as specified in G.1, Method of Test for Measuring Thermal Efficiency. This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise, the water heater shall be put into operation under the same test conditions specified in G.1, and the outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2 °F (21 ± 1 °C) above the supply temperature. After the outlet temperatures becomes constant, as indicated by no variation in excess of 2 °F (1 °C) over a 3 minute period, shut down the main burner(s) and, if applicable, wait for the water pump to shut down, and then start the test.

At the start of the test, record the time, ambient temperature, outlet water temperature, supply water temperature, and begin measuring the fuel and electric consumption.

During the first hour, outlet water temperature, supply water temperature and the ambient air temperature shall be measured at the end of each 5 minute interval. For the remainder of the test, these measurements shall be made at the end of every 15 minute interval. The duration of this test shall be 24 hours. If the main burner is firing at 24 hours, continue the test until the main burner and the water pump, if applicable, have shut down.

Immediately after the conclusion of the test, record the total fuel flow and electrical energy consumption, the final ambient air temperature, and the final outlet water temperature.

Calculate the average of the ambient air temperatures and the supply water temperatures taken at the end of each time interval, including the initial and final values.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [(Cs(Qs)(H) + Ec)/t] - [(\Delta T4)/(\Delta T3)(t)Et\ ]$$

Where:

Cs = correction applied to the heating value of a gas H, when it is metered at temperature and/or pressure conditions other than the standard conditions for which the value of H is based;

H = higher heating value of gas, Btu per cu. ft. (MJ/m3);

Qs = total fuel flow as metered, cu. ft. (m3);

ΔT3 = difference between the outlet temperature and the average value of the ambient air temperature, °F (°C);

ΔT4 = difference between the average supply water temperature and the outlet temperature, °F (°C);

t = duration of test, hrs.;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under G1, Method of Test for Measuring Thermal Efficiency

If the main burner(s) does not cycle on during this test, the hourly average standby loss calculation simplifies to:

$S = \{(K(Va)(\Delta T4)/Et) + Ec\}/t$

For water heaters that will not initiate or cause actions that will initiate burner operation, the following simplified procedure may be used to measure the hourly standby loss.

This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise provide the electrical connection as specified in G.1., Method of Test for Measuring Thermal Efficiency, and start the test.

At the start of the test, record the time and begin measuring the electric consumption for one hour.

Record the duration of the test and the total electrical consumption during the test.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$S = [((\Delta T5\ k\ Va / Et)/24) + Ec]$

Where:

$\Delta T5$ = 70 °F (38.9 °C), difference between the supply and outlet water temperatures;

k = 8.25 Btu/gallon °F (4147.6331 J/l °C), the nominal specific heat of water;

Va = water contained in the water heater expressed in gallons (L), as determined under 5.27;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under G1, Method of Test for Measuring Thermal Efficiency.

The following basic models are included in HTP's petition:

ModCon1000VWH
ModCon1700VWH

IV. Summary and Request for Comments

Through this notice, DOE announces receipt of and is publishing HTP's petition for waiver from the DOE test procedure for commercial water heaters for its ModCon 1000VWH and ModCon 1700VWH commercial instantaneous water heater models, which contain 10 gallons or more of water. The petition contains no confidential information. The petition includes a suggested alternate test procedure to determine the thermal efficiency and standby loss of HTP's specified basic models of commercial instantaneous water heaters containing 10 gallons or more of water. DOE is considering including this alternate test procedure in its subsequent Decision and Order.

DOE solicits comments from interested parties on all aspects of the petition, including the suggested alternate test procedure and calculation methodology. Pursuant to 10 CFR 431.401(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Mr. Aleksandr Kovalenko, Director of Engineering, HTP, Inc., P.O. Box 429, 120 Braley Road, East Freetown, MA 02717. All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document marked ''confidential'' with all of the information believed to be confidential included, and one copy of the document marked ''non-confidential'' with all of the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on May 31, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

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February 17, 2015

U.S. Department of Energy
Building Technologies Program, MS EE–2J
Test Procedure Waiver
1000 Independence Avenue SW.
Washington, DC 20585–0121

Re: Waiver for Test Procedure for Commercial Water Heating Equipment

To Whom It May Concern:

Pursuant to the provisions of 10 CFR 431.401, HTP, Inc. is hereby applying for a waiver of the standby loss test procedure of 10 CFR .431.106 for the following basic model(s) of commercial instantaneous water heaters containing 10 gallons or more of water.

ModCon1000VWH
ModCon1700VWH

The current Department of Energy efficiency test procedure for commercial water heaters references the relevant test procedures for measuring thermal efficiency and standby loss specified in the standard, ANSI Z21.10.3–2011. The identified basic model(s) rely on flow of water through the heater to activate the burner. As will be explained below, the current test procedure does not provide a proper representation of the standby loss of these models.

The current standby loss test procedure is included as Attachment A. This procedure is designed to test tank-type water heaters which are thermostatically operated. The basic steps of the procedure are to heat the water within the water heater, turn off the burner or element and then measure all the energy consumption that occurs while the water heater is ''standing by'' for approximately 24 hours with no water being withdrawn from it. The key measurement of the test procedure is the energy consumed by the burner or heating element when the thermostat senses that the water in the tank has cooled down to the point where it needs to be reheated. The current test does not address water heaters that have no means to activate the burner or heating element if no heated water is being drawn from the unit, *i.e.* the standby condition.

The models for which HTP, Inc. is seeking this test procedure waiver employ tube type heat exchangers and are designed to be flow activated. That is, the burner does not come on until water flow through the unit is sensed. Under the current standby loss test procedure, the burner on these models will not fire at any time during the test and the resulting standby loss measurement would be nearly zero. That measurement is not representative of the standby loss characteristics of these models. HTP, Inc. believes that the current test procedure evaluates the standby loss of the identified basic model(s) in a manner so unrepresentative of the true energy consumption as to provide materially inaccurate comparative data.

The manufacturers of all other basic models marketed in the United States known to HTP, Inc. do incorporate similar design characteristics is included as Attachment B.

An alternative procedure for measuring the standby loss of tube type instantaneous water heater is included as Attachment C. HTP, Inc. believes this

alternative provides a representative measure of the standby loss of these models. HTP, Inc. requests that DOE grant it a waiver to use this alternative procedure in lieu of the standby loss procedure specified in the current DOE efficiency test procedures for commercial water heaters.

Respectfully submitted,

Aleksandr Kovalenko
Director of Engineering
HTP, Inc.

Attachment A: [Excerpts from DOE's current commercial water heater regulations at 10 CFR 431.100–110. Not reproduced here.]

Attachment B:

Manufacturers of Commercial Tube Type Water Heaters containing 10 gallons or more

A.O. Smith Corporation
11270 W Park Place
PO Box 245008
Milwaukee, WI 53224–3623

Laars Heating Systems Company
20 Industrial Way
Rochester, NH 03867–4296

Lochinvar LLC
300 Maddox Simpson Pkwy
Lebanon, TN 37090–5366

Thermal Solutions Products, LLC, a Subsidiary of Burnham Holdings
PO BOX 3244
Lancaster, PA 17604–3244

Attachment C

AHRI Recommended Standby Loss Test Procedure for Commercial Tube-Type Instantaneous Water Heaters and Hot Water Supply Boilers That Contain At Least 10 Gallons of Water

Z21.10.3–2012 Exhibit E Efficiency Test Procedures

E.1 Method of Test for Measuring Thermal Efficiency

A water heater for installation on combustible floors shall be placed on ¾ in (1.9 cm) plywood platform supported by three 2 x 4 runners. If the water heater is for installation on noncombustible floors, suitable noncombustible material shall be placed on the platform. When the use of the platform for a large water heater is not practical, the water heater may be placed on any suitable flooring. A wall mounted water heater shall be mounted to a simulated wall section.

Placement in the test room shall be in an area protected from drafts.

Inlet and outlet piping shall be immediately turned vertically downward from the connections on a tank-type water heater so as to form heat traps. Any factory supplied heat traps shall be installed per the installation instructions. Thermocouples for measuring inlet and outlet water temperatures shall be installed before the inlet heat trap piping and after the outlet heat trap piping.

Water-tube water heaters shall be installed as shown in Figure 3, Arrangement for Testing Water-tube Type Instantaneous and Circulating Water Heaters.

a. Piping Insulation

Insulate the water piping, including heat traps, for a length of 4 ft (1.22 m) from the connection at the appliance with material having a thermal resistance (R) value of not less than 4 [F·ft ·hr/Btu (0.7 K·m/W)]. Care should be taken so the insulation does not contact any appliance surface except at the location where the pipe connections penetrate the appliance jacket.

b. Temperature and Pressure Relief Valve Insulation

If the manufacturer has not provided a temperature and pressure relief valve, one shall be installed and insulated as specified above.

c. Vent Requirements

1. Appliance Equipped With Draft Hoods

All tests shall be conducted with the natural draft established by the following vent pipe arrangements:

A vertically discharging vent connection shall have attached to and vertically above it, 5 ft (1.52 m) of vent pipe the same size as the outlet. If the vent does not discharge vertically, a suitable elbow shall be installed first.

2. Direct Vent Appliances and Mechanically Vented

The appliance shall be installed with the venting arrangement specified in the manufacturer's instructions. The water heater shall be installed with the manufacturer's specified minimum venting length venting arrangement.

d. Water Supply

During conduct of this test, the temperature of the supply water shall be maintained at 70 ± 2°F (21 ± 1°C). The pressure of the water supply shall be maintained between 40 psi (275.8 kPa) and the maximum pressure specified by the manufacturer for the appliance under test. The accuracy of the pressure measuring devices shall be ±1.0 psi (6.9 kPa). For a water-tube water heater, the inlet water temperature shall be maintained at the supply water temperature or as specified by the manufacturer (see 2.1.8).

A tank-type water heater shall be isolated by use of a shutoff valve in the supply line with an expansion tank installed in the supply line downstream of the shutoff valve. There shall be no shutoff means between the expansion tank and the appliance inlet.

e. Gas Supply

The gas rate shall be adjusted as specified in 2.3.3. The outlet pressure of the gas appliance pressure regulator shall be within ± 10 percent of that recommended by the manufacturer. The higher heating value of the gas burned shall be obtained.

f. Installation of Temperature Sensing Means

For tank-type water heaters, six (6) temperature sensing means shall be installed inside the storage tank on the vertical center of each of 6 nonoverlapping sections of approximately equal volume from the top to the bottom of the tank. Each temperature sensing means is to be located as far as possible from any heat source or other irregularity, anodic protective device, or water tank or flue wall. The anodic protective device may be removed in order to install the temperature sensing means and all testing may be carried out with the device removed.

If the temperature sensing means cannot be installed as specified above, placement of the temperature sensing means shall be made at the discretion of the testing agency so comparable water temperature measurements may be obtained.

A temperature sensing means, shielded against direct radiation and positioned at the vertical midpoint of the water heater at a perpendicular distance of approximately 24 in (610 mm) from the surface of the jacket, shall be installed in the test room.

g. Setting Tank Thermostat

Before starting testing of a tank-type water heater, the setting of the thermostat shall first be obtained by starting with the water in the system at 70 ± 2°F (21 ± 1°C) and noting the maximum mean temperature of the water after the thermostat reduces the gas supply to a minimum. The temperature shall be 140 ± 5°F (60 ± 3°C).

h. Energy Consumption

Instrumentation shall be installed which determines, within ± 1 percent:

1. The quantity and rate of gas consumed.

2. The quantity of electricity consumed by factory supplied water heater components, and of the test loop recirculating pump, if used.

i. Room Ambient Temperature

The ambient air temperature of the test room shall be maintained at 75 ± 10°F (24 ± 5.5°C), as measured by the test room temperature sensing means described in ''−f'' above.

The ambient air temperatures shall be measured at 15 minute intervals during conduct of this test. The room temperature shall not vary more than ± 7.0°F (± 4°C) from the average during the test, temperature readings being taken by means of a recording thermometer at 15 minute intervals and averaged at the end of the test.

j. Efficiency Measurement

The outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2°F (21 ± 1°C) above the supply temperature. After the outlet temperature has become constant, as indicated by no variation in excess of 2°F (1°C) over a 3 minute period, the outlet water shall be diverted from the waste line to a weighing container. A scale with an error no greater than 1 percent of the total draw shall be used. Water shall be allowed to flow into the weighing container for exactly 30 minutes. The gas consumption and electrical power consumption of factory supplied heater components and of the test loop-recirculating pump, if used, shall be measured for the 30 minute period. At this time, the outlet water shall be diverted back into the waste line, the meter readings noted, and the weight of heater water recorded. Throughout the period of test, supply and outlet water temperatures shall be recorded every minute. The temperature, pressure and heating value of the gas metered and barometric pressure shall be obtained.

A water meter with an error no greater than 1 percent of the total draw may be used instead of the scale and weighing container.

Thermal efficiency, Et, shall be computed by use of the following formula:

$$E_t = (KW\ (\theta_2 - \theta_1)/[(CF \times Q \times H) + Ec]) \times 100$$

Where

K = 1.004 Btu per pound mass degree F (4184 J/kg °C), nominal specific heat of water at 105°F;

W = total weight of water heated, lbs. (kg);

θ_1 = average temperature of supply water, °F (°C);

θ_2 = average temperature of outlet water, °F (°C);

Q = total gas consumed as metered, cu. ft. (m^3);

C_s = correction applied to the heating value H, when it is metered at temperature and/or pressure conditions other than the standard conditions. At which the heating value of gas is specified [normally 30 inches mercury column (101.3 kPa) and 60 °F (15.5 °C)];

H = total heating value of gas, Btu per cu. ft. (MJ/m_3); and

E_c = electrical consumption of the water heater and, when used, the test setup recirculating pump, specified in Btu (kJ).

Standby Loss for tank type water heaters shall be determined using Appendix E.2

Standby Loss for tube type water heaters that contain 10 or more gallons within the water heater, as determined under 5.27, shall be determined using Appendix E.3

E.3 Method of Test for Measuring Standby Loss for Tube Type Instantaneous Water Heaters With 10 or Greater Gallons of Storage

The appliance shall be installed as specified in E.1, Method of Test for Measuring Thermal Efficiency. This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise the water heater shall be put into operation under the same test conditions specified in E.1 and the outlet water temperature shall be adjusted by varying the rate of flow until temperature is constant at 70 ± 2°F (21 ± 1°C) above the supply temperature. After the outlet temperatures becomes constant, as indicated by no variation in excess of 2°F (1°C) over a 3 minute period, shut down the main burner(s) and, if applicable, wait for the water pump to shut down, and then start the test.

At the start of the test record the time, ambient temperature, outlet water temperature, supply water temperature and begin measuring the fuel and electric consumption.

During the first hour, outlet water temperature, supply water temperature and the ambient air temperature shall be measured at the end of each 5 minute interval. For the remainder of the test, these measurements shall be made at the end of every 15 minute interval. The duration of this test shall be 24 hours. If the main burner is firing at 24 hours, continue the test until the main burner and the water pump, if applicable, have shut down.

Immediately after the conclusion of the test, record the total fuel flow and electrical energy consumption, the final ambient air temperature and the final outlet water temperature.

Calculate the average of the ambient air temperatures and the supply water temperatures taken at the end of each time interval, including the initial and final values.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [(Cs(Qs)(H) + Ec)/t] - [(\Delta T_4)/(\Delta T_3)(t)E_t]$$

Where

Cs = correction applied to the heating value of a gas H, when it is metered at temperature and/or pressure conditions other than the standard conditions for which the value of H is based;

H = higher heating value of gas, Btu per cu. ft. (MJ/m3);

Qs = total fuel flow as metered, cu. ft. (m3);

ΔT_3 = difference between the outlet temperature and the average value of the ambient air temperature, °F (°C);

ΔT_4 = difference between the average supply water temperature and the outlet temperature, °F (°C);

t = duration of test, hrs.;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under E.1, Method of Test for Measuring Thermal Efficiency

If the main burner(s) does not cycle on during this test the hourly average standby loss calculation simplifies to:

$$S = \{(K(Va)(\Delta T_4)/E_t) + E_c\}/t$$

For water heaters that will not initiate or cause actions that will initiate burner operation, the following simplified procedure may be used to measure the hourly standby loss.

This test may be conducted immediately following the thermal efficiency test. In this case, start the test after the main burner(s) has shut down and, if applicable, the water pump has shut down. Otherwise, provide the electrical connection as specified in E.1 Method of Test for Measuring Thermal Efficiency and start the test.

At the start of the test record the time and begin measuring the electric consumption for one hour. Record the duration of the test and the total electrical consumption during the test.

The average hourly standby loss, S, rounded to the nearest Btu per hour, shall be determined by the formula:

$$S = [((\Delta T_5\ k\ V_a/E_t)/24) + E_c]$$

Where:

ΔT_5 = 70 °F (38.9 °C), difference between the supply and outlet water temperatures;

k= 8.25 Btu/gallon °F (4147.6331 J/l° C), the nominal specific heat of water;

V_a = water contained in the water heater expressed in gallons (L), as determined under 5.27;

Ec = electrical energy consumption expressed in Btu (kJ); and

Et = thermal efficiency as determined under E.1, Method of Test for Measuring Thermal Efficiency.

[FR Doc. 2016–13245 Filed 6–3–16; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9926–58–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Oklahoma's request to revise/modify its General Pretreatment Regulations For Existing And New Sources Of Pollution and State Sludge Management Program Regulations EPA-authorized programs to allow electronic reporting.

DATES: EPA's approval is effective June 6, 2016.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements. Once an authorized program has EPA's approval to accept electronic documents under certain programs, CROMERR § 3.1000(a)(4) requires that the program keep EPA apprised of any changes to laws, policies, or the electronic document receiving systems that have the potential to affect the program's compliance with CROMERR § 3.2000.

On October 27, 2014, the Oklahoma Department of Environmental Quality (OK DEQ) submitted a modification to their amended application titled ''Electronic Document Receiving System'' for revision/modification to its EPA-approved pretreatment and sludge management programs under title 40 CFR to allow new electronic reporting. EPA reviewed OK DEQ's request to revise/modify its EPA-authorized Part 403—General Pretreatment Regulations For Existing And New Sources Of Pollution and 501—State Sludge Management Program Regulations and, based on this review, EPA determined that the application met the standards for approval of authorized program revision/modification set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Oklahoma's request to revise/modify its Part 403—General Pretreatment Regulations For Existing And New Sources Of Pollution and 501—State Sludge Management Program Regulations to allow electronic reporting under 40 CFR parts 403–471, 501, and 503 is being published in the **Federal Register**.

OK DEQ was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2016–13270 Filed 6–3–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0794; FRL–9945–06]

Atrazine, Simazine, and Propazine Registration Review; Draft Ecological Risk Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft ecological risk assessments for the registration review of atrazine, propazine, and simazine and opens a public comment period on these documents. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed comprehensive draft ecological risk assessments for all atrazine, propazine, and simazine uses. After reviewing comments received during the public comment period, EPA may issue revised risk assessments, explain any changes to the draft risk assessments, respond to comments, and may request public input on risk mitigation before completing proposed registration review decisions for atrazine, propazine, and simazine. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before August 5, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0794, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* The Chemical Review Manager listed in Table 1 of Unit III.

For general questions on the registration review program, contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone

number: (703) 308–8015; email address: *dumas.richard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager listed in Table 1 of Unit III.

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*.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is conducting its registration review of atrazine, simazine, and propazine pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations for atrazine, simazine, and propazine to ensure that they continue to satisfy the FIFRA standard for registration—that is, that atrazine, simazine, and propazine can still be used without unreasonable adverse effects on human health or the environment.

TABLE 1—DRAFT RISK ASSESSMENTS BEING MADE AVAILABLE FOR PUBLIC COMMENT—TRIAZINES

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Atrazine 0062	EPA–HQ–OPP–2013–0266	Marianne Mannix, *mannix.marianne@epa.gov*, (703) 347–0275.
Simazine 0070	EPA–HQ–OPP–2013–0251	Steven Snyderman, *snyderman.steven@epa.gov*, (703) 347–0249.
Propazine, 0230	EPA–HQ–OPP–2013–0250	Steven Snyderman, *snyderman.steven@epa.gov*, (703) 347–0249.

Atrazine. Draft Ecological Risk Assessment (EPA–HQ–OPP–2013–0266). Atrazine is one of the most widely used agricultural pesticides in the United States. It is used primarily on corn, sorghum, and sugarcane to control broadleaf and grassy weeds in the Midwest. The draft atrazine ecological risk assessment evaluates risk to animals and plants. An endangered species assessment has not been completed for atrazine at this time. Atrazine was evaluated for its potential to affect endocrine systems in mammals and wildlife and the results of the Agency's review are found in the Weight of Evidence review in this Registration Review docket.

Simazine. Draft Ecological Risk Assessment (EPA–HQ–OPP–2013–0251). Simazine is an herbicide used to control broadleaf and grassy weeds on corn, citrus, tree nuts, pome fruits, stone fruits, berries, and grapes. The draft simazine ecological risk assessment evaluates risk to animals and plants. An endangered species assessment has not been completed for simazine at this time. Simazine was evaluated for its potential to affect endocrine systems in mammals and wildlife and the results of the Agency's review are found in the Weight of Evidence review in this Registration Review docket.

Propazine. Ecological Risk Assessment (EPA–HQ–OPP–2013–0250). Propazine is an herbicide used mainly to control broadleaf and grassy weeds on sorghum. The draft propazine ecological risk assessment evaluates risk to animals and plants. An endangered species assessment has not been completed for propazine at this time. Propazine has not been evaluated for its potential to affect endocrine systems in mammals and wildlife.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft ecological risk assessments for atrazine, simazine, and propazine. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as

applied to these draft risk assessments. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to the draft ecological risk assessments. After reviewing comments received during the public comment period, EPA may issue revised risk assessments, explain any changes to the draft risk assessments, and respond to comments, and may request public input on risk mitigation before completing a proposed registration review decision for the identified pesticides.

1. *Other related information.* Additional information specific to atrazine is available on the Pesticide Registration Review Status Web page for this pesticide, *https://www.epa.gov/ingredients-used-pesticide-products/atrazine-background-and-updates*. Information on the Agency's registration review program and its implementing regulation is available at *http://www.epa.gov/oppsrrd1/registration_review*.

2. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 31, 2016.

Michael Goodis,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2016–13299 Filed 6–3–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0233; FRL–9947–12]

Stakeholder Workshop To Discuss Interim Scientific Methods Used in Draft Biological Evaluations; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Pesticide Programs, the U.S. Fish and Wildlife Service (FWS), and the National Marine Fisheries Service (NMFS) (collectively, the Services), and the U.S. Department of Agriculture (USDA) are holding a 2-day workshop to discuss potential refinements to the interim scientific methods used in the first nationwide draft biological evaluations for chlorpyrifos, diazinon, and malathion, released for public comment on April 11, 2016. These interim scientific methods were developed by EPA and the Services, with collaboration from USDA on crop production, pesticide use, and the spatial footprint of agricultural use patterns, in response to the 2013 National Academy of Sciences (NAS) report entitled, ''Assessing Risks to Endangered and Threatened Species from Pesticides.'' This workshop builds upon public meetings held in November 2013, April and October 2014, and April 2015, and provides a forum for stakeholders to offer scientific and technical feedback on three topics of interest: (1) Improving aquatic modeling, (2) refinements to Step 1 (making ''may affect'' or ''no effect'' determinations) and Step 2 (making ''likely to adversely affect'' or ''not likely to adversely affect'' determinations), and (3) the weight of evidence approach. The workshop is not designed, or intended, to be a decision-making forum; consensus will not be sought, or developed at the meeting. This meeting is intended to further the agencies' goal of developing a sustainable methodology and process as part of the consultation process for assessing pesticide impacts on threatened and endangered (listed) species that is efficient, inclusive, and transparent.

DATES: The meeting will be held on June 29, 2016 from 8:00 a.m. to 5:30 p.m. and June 30, 2016 from 8:30 a.m. to 5:00 p.m. There will be a teleconference line and webinar available for those interested in calling in for introductory and concluding plenary sessions at the beginning and the end of the workshop. Attendees must register by June 22, 2016 to attend either in person or via teleconference/webinar.

To request accommodation of a disability, please contact the person(s) listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA and the Services as much time as possible to process your request.

ADDRESSES: The meeting will be held at FWS Skyline Bldg. 7, 5275 Leesburg Pike, Bailey's Crossroads, VA 22041–3803, in the Rachel Carson Room. See Unit III for additional information.

Requests to participate in the meeting, identified by docket identification (ID) number EPA–HQ–OPP–2014–0233, may be submitted to the persons listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: For general information and to register to attend, contact: Khue Nguyen, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 703–347–0248; email address: *nguyen.khue@epa.gov.*

For meeting logistics and special accommodations, contact: Leona Laniawe, U.S. Fish and Wildlife Service Headquarters, Ecological Services, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone: (703) 358–2640; email address: *leona_laniawe@fws.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you develop, manufacture, formulate, sell, and/or apply pesticide products, and if you are interested in the potential impacts of pesticide use on listed species. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop Production (NAICS code 111).
- Animal Production (NAICS code 112).
- Food Manufacturing (NAICS code 311).

• Pesticide Manufacturing (NAICS code 32532).

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket ID number EPA–HQ–OPP–2014–0233, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

This workshop is an opportunity for stakeholders and agencies to continue their dialogue on the technical aspects of implementing the NAS recommendations in the context of ongoing interagency efforts to develop a method for assessing risks to endangered species. This workshop builds upon implementation of the enhanced stakeholder engagement process that was finalized in March 2013, and public meetings held in November 2013, April and October 2014, and April 2015. The workshop is not designed, or intended to be a decision-making forum; consensus will not be sought, or developed at the meeting. Stakeholders are invited to provide feedback and suggest ideas for further refinement in three topic areas related to the draft biological evaluations for the three pilot chemicals (chlorpyrifos, diazinon, and malathion): (1) Improving aquatic exposure modeling, (2) refinements to the interim method for Step 1 (making ''may affect'' or ''no effect'' determinations) and Step 2 (making ''likely to adversely affect'' or ''not likely to adversely affect'' determinations), and (3) the approach to the weight of evidence.

The structure of this workshop differs from the structure of previous workshops. Only the opening and concluding plenary sessions of the workshop will be open to the general public. The rest of the workshop is divided into 6 breakout groups. Each breakout group will discuss technical questions related to the three main topics of interest: (1) Improving aquatic modeling, (2) refinements to Step 1 and Step 2, and (3) the approach to the weight of evidence. Because of the highly technical nature of these topics, the breakout groups will be by invitation only during initial registration. Invitees with specialized expertise in the three topic areas will be identified by the workshop Steering Committee composed of members from EPA, FWS, NMFS, and representatives from industry, grower groups, and environmental non-governmental organizations (NGOs). After initial registration, each breakout group will be open to the public on a first-come-first-served basis until maximum capacity is reached. Maximum capacity is 20 people per breakout group.

The agencies' interim approach document entitled, ''Interagency Approach for Implementation of the National Academy of Sciences Report'', dated November 13, 2013, and the presentation materials from the November 2013 stakeholder workshop are available at: *http://www.epa.gov/oppfead1/endanger/2013/nas.html.* Presentations supporting the previous stakeholder workshops held in April and October 2014 are available in the docket EPA–HQ–OPP–2014–0233. Presentations supporting the stakeholder workshop in April 2015 and the draft biological evaluations for chlorpyrifos, diazinon, and malathion are available at: *https://www.epa.gov/endangered-species/implementing-nas-report-recommendations-ecological-risk-assessment-endangered-and.*

Representatives from the federal agencies will participate in the breakout groups and plenary sessions to guide the discussion and answer clarifying questions regarding the need for refinement of the current interim methods. The agencies see this workshop as an integral component of the stakeholder engagement process developed for pesticide consultations that contributes to the agencies' commitment to adapt and refine the interim approaches as we progress through the initial pesticide consultations for chlorpyrifos, diazinon, and malathion.

III. How can I request to participate in this meeting?

You may submit a request to participate in this meeting to the person(s) listed under **FOR FURTHER INFORMATION CONTACT.** Do not submit any information in your request that is considered CBI. Requests to participate in the meeting, identified by docket ID number EPA–HQ–OPP–2014–0233, must be received on or before June 22, 2016.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 31, 2016.

Michael Goodis,

Acting Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2016–13301 Filed 6–3–16; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: Date and Time: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on June 9, 2016, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

• May 12, 2016

B. Reports

• Annual Report on the Farm Credit System's Young, Beginning, and Small Farmer Mission Performance: 2015 Results

• Quarterly Report on Economic Conditions and FCS Conditions

• Semi-Annual Report on Office of Examination Operations

Closed Session*

• Office of Examination Quarterly Report

* Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(8) and (9).

Dated: June 2, 2016.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2016–13450 Filed 6–2–16; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10418, Central Florida State Bank, Belleview, Florida

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10418, Central Florida State Bank, Belleview, Florida (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Central Florida State Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective June 01, 2016 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: June 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–13243 Filed 6–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10450, First Cherokee State Bank, Woodstock, Georgia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10450, First Cherokee State Bank, Woodstock, Georgia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of First Cherokee State Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective June 01, 2016 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: June 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–13244 Filed 6–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064–0169)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995. On January 5, 2016, (81 FR 239), the FDIC requested comment for 60 days on a proposal to renew the information collections described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on this renewal.

DATES: Comments must be submitted on or before July 6, 2016.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

• *http://www.FDIC.gov/regulations/laws/federal/.*

• *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.

• *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room MB–3016, or Manny Cabeza, (202.898.3767), Counsel, Room MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper or Manny Cabeza, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently-approved collections of information:

1. *Title:* Qualifications for Failed Bank Acquisitions.

OMB Number: 3064–0169.

Form Numbers: None.

Affected Public: Private sector, insured state nonmember banks and state savings associations.

ESTIMATED BURDEN

	No. of respondents	Average hours per response	Responses per year	Total hours
Investor Reports on Affiliates (reporting burden)	10	2	12	240
Maintenance of Business Books (record keeping burden)	3	2	4	24
Disclosures Regarding Investors and Entities in Ownership Chain (reporting burden)	10	4	4	160
Total Burden Hours				424

General Description: Among other things, the Federal Deposit Insurance Act (FDIA) sets forth the duties and responsibilities of the FDIC in providing for and maintaining a system of deposit insurance for the nation's insured depository institutions and in resolving troubled insured depository institutions in a manner that presents the least cost to the Deposit Insurance Fund. Section 6 of the FDIA sets forth a number of factors to be considered before an institution is permitted by the FDIC to obtain federal deposit insurance. Among these factors are the financial history of the institution; the adequacy of the institution's capital structure; the further earnings prospects; the convenience and needs of the community; the institution's corporate powers, and, not insignificantly, the risk presented to the Deposit Insurance Fund. (Similarly, provisions of the Change in Bank Control Act, found in section 7 of the FDIA, permit the FDIC—or another appropriate federal banking agency—to refuse to permit a proposed change in bank control if the proposed transaction would result in an adverse effect on the Deposit Insurance Fund.) Section 8 of the FDIA authorizes the FDIC to assess the safety and soundness of the practices, operations, and conditions of insured depository institutions, and permits the FDIC to terminate deposit insurance or to take other appropriate actions if the institution operates in an unsafe and unsound manner. Finally, section 13 of the FDIA authorizes the FDIC to resolve troubled insured depository institutions and to dispose of the assets of such institutions using the method that is least costly to the Deposit Insurance Fund, maximizes the return from the sale of such assets, and minimizes any loss to the Deposit Insurance Fund.

The FDIC's policy statement on Qualifications for Failed Bank Acquisitions provides guidance to private capital investors interested in acquiring or investing in failed insured depository institutions regarding the terms and conditions for such investments or acquisitions. The information collected pursuant to the policy statement allows the FDIC to evaluate, among other things, whether such investors (and their related interests) could negatively impact the Deposit Insurance Fund, increase resolution costs, or operate in a manner that conflict with statutory safety and soundness principles and compliance requirements.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 1st day of June, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–13235 Filed 6–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10287, Bank of Ellijay, Ellijay, Georgia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10287, Bank of Ellijay, Ellijay, Georgia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Bank of Ellijay (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective June 01, 2016 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Date: June 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–13242 Filed 6–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10159, Valley Capital Bank, Mesa, Arizona

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Valley Capital Bank, Mesa, Arizona (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Valley Capital Bank on December 11, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: June 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–13234 Filed 6–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking

companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 30, 2016.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291.

1. *TCB Mutual Holding Company, Tomahawk, Wisconsin, and its wholly owned savings and loan holding company subsidiary, TCB Financial, Inc.,* Tomahawk, Wisconsin, to indirectly acquire Merrill Federal Savings & Loan Association, Merrill, Wisconsin, a mutual institution, through the merger of Merrill Federal Savings & Loan Association with and into Tomahawk Community Bank S.S.B., Tomahawk, Wisconsin, a wholly owned subsidiary of TCB Mutual Holding Company and TCB Financial, Inc.

Board of Governors of the Federal Reserve System, May 31, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–13187 Filed 6–3–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0088; Docket 2016–0053; Sequence 15]

Submission for OMB Review; Travel Costs

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Travel Costs.

DATES: Submit comments on or before July 6, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0088, Travel Costs.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0088, Travel Costs'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0088, Travel Costs.

Instructions: Please submit comments only and cite Information Collection 9000–0088, Travel Costs, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Kathlyn Hopkins, Procurement Analyst, Office of Acquisition Policy, GSA, 202–969–7226 or via email at *kathlyn.hopkins@gsa.gov.*

A. Purpose

FAR 31.205–46, Travel Costs, requires that, except in extraordinary and temporary situations, costs incurred by a contractor for lodging, meals, and incidental expenses shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the per diem rates in effect as of the time of travel.

These requirements are set forth in the Federal Travel Regulation for travel in the conterminous 48 United States; in the Joint Travel Regulation for travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and territories and possessions of the United States; and in the Department of State Standardized Regulations, section 925, ''Maximum Travel Per Diem Allowances for Foreign Areas.'' The burden generated by this coverage is in the form of the contractor preparing a justification whenever a higher actual expense reimbursement method is used. A notice was published in the **Federal Register** at 81 FR 13368 on March 14, 2016.

B. Discussion and Analysis

One respondent submitted public comments on the extension of the previously approved information collection.

Comment on the policy: The respondent expressed support for the requirement that Federal contractors justify any methods that result in reimbursements exceeding the per diem rates. The respondent stated that FAR 31.205 applies the same standard to Federal employees; the burden is fairly imposed upon contractors.

Response: The Government appreciates and acknowledges the comment.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can

minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

C. Annual Reporting Burden

Respondents: 5,800.
Responses per Respondent: 10.
Total Responses: 58,000.
Hours per Response: .25.
Total Burden Hours: 14,500.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0088, Travel Costs, in all correspondence.

Dated: May 31, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–13222 Filed 6–3–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10148]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are require; to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 5, 2016.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10148 HIPAA Administrative Simplification Complaint Form

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* HIPAA Administrative Simplification Complaint Form; *Use:* The Health Insurance Portability and Accountability Act (HIPAA) became law in 1996 (Pub. L. 104–191). Subtitle F of Title II of HIPAA, titled ''Administrative Simplification,'' (A.S.) requires the Secretary of HHS to adopt national standards for certain information-related activities of the health care industry. The HIPAA provisions, by statute, apply only to ''covered entities'' referred to in section 1320d–2(a) (1) of this title. Responsibility for administering and enforcing the HIPAA A.S. Transactions, Code Sets, Identifiers has been delegated to the Centers for Medicare & Medicaid Services (CMS). This updated information collection will be used to initiate enforcement actions.

This reinstatement request clarifies the removal of the HIPAA Security complaint category. Specifically, the information collection revisions clarify the ''Identify the HIPAA Non-Privacy/Security complaint category'' section of the complaint form. In this section, complainants are given an opportunity to check the ''Unique Identifiers'' and ''Operating Rules'' option to additionally categorize the type of HIPAA complaint being filed. The revised form now includes an option for identifying Unique Identifier and Operating Rules complaints. It also requests email information about filed against entities, if available. *Form Number:* CMS–10148 (OMB control number: 0938–0948); *Frequency:* Occasionally; *Affected Public:* Individuals; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 500. (For policy questions regarding this collection contact Kevin Stewart at 410–786–6149.)

Dated: June 1, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–13289 Filed 6–3–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Head Start Performance Standards.

OMB No.: 0970–0148.

Description: Please note that this submission does not reflect proposed changes in the Notice of Proposed Rule Making to update Head Start program performance standards published on June 15, 2015. ACF is only requesting for an extension without change of a currently approved collection.

Head Start Performance Standards are the result of a legislative mandate to administer a high quality comprehensive child development program that serves low-income pregnant women, infants and toddlers, preschoolers and their families. The information collection aspects of the Performance Standards are a part of the many actions that local agencies must take to ensure they administer quality programs for Head Start children and families. The information collection items included in the Performance Standards are almost entirely record-keeping requirements for local Head Start programs; these records are intended to act as a tool for grantees and delegate agencies to be used in their day-to-day operations. Such records are maintained by the grantees and delegate agencies and are not part of a standard information collection submitted to the Federal government. Local programs are monitored for overall compliance with the Performance Standards, including the record-keeping aspects.

Respondents: Head Start and Early Head Start program grant recipients.

ANNUAL BURDEN ESTIMATES

Instruments	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Records	2,865	16	41.9	1,920,696

Estimated Total Annual Burden Hours: 1,920,696.

Cost per respondent is $10,290.64 estimated at 16 responses × 41.9 hours × $15.35 per hour. Monetary costs associated with information collection requirements for Head Start are the salaries of the staff performing the duties. These costs are assumed by the Federal Government through the provision of program operating costs.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments 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; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–13172 Filed 6–3–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.568]

Reallotment of FY 2015 Funds for the Low Income Home Energy Assistance Program (LIHEAP)

AGENCY: Office of Community Services, ACF, HHS.

ACTION: Notice of determination concerning funds available for reallotment.

SUMMARY: Notice is hereby given of a preliminary determination that funds from the fiscal year (FY) 2015 Low Income Home Energy Assistance Program (LIHEAP) are available for reallotment to states, territories, tribes, and Tribal Organizations that received FY 2016 direct LIHEAP grants. No subgrantees or other entities may apply for these funds.

Section 2607(b)(1) of the Low Income Home Energy Assistance Act (the Act), (42 U.S.C. 8626(b)(1)) requires that, if the Secretary of the U.S. Department of Health and Human Services (HHS) determines that, as of September 1 of any fiscal year, an amount in excess of 10 percent of the amount awarded to a grantee for that fiscal year (excluding Leveraging, REACH, and reallotted funds) will not be used by the grantee during that fiscal year, then the Secretary must notify the grantee and publish a notice in the **Federal Register** that such funds may be reallotted to LIHEAP grantees during the following fiscal year. If reallotted, the LIHEAP block grant allocation formula will be used to distribute the funds. No funds may be allotted to entities that are not direct LIHEAP grantees during FY 2016.

DATES: Submit comments on or before July 6, 2016.

ADDRESSES: Comments may be submitted to: Jeannie L. Chaffin, Director, Office of Community Services, 330 C Street SW., 5th Floor, Mail Room 5425, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Lauren Christopher, Director, Division of Energy Assistance, Office of Community Services, 330 C Street SW.,

5th Floor, Mail Room 5425, Washington, DC 20201; telephone (202) 401–4870; email: *lauren.christopher@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: It has been determined that approximately $1,230,022 in LIHEAP funds may be available for reallotment during FY 2016. This determination is based on FY 2015 Carryover and Reallotment Reports that showed that seven grantees reported reallotment funds (Tennessee, Puerto Rico, Coyote Valley Band of Pomo Indians, Eastern Shoshone Tribe, Passmaquoddy Tribe at Pleasant Point, Poarch Band of Creek Indians, and The Klamath Tribes). Grantees submitted the FY 2015 Carryover and Reallotment Reports to the Office of Community Services (OCS), as required by regulations applicable to LIHEAP at 45 CFR 96.82. This amount, however, may increase because, as of April 1, 2016, the report for 68 grantees remains pending.

The statute allows grantees who have funds unobligated at the end of the federal fiscal year for which they are awarded to request that they be allowed to carry over up to 10 percent of their allotments to the next federal fiscal year. Funds in excess of this amount must be returned to HHS and are subject to reallotment under section 2607(b)(1) of the Act (42 U.S.C. 8626(b)(1)). The amount described in this notice was reported as unobligated FY 2015 funds in excess of the amount that these grantees could carry over to FY 2016.

OCS contacted each of the grantees to confirm that the FY 2015 funds indicated in the chart may be reallotted. In accordance with section 2607(b)(3) of the Act (42 U.S.C. 8626(b)(3)), comments will be accepted for a period of 30 days from the date of publication of this notice.

After considering any comments submitted, the Chief Executive Officers of LIHEAP grantees will be notified of the final reallotment amount. This decision will be published in the **Federal Register**.

If funds are reallotted, they will be allocated in accordance with section 2604 of the Act (42 U.S.C. 8623) and must be treated by LIHEAP grantees receiving them as an amount appropriated for FY 2016. As FY 2016 funds, they will be subject to all requirements of the Act, including section 2607(b)(2) (42 U.S.C. 8626(b)(2)), which requires that a grantee obligate at least 90 percent of its total block grant allocation for a fiscal year by the end of the fiscal year for which the funds are appropriated, that is, by September 30, 2016.

ESTIMATED REALLOTMENT AMOUNTS OF FY 2015 LIHEAP FUNDS

Grantee name	FY 2015 reallotment amount
Tennessee	$271,910
Puerto Rico	818,566
Coyote Valley Band of Pomo Indians	9,025
Eastern Shoshone Tribe	37,413
Passmaquoddy Tribe at Pleasant Point	33,602
Poarch Band of Creek Indians	50,978
The Klamath Tribes	8,528
Total	1,230,022

Statutory Authority: 42 U.S.C. 8626.

Mary M. Wayland,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2016–13217 Filed 6–3–16; 8:45 am]

BILLING CODE 4184–80–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3432]

Organon USA et al.; Withdrawal of Approval of 67 New Drug Applications and 128 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of October 13, 2015 (80 FR 61426). The document announced the withdrawal of approval of 67 new drug applications (NDAs) and 128 abbreviated new drug applications from multiple applicants, effective November 12, 2015. The document indicated that FDA was withdrawing approval of the following two NDAs after receiving a request from the NDA holder, Merck Sharp & Dohme Corp. (Merck), 1 Merck Dr., P.O. Box 100, Whitehouse Station, NJ 08889: NDA 016096, MINTEZOL (thiabendazole) Tablets, and NDA 016097, MINTEZOL (thiabendazole) Oral Suspension. Before withdrawal of these NDAs became effective, Merck informed FDA that it did not want approval of the NDAs withdrawn. Because Merck timely requested that approval of these NDAs not be withdrawn, the approval of NDAs 016096 and 016097 is still in effect.

FOR FURTHER INFORMATION CONTACT: Florine Purdie, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6366, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Tuesday, October 13, 2015, appearing on page 61426 in FR Doc. 2015–25922, the following correction is made:

On page 61426, in table 1, the entries for NDAs 016096 and 016097 are removed.

Dated: May 31, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–13182 Filed 6–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0797]

Agency Information Collection Activities; Proposed Collection; Comment Request; Human Tissue Intended for Transplantation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to FDA regulations for human tissue intended for transplantation.

DATES: Submit either electronic or written comments on the collection of information by August 5, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to

the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N–0797 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Human Tissue Intended for Transplantation.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Human Tissue Intended for Transplantation—21 CFR Part 1270 (OMB Control Number 0910–0302)—Extension

Under section 361 of the Public Health Services Act (42 U.S.C. 264), FDA issued regulations under part 1270 (21 CFR part 1270) to prevent the transmission of human immunodeficiency virus, hepatitis B, and hepatitis C, through the use of human tissue for transplantation. The regulations provide for inspection by FDA of persons and tissue establishments engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue. These facilities are required to meet provisions intended to ensure appropriate screening and testing of human tissue donors and to ensure that records are kept documenting that the appropriate screening and testing have been completed.

Section 1270.31(a) through (d) requires written procedures to be prepared and followed for the following steps: (1) All significant steps in the infectious disease testing process under § 1270.21; (2) all significant steps for obtaining, reviewing, and assessing the relevant medical records of the donor as prescribed in § 1270.21; (3) designating and identifying quarantined tissue; and (4) for prevention of infectious disease contamination or cross-contamination by tissue during processing. Sections 1270.31(a) and (b) also requires recording and justification of any deviation from the written procedures. Section 1270.33(a) requires records to be maintained concurrently with the performance of each significant step required in the performance of infectious disease screening and testing of human tissue donors. Section 1270.33(f) requires records to be retained regarding the determination of the suitability of the donors and of the records required under § 1270.21. Section 1270.33(h) requires all records to be retained for at least 10 years beyond the date of transplantation if

known, distribution, disposition, or expiration of the tissue, whichever is the latest. Section 1270.35(a) through (d) requires specific records to be maintained to document the following: (1) The results and interpretation of all required infectious disease tests; (2) information on the identity and relevant medical records of the donor; (3) the receipt and/or distribution of human tissue, and (4) the destruction or other disposition of human tissue.

Respondents to this collection of information are manufacturers of human tissue intended for transplantation. Based on information from the Center for Biologics Evaluation and Research's (CBER's) database system, FDA estimates that there are approximately 383 tissue establishments of which 262 are conventional tissue banks and 121 are eye tissue banks. Based on information provided by industry, there are an estimated total of 2,141,960 conventional tissue products and 130,987 eye tissue products distributed per year with an average of 25 percent of the tissue discarded due to unsuitability for transplant. In addition, there are an estimated 29,799 deceased donors of conventional tissue and 70,027 deceased donors of eye tissue each year.

Accredited members of the American Association of Tissue Banks (AATB) and Eye Bank Association of America (EBAA) adhere to standards of those organizations that are comparable to the recordkeeping requirements in part 1270. Based on information provided by CBER's database system, 90 percent of the conventional tissue banks are members of AATB ($262 \times 90\% = 236$), and 95 percent of eye tissue banks are members of EBAA ($121 \times 95\% = 115$). Therefore, recordkeeping by these 351 establishments ($236 + 115 = 351$) is excluded from the burden estimates as usual and customary business activities (5 CFR 1320.3(b)(2)). The recordkeeping burden, thus, is estimated for the remaining 32 establishments, which is 8.36 percent of all establishments ($383 - 351 = 32$, or $32/383 = 8.36\%$).

FDA assumes that all current tissue establishments have developed written procedures in compliance with part 1270. Therefore, their information collection burden is for the general review and update of written procedures estimated to take an annual average of 24 hours, and for the recording and justifying of any deviations from the written procedures under § 1270.31(a) and (b), estimated to take an annual average of 1 hour. The information collection burden for maintaining records concurrently with the performance of each significant screening and testing step and for retaining records for 10 years under § 1270.33(a), (f), and (h) include documenting the results and interpretation of all required infectious disease tests and results and the identity and relevant medical records of the donor required under § 1270.35(a) and (b). Therefore, the burden under these provisions is calculated together in table 1 of this document. The recordkeeping estimates for the number of total annual records and hours per record are based on information provided by industry and FDA experience.

FDA estimates the burden of this information collection as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
1270.31(a), (b), (c), and (d) [2]	32	1	32	24	768
1270.31(a) and 1270.31(b) [3]	32	2	64	1	64
1270.33(a), (f), and (h), and 1270.35(a) and (b)	32	6,198.84	198,363	1.0	198,363
1270.35(c)	32	11,876.12	380,036	1.0	380,036
1270.35(d)	32	1,454.50	47,504	1.0	47,504
Total					626,735

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Review and update of standard operating procedures (SOPs).
[3] Documentation of deviations from SOPs.

Dated: May 27, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–13224 Filed 6–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–1284]

Determination That APRESOLINE (Hydralazine Hydrochloride) Injectable and Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993–0002, 301–796–8363, *Stacy.Kane@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.

355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the following table are no longer being marketed.

Application No.	Drug name	Active ingredient(s)	Strength(s)	Dosage form/route	Applicant
NDA 008303	APRESOLINE	Hydralazine Hydrochloride;	20 milligrams (mg)/milliliter 10 mg; 25 mg; 50 mg; 100 mg.	Injectable; Injection Tablet; Oral.	Novartis Pharmaceuticals Corp.
NDA 017853	PROVENTIL	Albuterol Sulfate	Equivalent to (EQ) 2 mg base; EQ 4 mg base.	Tablet; Oral	Schering-Plough Corp.
NDA 019439	K-Dur	Potassium Chloride	10 milliequivalents (meq); 20 meq.	Extended-Release Tablet; Oral.	Merck Sharp & Dohme, Corp.
ANDA 060572	MYCOLOG–II	Nystatin; Triamcinolone Acetonide.	100,000 units/gram; 0.1% ...	Ointment; Topical	Delcor Asset Corp.
ANDA 084343	KENALOG	Triamcinolone Acetonide	0.025%; 0.1%	Lotion; Topical	Delcor Asset Corp.

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug products listed in this document in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the NDAs and ANDAs listed in this document are unaffected by the discontinued marketing of the products subject to those NDAs and ANDAs. Additional ANDAs that refer to these products may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: May 31, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–13181 Filed 6–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0643]

Labeling for Biosimilar Products; Draft Guidance for Industry; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or Agency) is extending the comment period for the notice entitled ''Labeling for Biosimilar Products; Draft Guidance for Industry; Availability'' that appeared in the **Federal Register** of April 4, 2016. The Agency is taking this action to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period for the notice that published on April 4, 2016 (81 FR 19194) by an additional 60 days. Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to permit the Agency to consider your comments before issuing the final version of the guidance, submit either electronic or written comments on the draft guidance by August 2, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–0643 for ''Labeling for Biosimilar Products; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Sandra Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6340, Silver Spring, MD 20993–0002, 301–796–1042; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 4, 2016 (81 FR 19194), FDA published a notice with a 60-day comment period to request comments on the draft guidance for industry entitled ''Labeling for Biosimilar Products.'' FDA is extending the comment period for an additional 60 days, until August 2, 2016. The Agency believes that a 60-day extension will allow adequate time for interested persons to submit comments without compromising timely publication of the final guidance.

II. Electronic Access

Persons with access to the Internet may obtain the draft guidance at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.regulations.gov.*

Dated: May 31, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–13223 Filed 6–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group; Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: June 16–17, 2016.

Time: 7:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd., Bethesda, MD 20852.

Contact Person: Helen Lin, Ph.D., Scientific Review Officer, NIH/NIAMS/RB, 6701 Democracy Blvd., Suite 800, Plaza One, Bethesda, MD 20817, 301–594–4952, *linh1@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 27, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13200 Filed 6–3–16; 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; Member Conflicts and Continuous Submission: Ischemia and HDL.

Date: June 22–23, 2016.
Time: 10:00 a.m. to 2:00 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: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1206, *komissar@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Hematology and Vascular Biology.
Date: June 27–28, 2016.
Time: 10:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR PANEL: Innovative Therapies and Tools for Screenable Disorders in Newborns (R01, R21, R03).
Date: June 28, 2016.
Time: 11:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.
Contact Person: Richard Panniers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Immune Mechanism and Vaccine Development.
Date: June 29–30, 2016.
Time: 8:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Liying Guo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016F, Bethesda, MD 20892, 301–435–0908, *lguo@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular Sciences.
Date: June 29–30, 2016.
Time: 8:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: New Orleans Marriott, 555 Canal Street, New Orleans, LA 70130.
Contact Person: Margaret Chandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7814, Bethesda, MD 20892, (301) 435–1743, *margaret.chandler@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 16–064: R21 Grants for New Investigators to Promote Diversity in Health-Related Research.
Date: June 29, 2016.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.
Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Biological Chemistry and Macromolecular Biophysics.
Date: June 29–30, 2016.
Time: 8:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Raymond Jacobson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892, 301–996–7702, *jacobsonrh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.
Date: June 29, 2016.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, 301–435–0484, *mohsenim@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR13–309–311: Translational Research in Pediatric and Obstetric Pharmacology and Therapeutics.
Date: June 29, 2016.
Time: 1:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Hormones, Stress and Sleep.
Date: June 29, 2016.
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: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 4214 MSC 7814, Bethesda, MD 20892–7814, 301–435–1787, *borzanj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Interventions and Mechanisms for Addictions.
Date: June 29, 2016.
Time: 12:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@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: May 31, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13192 Filed 6–3–16; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR15–306: Lymphatics in Health and Disease in the Digestive System, Kidney and Urinary Tract.

Date: June 8, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: May 31, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13194 Filed 6–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Health Information National Trends Survey V (HINTS V) (NCI)

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 Cancer Institute, the 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 to address 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) 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 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 obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Bradford W. Hesse, Ph.D., Project Officer, National Cancer Institute, 9609 Medical Center Drive, 3E610, Bethesda, MD 20892–9760, or call non-toll free number 240–276–6721 or email your request, including your address, to *hesseb@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

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: Health Information National Trends Survey V (HINTS V) (NCI) (OMB 0925–0538–Reinstatement with Change. National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: HINTS V will provide NCI with a comprehensive assessment of the American public's current access to and use of information about cancer across the cancer care continuum from cancer prevention, early detection, diagnosis, treatment, and survivorship. The content of the survey will focus on understanding the degree to which members of the general population understand vital cancer prevention messages. More importantly, this NCI survey will couple knowledge-related questions with inquiries into the communication channels through which understanding is being obtained, and assessment of cancer-related behavior.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,017.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Individual—main study	3,500	1	30/60	1,750
Individual—pilot study	533	1	30/60	267
Total	4,033	4,033	.....	2,017

Dated: May 27, 2016.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, NIH.

[FR Doc. 2016–13191 Filed 6–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in 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 Eye Institute Special Emphasis Panel BRAIN Initiative: New Concepts and Early-Stage Research for Large-Scale Recording and Modulation in the Nervous System (R21).

Date: June 23, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott at Metro Center, 775 12th Street NW., Washington, DC 20005.

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, National Eye Institute, National Institutes of Health, Division of Extramural Research, 5635 Fishers Lane, Suite 1300, Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: May 27, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13196 Filed 6–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel—Pregnenolone and Depression.

Date: June 29, 2016.

Time: 2:00 p.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: Jeannette L. Johnson, Ph.D., National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *johnsonj9@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 27, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13197 Filed 6–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA PAR on Mechanisms of Behavioral Change.

Date: June 22, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of INIA Applications (RFA–AA–16–004, 005 & 006).

Date: November 4, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Terrace Conference Room, 5635 Fishers Lane, Rockville MD, MD 20851.

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 2081, Rockville, MD 20852, 301–443–0800, *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: May 27, 2016.

Melanie J. Gray-Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13198 Filed 6–3–16; 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; PAR 13–213: Outcome Measures for Use in Treatment Trials for Individuals with IDD.

Date: June 29, 2016.

Time: 12:00 p.m. to 2:00 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: Jane A. Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.

Date: June 30–July 1, 2016.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Clara M. Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170

MSC 7892, Bethesda, MD 20817, 301–435–1041, *chengc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Bioanalytical Chemistry, Biophysics and Assay Development.

Date: June 30, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW., Washington, DC 20001.

Contact Person: Vonda K. Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7892, Bethesda, MD 20892, 301–435–1789, *smithvo@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Urologic and Urogynecologic Applications.

Date: June 30, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Chicago Hotel, 505 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Instrumentation, Environmental and Occupational Safety.

Date: June 30–July 1, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tatiana V. Cohen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 5213, Bethesda, MD 20892, 301–455–2364, *tatiana.cohen@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular and Hematology.

Date: June 30, 2016.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0952, *espinozala@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomaterials, Delivery and Nanotechnology.

Date: June 30–July 1, 2016.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Surgical Sciences and Bioengineering.

Date: June 30, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Memory, Attention and Social Development.

Date: June 30, 2016.

Time: 12:00 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, (Virtual Meeting).

Contact Person: Wind Cowles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3172, Bethesda, MD 20892, *cowleshw@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–080: Accelerating the Pace of Drug Abuse Research Using Existing Data.

Date: June 30, 2016.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@mail.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: May 31, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13193 Filed 6–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, NIAAA Member Conflict Reviews—Clinical Sciences and Epidemiology.

Date: July 11, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health—NIAAA, 5635 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Richard A Rippe, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room 2109, Rockville, MD 20852, 301–443–8599, *rippera@mail.nih.gov*.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel NIAAA Fellowship Review.

Date: July 26, 2016.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Terrace Level Conference Room 508, 5635 Fishers LN, Rockville, MD 20892.

Contact Person: Richard A. Rippe, Ph.D. Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room 2109, Rockville, MD 20852, 301–443–8599 *rippera@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: May 27, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13199 Filed 6–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the meeting of the Board of Scientific Counselors for Clinical Sciences and Epidemiology, National Cancer Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Clinical Sciences and Epidemiology, National Cancer Institute.

Date: July 11, 2016.

Time: 8:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 31 Center Drive, Building 31, C-Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Brian E. Wojcik, Ph.D., Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 3W414, Rockville, MD 20850, 240–276–5665, *wojcikb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 27, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13195 Filed 6–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2016–0036]

Committee Name: Homeland Security Academic Advisory Council

AGENCY: Department of Homeland Security

ACTION: Committee management; request for applicants for appointment to the Homeland Security Academic Advisory Council.

SUMMARY: The Department of Homeland Security (DHS) is requesting qualified individuals who are interested in serving on the Homeland Security Academic Advisory Council (HSAAC) to apply for appointment as identified in this notice. Under the Secretary's authority in title 6, U.S.C., sec. 451, the Council is a discretionary committee established in accordance with and operates under the provisions of the *Federal Advisory Committee Act* (FACA) (title 5, U.S.C., appendix). The HSAAC is composed of up to twenty-three (23) members, representing a diverse group of university and college presidents and academic association leaders who advise the Secretary and senior leadership on matters related to homeland security and the academic community, including: Academic research and faculty exchange; campus resilience; cybersecurity; homeland security academic programs; international students; and student and recent graduate recruitment.

The Department seeks to appoint individuals to eight (8) vacant positions on the Council, including three (3) Representative members and five (5) Special Government Employee (SGE) members. If other positions are vacated during the application process, candidates may be selected from the pool of applicants to fill the vacated positions.

DATES: Applications will be accepted until 11:59 p.m. EST June 17, 2016.

ADDRESSES: The preferred method of submission is via email. However, applications may also be submitted by fax or mail. Please only submit by ONE of the following methods:

- *Email: AcademicEngagement@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–447–3713.
- *Mail:* Academic Engagement; Office of Academic Engagement/Mailstop 0440; Department of Homeland Security; 245 Murray Lane SW; Washington, DC 20528–0440.

FOR FURTHER INFORMATION CONTACT: Lindsay Burton, Office of Academic Engagement/Mailstop 0440; Department of Homeland Security; 245 Murray Lane SW; Washington, DC 20528–0440, email: *AcademicEngagement@hq.dhs.gov,* telephone: 202–447–4686 and fax: 202–447–3713.

SUPPLEMENTARY INFORMATION: The HSAAC is an advisory committee established to provide advice and recommendations to the Secretary and senior leadership on matters relating to student and recent graduate recruitment; international students; academic research; campus and community resiliency, security and preparedness; faculty exchanges; and cybersecurity. The duties of the Council are solely advisory in nature.

The Department is requesting individuals who are interested in serving on the Council to apply for appointment. Individuals selected for appointment will serve as either a SGE or Representative member. Specific vacancies by membership type include the following:

- Representative Members: Three (3) vacancies for members representing the specific viewpoints of their respective academic institution or organization:
  - One (1) Representative from a women's college or university, or a representative organization of these institutions;
  - One (1) Representative from a DHS Center of Excellence; and
  - One (1) Representative from a college, university or academic association with countering violent extremism focused programs or research initiatives.
- SGEs/Non-representative Members: Five (5) vacancies for SGEs that will be selected based on their area of expertise as aligned to the HSAAC focus areas: Academic research and faculty exchange; campus resilience; cybersecurity; homeland security academic programs; international students; and student and recent graduate recruitment.

More information about member composition can be found in the HSAAC Charter: *https://www.dhs.gov/publication/hsaac-charter-0.*

If you are interested and qualified, please apply for consideration of appointment by submitting an application package to the Office of Academic Engagement (OAE) as listed in the **ADDRESSES** section of this notice. Current HSAAC members whose terms are ending should notify OAE of their interest in reappointment in lieu of submitting a new application, and if desired, provide updated application materials for consideration. There is no application form; however, each

application package MUST include the following information:

• Cover letter, addressed to the Office of Academic Engagement, that indicates why you are interested in serving on the Council and includes the following information: The position (*i.e.,* Representative or SGE) being applied for, current position title and organization, home and work addresses, a current telephone number and email address; and

• Resume or Curriculum Vitae (CV).

Incomplete applications will not be considered. Applicants that do not meet the following criteria will not be considered: (1) Represent an academic institution or organization, and (2) serve in the highest role in that organization (*i.e.,* president, chancellor, Chief Executive Officer). Applicants will then be reviewed on the following criteria: (1) Relevance of experience to HSAAC focus areas; (2) institution or association represented; and (3) alignment to current HSAAC membership composition.

The appointment shall be for a term ranging from two (2) to four (4) years. Individuals selected for appointment as SGEs, defined in sec. 202(a) of title 18, U.S.C., will be required to complete a Confidential Financial Disclosure Form (Office of Government Ethics (OGE) Form 450). Individuals selected for appointment as Representative Members are selected to represent the viewpoint of their respective academic institution or organization and are not SGEs.

The HSAAC is expected to meet two (2) times each year. Additional meetings may be held with the approval of the Designated Federal Officer (DFO). Members may be reimbursed for travel and per diem, and all travel for HSAAC business must be approved in advance by the DFO. HSAAC meetings are open to the public, unless a determination is made by the appropriate DHS official in accordance with DHS policy and directives, that the meeting should be closed in accordance with title 5, U.S.C., subsec. (c) of sec. 552b. Additionally, members are asked to serve on any number of HSAAC Subcommittees, which meet at least once a year via teleconference.

DHS does not discriminate on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions. Current DHS employees, contractors and potential contractors will not be considered for membership. Federally registered lobbyists may apply for positions designated as Representative appointments but are not eligible for positions that are designated as SGE appointments.

Responsible DHS Official: Alaina Clark, *AcademicEngagement@hq.dhs.gov,* 202–447–4686.

Dated: June 1, 2016.

Alaina Clark,

Acting Designated Federal Officer, Homeland Security Academic Advisory Council.

[FR Doc. 2016–13286 Filed 6–3–16; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X.LLID9570000.L14400000.BJ0000.241A.X.4500081115]

Filing of Plats of Survey: Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land are scheduled to be officially filed in the Bureau of Land Management, Idaho State Office, Boise, ID, in 30 days from the date of this publication.

These surveys were executed at the request of the Bureau of Land Management to meet their administrative needs. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of sections 15 and 17, T. 34 N., R. 4 E., of the Boise Meridian, Idaho, Group Number 1425, was accepted May 13, 2016.

The plat representing the dependent resurvey of portions of the north boundary and subdivisional lines, and the subdivision of sections 3 and 10, T. 8 N., R. 3 W., of the Boise Meridian, Idaho, Group Number 1430, was accepted May 25, 2016.

These surveys were executed at the request of the Bureau of Indian Affairs to meet certain administrative and management purposes. The lands surveyed are:

The plat representing the dependent resurvey of portions of the north boundary of the Nez Perce Indian Reservation, west boundary, and subdivisional lines, and the subdivision of sections 19, 21, and 31, T. 37 N., R. 3 W., of the Boise Meridian, Idaho, Group Number 1426, was accepted May 17, 2016.

The plat representing the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of sections 25 and 34, T. 37 N., R. 4 W., of the Boise Meridian, Idaho, Group Number 1434, was accepted May 25, 2016.

These surveys were executed at the request of the U.S. Fish and Wildlife Service to meet certain administrative and management purposes. The lands surveyed are:

The plat representing the dependent resurvey of portions of the east boundary, subdivisional lines, subdivision of section 11, and the original 1885 meanders of Grays Lake in sections 11, 14, and 23, and the subdivision of sections 11, 12, 13, 14, and 23, and certain metes-and-bounds surveys in sections 11, 12, 13, 14, and 23, T. 4 S., R. 43 E., of the Boise Meridian, Idaho, Group Number 1323, was accepted May 13, 2016.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, upon required payment.

FOR FURTHER INFORMATION CONTACT: Stanley G. French, (208) 373–3981 Branch of Cadastral Survey, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657. Persons who use a telecommunitcations 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: A person or party who wishes to protest against this survey must file a written notice with the Idaho State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Idaho State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration to the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. 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.

Stanley G. French,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 2016–13232 Filed 6–3–16; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV952000 L14400000.BJ0000.LXSSF2210000.241A; 13–08807; MO# 4500093537; TAS: 14X1109]

Filing of Plats of Survey; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

DATES: *Effective Dates:* Unless otherwise stated filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Michael O. Harmening, Chief, Branch of Geographic Sciences, Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, NV 89502–7147, phone: 775–861–6490. 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:

1. The Plat of Survey of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on May 16, 2016.

The plat, in 3 sheets, representing the dependent resurvey of the south boundary, a portion of the east boundary and a portion of the subdivisional lines, and the subdivision of certain sections, in Township 14 South, Range 69 East, of the Mount Diablo Meridian, Nevada, under Group No. 910, was accepted May 12, 2015. This survey was executed at the request of Clark County to identify certain boundaries, as shown on the request for cadastral survey, dated July 5, 2011.

2. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on May 3, 2016:

The plat, in 10 sheets, representing the dependent resurvey of a portion of the subdivisional lines and portions of certain mineral surveys, the subdivision of sections 5 and 6, and metes-and-bounds surveys of certain Gold Hill Townsite lots, Township 16 North, Range 21 East, Mount Diablo Meridian, under Group No. 937, was accepted April 29, 2016. This survey represented on these plats was executed to determine the official boundaries of the parcel called ''Lot 51'' that is the subject of a Color of Title Act Class I claim by Northern Comstock, LLC.

The surveys listed above are now the basic record for describing the lands for all authorized purposes. These records have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: May 27, 2016.

Michael O. Harmening,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 2016–13238 Filed 6–3–16; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMF02000.L16100000.DP0000.16x]

Notice of Intent To Amend the Resource Management Plan for the Taos Field Office, New Mexico, and Prepare an Associated Environmental Assessment for the Proposed Acceptance of the Rimrock Rose Ranch Donation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Taos Field Office, Taos, New Mexico intends to prepare a Resource Management Plan (RMP) amendment with an associated Environmental Assessment (EA) for the Taos Field Office and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the RMP amendment with an associated EA. Comments on issues may be submitted in writing until July 6, 2016 In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period. The date(s) and locations(s) of any scoping meetings will be announced at least 15 days in advance through local news media, newspapers and BLM Web site at: *http://www.blm.gov/nm/taos.* In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the Rimrock Rose Ranch Donation Acceptance EA and RMP amendment by any of the following methods:

- Web site: *http://www.blm.gov/nm/st/en/fo/Taos_Field_Office.html.*
- Email: *blm_nm_tafo_comments@blm.gov.*
- Fax: 575–758–1620.
- Mail: Bureau of Land Management, Attention: Brad Higdon, 226 Cruz Alta Road, Taos NM 87571.

Documents pertinent to this proposal may be examined at the Taos Field Office at 226 Cruz Alta Road in Taos, New Mexico.

FOR FURTHER INFORMATION CONTACT: Brad Higdon, Planning and Environmental Specialist, telephone 575–751–4725; address 226 Cruz Alta Road, Taos, New Mexico 87571; email *bhigdon@blm.gov.* Contact Mr. Higdon to have your name added to our mailing list. 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 document provides notice that the BLM Taos Field Office, New Mexico, intends to prepare an RMP amendment with an associated EA for the Taos Field Office planning area, announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The planning area is located within San Miguel County, New Mexico, and encompasses approximately 19,780 acres of public land. This RMP amendment proposes to make two allotments unavailable for livestock grazing. This action is part of a larger proposal by the BLM to accept a donation of approximately 3,576 acres

to be added to the Sabinoso Wilderness under the provisions of Section 6 (a) of the Wilderness Act of 1964 (Act), which will provide for public access to the wilderness for the first time. The Rimrock Rose Ranch previously served as base property for the two livestock grazing allotments (00735 and 00736) within or near Sabinoso Wilderness, and as part of the conditions of the donation, provided for under Section 6 (a) of the Act, the property cannot be used for purposes of livestock grazing. Furthermore, the ranch property offered for donation contains important riparian resources critical for supporting a diverse population of aquatic and terrestrial wildlife species in this arid environment where riparian resources are scarce. The long history of grazing practices on the ranch property has substantially compromised the riparian resources and their function. To protect and restore riparian resources, as well as to conform to current BLM management prescriptions for the area, livestock grazing is proposed to be eliminated from the two livestock grazing allotments because of their dependence on these riparian areas as a supplemental water source and for purposes of trailing. The proposal also includes the purchase of the remaining approximate 600 acres of the Rimrock Rose Ranch not offered as part of the donation. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the plan amendment area have been identified by BLM personnel and include potential impacts to wilderness quality; riparian resources; cultural resources; livestock grazing; and opportunities for recreation. You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the ''ADDRESSES'' section above. To be most helpful, you should submit comments by the close of the 30-day scoping period.

The BLM will utilize and coordinate the NEPA scoping process to help fulfill the public involvement process under the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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. The BLM will evaluate identified issues to be addressed in the plan, and will place them into one of three categories:

1. Issues to be resolved in the plan amendment;

2. Issues to be resolved through policy or administrative action; or

3. Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the draft RMP amendment/draft EA as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns. The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: Rangeland management, riparian resources, wilderness, outdoor recreation, archaeology, visual resources, and realty.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2

Jim Stovall,

Acting Associate State Director, BLM New Mexico.

[FR Doc. 2016–13273 Filed 6–3–16; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

Renewals of Information Collections Under the Paperwork Reduction Act

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Indian Gaming Commission (NIGC or Commission) is seeking comments on the renewal of information collections for the following activities: (i) Compliance and enforcement actions under the Indian Gaming Regulatory Act as authorized by Office of Management and Budget (OMB) Control Number 3141–0001; (ii) approval of tribal ordinances, and background investigation and issuance of licenses as authorized by OMB Control Number 3141–0003; (iii) National Environmental Policy Act submissions as authorized by OMB Control Number 3141–0006; and (iv) issuance to tribes of certificates of self-regulation for Class II gaming as authorized by OMB Control Number 3141–0008. These information collections all expire on October 31, 2016.

DATES: Submit comments on or before August 5, 2016.

ADDRESSES: Comments can be mailed, faxed, or emailed to the attention of: Tim Osumi, National Indian Gaming Commission, 1849 C Street NW., MS 1621, Washington, DC 20240. Comments may be faxed to (202) 632–7066 and may be sent electronically to *info@nigc.gov,* subject: PRA renewals.

FOR FURTHER INFORMATION CONTACT: Tim Osumi at (202) 632–7054; fax (202) 632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Request for Comments

You are invited to comment on these collections concerning: (i) Whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) the accuracy of the agency's estimates of the burdens (including the hours and cost) of the proposed collections of information, including the validity of the methodologies and assumptions used; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv) ways to minimize the burdens of the information collections on those who are to respond, including through the use of appropriate

automated, electronic, mechanical, or other collection techniques or forms of information technology. Please note that an agency may not conduct or sponsor and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is the Commission's policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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 may ask in your comment that the Commission withhold your personal identifying information from public review, the Commission cannot guarantee that it will be able to do so.

II. Data

Title: Indian Gaming Compliance and Enforcement.

OMB Control Number: 3141–0001.

Brief Description of Collection: The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701 *et seq.,* governs the regulation of gaming on Indian lands. Although IGRA places primary responsibility with the tribes for regulating their gaming activities, § 2706(b) directs the Commission to monitor gaming conducted on Indian lands on a continuing basis. Amongst other actions necessary to carry out the Commission's statutory duties, the Act authorizes the Commission to access and inspect all papers, books, and records relating to gross revenues of a gaming operation. The Act also requires tribes to provide the Commission with annual independent audits of their gaming operations, including audits of all contracts in excess of $25,000. 25 U.S.C. 2710(b)(2)(C), (D); 2710(d)(1)(A)(ii). In accordance with these statutory mandates, Commission regulations require Indian gaming operations to keep and maintain permanent financial records, and to submit to the Commission independent audits of their gaming operations on an annual basis. This information collection is mandatory and allows the Commission to fulfill its statutory responsibilities under IGRA to regulate gaming on Indian lands.

Respondents: Indian tribal gaming operations.

Estimated Number of Respondents: 898.

Estimated Annual Responses: 898.

Estimated Time per Response: Depending on the type of information collection, the range of time can vary from 20.5 burden hours to 1506.75 burden hours for one item.

Frequency of Responses: 1 per year.

Estimated Total Annual Burden Hours on Respondents: 878,274.

Estimated Total Non-hour Cost Burden: $47,948,291.

Title: Approval of Class II and Class III Ordinances, Background Investigations, and Gaming Licenses.

OMB Control Number: 3141–0003.

Brief Description of Collection: The Act sets standards for the regulation of gaming on Indian lands, including requirements for the approval or disapproval of tribal gaming ordinances. Section 2705(a)(3) requires the NIGC Chair to review all Class II and Class III tribal gaming ordinances. In accordance with this statutory provision, Commission regulations require tribes to submit: (i) a copy of the gaming ordinance, or amendment thereof, to be approved, including a copy of the authorizing resolution by which it was enacted by the tribal government, and a request for approval of the ordinance or resolution; (ii) designation of an agent for service of process; (iii) a description of procedures the tribe will employ in conducting background investigations on primary management officials (PMOs) and key employees; (iv) a description of procedures the tribe will use to issue licenses to PMOs and key employees; (v) copies of all gaming regulations; (vi) a copy of any applicable tribal-state compact; (vii) a description of dispute resolution procedures for disputes arising between the gaming public and the tribe or management contractor; and (viii) identification of the law enforcement agency that will take fingerprints and a description of the procedures for conducting criminal history checks. The Commission also requires a tribal ordinance to provide that the tribe will perform background investigations and issue licenses for PMOs and key employees according to requirements that are as stringent as those contained in Commission regulations. The NIGC Chair will use the information collected to approve or disapprove the ordinance or amendment thereof.

Commission regulations also require tribes to perform background investigations and issue licenses for PMOs and key employees using certain information provided by applicants, such as names, addresses, previous employment records, previous relationships with either Indian tribes or the gaming industry, licensing related to those relationships, any convictions, and any other information that a tribe feels is relevant to the employment of the individuals being investigated. Tribes are then required to keep complete application files. Tribes are also required to create and keep investigative reports, and to submit to the Commission notices of results (licensing eligibility determinations) on PMOs and key employees. Tribes must notify the Commission if they issue or do not issue licenses to PMOs and key employees, and if they revoke said licenses. The Commission uses this information to review the eligibility and suitability determinations that tribes make and advises them if it disagrees with any particular determination. These information collections are mandatory and allow the Commission to carry out its statutory duties.

Respondents: Indian tribal gaming operations.

Estimated Number of Respondents: 1,580.

Estimated Annual Responses: 193,745.

Estimated Time per Response: Depending on the type of information collection, the range of time can vary from 1.0 burden hour to 1,419 burden hours for one item.

Frequency of Response: Varies.

Estimated Total Annual Burden Hours on Respondents: 1,392,405.

Estimated Total Non-hour Cost Burden: $3,333,573.

Title: NEPA Compliance.

OMB Control Number: 3141–0006.

Brief Description of Collection: The National Environmental Policy Act (NEPA) requires federal agencies to analyze proposed major federal actions that significantly affect the quality of the human environment. The Commission has identified one type of action that it undertakes that requires review under NEPA—approving third-party management contracts for the operation of gaming activity under IGRA. Depending on the nature of the subject contract and other circumstances, approval of such management contracts may be categorically excluded from NEPA, may require the preparation of an Environmental Assessment (EA), or may require the preparation of an Environmental Impact Statement (EIS). In any case, the proponents of a management contract will be expected to submit information to the Commission and assist in the development of the required NEPA documentation.

Respondents: Tribal governing bodies, management companies.

Estimated Number of Respondents: 3.

Estimated Annual Responses: 3.

Estimated Time per Response: Depending on whether the response is an EA or an EIS, the range of time can

vary from 2.5 burden hours to 12.0 burden hours for one item.

Frequency of Response: Varies.

Estimated Total Annual Burden Hours on Respondents: 26.5.

Estimated Total Non-hour Cost Burden: $14,846,686.

Title: Issuance of Certificates of Self-Regulation to Tribes for Class II Gaming.

OMB Control Number: 3141–0008.

Brief Description of Collection: The Act allows any Indian tribe that has conducted Class II gaming for at least three years to petition the Commission for a certificate of self-regulation for its Class II gaming operation(s). The Commission will issue the certificate if it determines that the tribe has conducted its gaming activities in a manner that has: resulted in an effective and honest accounting of all revenues; a reputation for safe, fair, and honest operation of the gaming activities; and an enterprise free of evidence of criminal or dishonest activity. The tribe must also have adopted and implemented proper accounting, licensing, and enforcement systems, and conducted the gaming operation on a fiscally or economically sound basis. Commission regulations require a tribe interested in receiving a certificate to file with the Commission a petition generally describing the tribe's gaming operations, its regulatory process, its uses of net gaming revenue, and its accounting and recordkeeping systems. The tribe must also provide copies of various documents in support of the petition. Tribes who have been issued a certificate of self-regulation are required to submit to the Commission certain information on an annual basis, including information that establishes that the tribe continuously meets the regulatory eligibility and approval requirements and supporting documentation that explains how tribal gaming revenues were used in accordance with the requirements in 25 U.S.C. 2710(b)(2)(B). Submission of the petition and supporting documentation is voluntary. The Commission will use the information submitted by the tribe in determining whether to issue the certificate of self-regulation. Once a certificate of self-regulation has been issued, the submission of certain other information is mandatory.

Respondents: Tribal governments.

Estimated Number of Respondents: 8.

Estimated Annual Responses: 8.

Estimated Time per Response: Depending on the information collection, the range of time can vary from 0.75 burden hour to 1,940 burden hours for one item.

Frequency of Responses: Varies.

Estimated Total Annual Burden Hours on Respondents: 4,088.

Estimated Total Non-hour Cost Burden: $172,450.

Dated: May 24, 2016.

Shannon O'Loughlin,

Chief of Staff.

[FR Doc. 2016–13276 Filed 6–3–16; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–MWR–ISRO–20587; PPMWMWROW3/PPMPSPD1Y.YM0000]

Amended Notice of Intent To Prepare an Environmental Impact Statement To Address the Presence of Wolves at Isle Royale National Park

AGENCY: National Park Service, Interior.

ACTION: Amended Notice of Intent.

SUMMARY: The National Park Service (NPS) is amending its July 10, 2015, Notice of Intent (NOI) to prepare an environmental impact statement (EIS) and Management Plan for Moose, Wolves, and Vegetation for Isle Royale National Park, Michigan (Isle Royale). The NPS is revising the scope of the EIS to focus on the question of whether to bring wolves to Isle Royale in the near term, and if so, how to do so. This amended NOI describes a range of alternatives for bringing wolves to the Island.

Authority: 42 U.S.C. 4321–4347; 40 CFR parts 1500–1508; 43 CFR part 46.

DATES: The public scoping comment period will conclude 30 days following the date this NOI is published in the **Federal Register**. All comments must be postmarked or transmitted by this date.

ADDRESSES: Information, including a copy of the new public scoping brochure, is available for public review online at *http://parkplanning.nps.gov/ISROwolves.* Limited copies of the brochure will also be available at Isle Royale National Park, 800 East Lakeshore Drive, Houghton, Michigan and by request.

FOR FURTHER INFORMATION CONTACT: Superintendent Phyllis Green, Isle Royale National Park, ISRO Wolves, 800 East Lakeshore Drive, Houghton, Michigan 49931–1896, or by telephone at (906) 482–0984.

SUPPLEMENTARY INFORMATION: Although wolves have not always been part of the Isle Royale ecosystem, they have been present for more than 65 years, and have played a key role in the ecosystem, affecting the moose population and other species during that time. The average wolf population on the island over the past 65 years has been about 22, but there have been as many as 50 wolves on the Island and as few as three. Over the past five years the population has declined steeply, which has given rise to the need to determine whether the NPS should bring additional wolves to the island. There were three wolves documented on the Island as of March 2015 and only two wolves have been confirmed as of February 2016. At this time, natural recovery of the population is unlikely. The potential absence of wolves raises concerns about possible effects to Isle Royale's current ecosystem, including effects to both the moose population and Isle Royale's forest/vegetation communities.

The NPS published a NOI to prepare an EIS and Management Plan for Moose, Wolves, and Vegetation for Isle Royale National Park on July 10, 2015, (80 FR 39796), and held scoping meetings July 27–30, 2015. However, based on the public comments we received and additional internal deliberations, the NPS has determined that it will revise and narrow the scope of this EIS to focus on the question of whether to bring wolves to Isle Royale in the near term, and if so, how to do so.

The revised purpose of the plan is to determine whether and how to bring wolves to Isle Royale to function as the apex predator in the near term within a changing and dynamic island ecosystem. The NPS will evaluate alternative approaches for bringing wolves to Isle Royale, as well as the alternative of not bringing wolves to Isle Royale (the no-action alternative), which remains a viable option. Following this evaluation and additional input from you on the EIS, an alternative will be selected for implementation and documented in a record of decision. Based on the revised purpose statement, the NPS is now considering the following alternatives.

Under Alternative A, the no-action alternative, the NPS would not intervene and would continue current management. Wolves may come and go through natural migration, although the current population of wolves may die out. Under Alternative B, the NPS would bring wolves to Isle Royale as a one-time event within a defined period of time (*e.g.,* over a 36 month period) to increase the longevity of the wolf population on the island. This action would occur as soon as possible following a signed record of decision. Under Alternative C, the NPS would bring wolves to Isle Royale as often as needed in order to maintain a

population of wolves on the island for at least the next 20 years, which is the anticipated life of the plan. The wolf population range and number of breeding pairs to be maintained on the island would be determined based on best available science and professional judgement. This action would occur as soon as possible following a signed record of decision. Under Alternative D, the NPS would not take immediate action and would continue current management, allowing natural processes to continue. One or more resource indicators and thresholds would be developed to evaluate the condition of key resources, which could include moose or vegetation-based parameters. If a threshold is met, wolves would be brought to Isle Royale as a one-time event (per alternative B) or through multiple introductions (per alternative C). The NPS will not select an alternative for implementation until after a final EIS is completed.

Given the revised scope of the EIS, actions to manage moose, such as culling or translocation of moose, as well as actions to manage vegetation, such as fire, direct restoration, or other tools, will not be considered in this EIS. After a decision is made regarding whether and how to bring wolves to Isle Royale, the NPS will monitor conditions on the island, and will initiate additional planning processes to address other aspects of the island ecosystem, such as the moose population and forest community, if such planning processes are deemed necessary.

All comments received during the scoping period that was announced in the July 2015 NOI are available online at *http://parkplanning.nps.gov/ISROwolves* and will be considered. If you would like to provide additional comments regarding the revised scope of the plan, you may do so through the following methods.

The preferred method for submitting comments is on the NPS PEPC Web site at *http://parkplanning.nps.gov/ISROwolves.* You may also mail or hand-deliver your comments to Superintendent Phyllis Green, Isle Royale National Park, ISRO Wolves, 800 East Lakeshore Drive, Houghton, Michigan 49931–1896. The NPS will consider all additional comments received or postmarked no later than 30-days from the date this NOI is published in the **Federal Register**. Comments submitted after that date will be considered to the extent practicable.

Comments will not be accepted by fax, email, or any other way than those specified above. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. 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.

Cameron H. Sholly,

Regional Director, Midwest Region.

[FR Doc. 2016–13184 Filed 6–3–16; 8:45 am]

BILLING CODE 4310–MA–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2012–0006; DS63642000 DR2PS0000.CH7000 167D0102R2]

Agency Information Collection Activities: Federal Oil and Gas Valuation; Comment Request

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice of an extension.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), ONRR is inviting comments on a collection of information requests that we will submit to the Office of Management and Budget (OMB) for review and approval. This Information Collection Request (ICR) covers the paperwork requirements in the regulations under title 30, *Code of Federal Regulations* (CFR), parts 1202, 1204, and 1206. This ICR pertains to Federal oil and gas valuation regulations, which include transportation and processing regulatory allowance limits and accounting and auditing relief for marginal properties. Also, there is one form (ONRR–4393) associated with this information collection.

DATES: Submit written comments on or before August 5, 2016.

ADDRESSES: You may submit comments on this ICR to ONRR by using one of the following three methods (please reference ''ICR 1012–0005'' in your comments):

1. Electronically go to *http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2012–0005'' and then click ''Search.'' Follow the instructions to submit public comments. ONRR will post all comments.

2. Email comments to Mr. Luis Aguilar, Regulatory Specialist, at *luis.aguilar@onrr.gov.*

3. Hand-carry or mail comments, using an overnight courier service, to ONRR. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For any questions, contact Mr. Luis Aguilar, telephone (303) 231–3418, or email at *luis.aguilar@onrr.gov.* You may also contact Mr. Aguilar to obtain copies, at no cost, of (1) the ICR, (2) any associated forms, and (3) the regulations that require us to collect the information.

SUPPLEMENTARY INFORMATION:

I Abstract

The Secretary of the United States Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary's responsibility, according to various laws, is to manage mineral resource production from Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected under those laws. We have posted those laws pertaining to mineral leases on Federal and Indian lands and the OCS at *http://www.onrr.gov/Laws_R_D/PubLaws/default.htm.*

The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

You can find the information collections covered in this ICR at 30 CFR parts:

- 1202, subparts C and D, which pertain to Federal oil and gas royalties.
- 1204, subpart C, which pertains to accounting and auditing relief for marginal properties.
- 1206, subparts C and D, which pertain to Federal oil and gas product valuation.

General Information

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The mineral lease laws require the lessee, or his designee, to report various kinds of information to the lessor relative to the

disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals.

Information Collections

ONRR uses the information that we collect in this ICR to ensure that lessees accurately value and appropriately pay royalties on oil and gas produced from Federal onshore and offshore leases. Please refer to the chart for all reporting requirements and associated burden hours. All data submitted is subject to subsequent audit and adjustment.

A. Federal Oil and Gas Valuation Regulations

The valuation regulations at 30 CFR part 1206, subparts C and D, mandate that companies collect and submit information used to value their Federal oil and gas, including (1) transportation and processing allowances and (2) regulatory allowance limit information. Companies report certain data on form ONRR–2014, Report of Sales and Royalty Remittance. The information that we request is the minimum necessary to carry out our mission and places the least possible burden on respondents. If ONRR does not collect this information, both Federal and State governments may incur a loss of royalties.

Transportation and Processing Regulatory Allowance Limits: Lessees may deduct actual costs of transportation and processing from Federal royalties. The lessees report these allowances on form ONRR–2014. For oil and gas, regulations establish the allowable limit on transportation allowance deductions at 50 percent of the value of the oil or gas. For gas only, regulations establish the allowable limit on processing allowance deductions at 66⅔ percent of the value of each gas plant product.

Request to Exceed Regulatory Allowance Limitation, form ONRR–4393: Lessees may request to exceed regulatory limitations. Upon proper application from the lessee, ONRR may approve oil or gas transportation allowance in excess of 50 percent or gas processing allowance in excess of 66⅔ percent on Federal leases. Lessees use form ONRR–4393 for both Federal and Indian leases to request to exceed allowance limitations. This ICR covers only Federal leases; therefore, we have not included burden hours of form ONRR–4393 for Indian leases in this ICR. We include burden hours for form ONRR–4393 for Indian leases in OMB Control Number 1012–0002.

B. Accounting and Auditing Relief for Marginal Properties

In 2004, we amended our regulations to comply with section 7 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. These regulations provide guidance for lessees and designees seeking accounting and auditing relief for qualifying Federal marginal properties. Under the regulations, both ONRR and the State concerned must approve any relief granted for a marginal property.

OMB Approval

We will request OMB approval to continue to collect, from companies, lessees, and designees, information used (1) to value their Federal oil and gas, including (a) transportation and processing allowances and (b) regulatory allowance limit information and (2) to request accounting and auditing relief approval for qualifying Federal marginal properties. If ONRR does not collect this information, this would limit the Secretary's ability to discharge fiduciary duties and may also result in loss of royalty payments. ONRR protects the proprietary information that we receive, and we do not collect items of a sensitive nature.

ONRR requires lessees to respond to information collections relating to valuation requirements.

II. Data

Title: 30 CFR parts 1202, 1204, and 1206, Federal Oil and Gas Valuation.

OMB Control Number: 1012–0005.

Bureau Form Number: Form ONRR–4393.

Frequency: Annually and on occasion.

Estimated Number and Description of Respondents: 120 Federal lessees/designees and 7 States for Federal oil and gas.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 9,518 hours.

We have not included in our estimates certain requirements performed in the normal course of business and considered as usual and customary. We display the estimated annual burden hours by CFR section and paragraph in the following chart:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
PART 1202—ROYALTIES				
Subpart C—Federal and Indian Oil				
1202.101	Standards for reporting and paying royalties Oil volumes are to be reported in barrels of clean oil of 42 standard U.S. gallons (231 cubic inches each) at 60 °F . . .	Burden covered under OMB Control Number 1012–0004.		
Subpart D—Federal Gas				
1202.152(a) and (b)	Standards for reporting and paying royalties on gas (a)(1) If you are responsible for reporting production or royalties you must: (i) Report gas volumes and British thermal unit (Btu) heating values, if applicable, under the same degree of water saturation; (ii) Report gas volumes in units of 1,000 cubic feet (mcf); and	Burden covered under OMB Control Number 1012–0004.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(iii) Report gas volumes and Btu heating value at a standard pressure base of 14.73 pounds per square inch absolute (psia) and a standard temperature base of 60 °F . . . (b) Residue gas and gas plant product volumes shall be reported as specified in this paragraph . . .			
PART 1204—ALTERNATIVES FOR MARGINAL PROPERTIES				
Subpart C—Accounting and Auditing Relief				
1204.202(b)(1)	What is the cumulative royalty reports and payments relief option? (b) To use the cumulative royalty reports and payments relief option, you must do all of the following: (1) Notify ONRR in writing by January 31 of the calendar year for which you begin taking your relief . . .	40	1	40
1204.202(b)(2) and (b)(3)	(b)(2) Submit your royalty report and payment . . . by the end of February of the year following the calendar year for which you reported annually . . . If you have an estimated payment on file, you must submit your royalty report and payment by the end of March of the year following the calendar year for which you reported annually; (3) Use the sales month prior to the month that you submit your annual report and payment . . . for the entire previous calendar year's production for which you are paying annually . . .	Burden covered under OMB Control Number 1012–0004.		
1204.202(b)(4), (b)(5), (c), (d)(1), (d)(2), (e)(1), and (e)(2).	(b)(4) Report one line of cumulative royalty information on Form ONRR–2014 for the calendar year . . . And (5) Report allowances on Form ONRR–2014 on the same annual basis as the royalties for your marginal property production. (c) If you do not pay your royalty by the date due in paragraph (b) of this section, you will owe late payment interest . . . from the date your payment was due under this section until the date ONRR receives it . . . (d) If you take relief you are not qualified for, you may be liable for civil penalties. Also you must: (1) Pay ONRR late payment interest determined under 30 CFR 1218.54 . . . (2) Amend your Form ONRR–2014 . . . (e) If you dispose of your ownership interest in a marginal property for which you have taken relief . . . you must: (1) Report and pay royalties for the portion of the calendar year for which you had an ownership interest; and. (2) Make the report and payment by the end of the month after you dispose of the ownership interest in the marginal property. If you do not report and pay timely, you will owe interest . . . from the date the payment was . . .	Burden covered under OMB Control Number 1012–0004.		
1204.203(b), 1204.205(a) and (b), and 1204.206(a)(3)(i) and (b)(1).	What is the other relief option? (b) You must request approval from ONRR . . . before taking relief under this option.	200	1	200
1204.208(c)(1), (d)(1), and (e)	May a State decide that it will or will not allow one or both of the relief options under this subpart? (c) If a State decides . . . that it will or will not allow one or both of the relief options . . . within 30 days . . . the State must: (1) Notify the Director for Office of Natural Resources Revenue, in writing, of its intent to allow or not allow one or both of the relief options . . . (d) If a State decides in advance . . . that it will not allow one or both of the relief options . . . the State must: (1) Notify the Director for Office of Natural Resources Revenue, in writing, of its intent to allow one or both of the relief options . . .	40	7	280

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(e) If a State does not notify ONRR . . . the State will be deemed to have decided not to allow either of the relief options . . .			
1204.209(b)	What if a property ceases to qualify for relief obtained under this subpart? (b) If a property is no longer eligible for relief . . . the relief for the property terminates as of December 31 of that calendar year. You must notify ONRR in writing by December 31 that the relief for the property has terminated . . .	6	1	6
1204.210(c) and (d)	What if a property is approved as part of anonqualifying agreement? (c) . . . the volumes on which you report and pay royalty . . . must be amended to reflect all volumes produced on or allocated to your lease under the nonqualifying agreement as modified by BLM. . . . Report and pay royalties for your production using the procedures in § 1204.202(b). (d) If you owe additional royalties based on the retroactive agreement approval and do not pay your royalty by the date due in § 1204.202(b), you will owe late payment interest determined under § 1218.54 from the date your payment was due under § 1204.202(b)(2) until the date ONRR receives it.	Burden covered under OMB Control Number 1012–0004.		
1204.214(b)(1) and (b)(2)	Is minimum royalty due on a property for which I took relief? (b) If you pay minimum royalty on production from a marginal property during a calendar year for which you are taking cumulative royalty reports and payment relief, and: (1) The annual payment you owe under this subpart is greater than the minimum royalty you paid, you must pay the difference between the minimum royalty you paid and your annual payment due under this subpart; or (2) The annual payment you owe under this subpart is less than the minimum royalty you paid, you are not entitled to a credit because you must pay at least the minimum royalty amount on your lease each year.	Burden covered under OMB Control Number 1012–0004.		
Accounting and Auditing Relief Subtotal.	.....	.....	10	526
	Part 1206—Product Valuation			
	Subpart C—Federal Oil			
1206.102(e)(1)	How do I calculate royalty value for oil that I or my affiliate sell(s) under an arm's-length contract? (e) If you value oil under paragraph (a) of this section: (1) ONRR may require you to certify that your or your affiliate's arm's-length contract provisions include all of the consideration the buyer must pay, either directly or indirectly, for the oil.	AUDIT PROCESS. See note.		
1206.103(a)(1), (a)(2), and (a)(3).	How do I value oil that is not sold under an arm's-length contract? This section explains how to value oil that you may not value under § 1206.102 or that you elect under § 1206.102(d) to value under this section. First determine whether paragraph (a), (b), or (c) of this section applies to production from your lease, or whether you may apply paragraph (d) or (e) with ONRR approval. (a) Production from leases in California or Alaska. Value is the average of the daily mean ANS spot prices published in any ONRR-approved publication during the trading month most concurrent with the production month . . . (1) To calculate the daily mean spot price . . . (2) Use only the days . . . (3) You must adjust the value . . .	45	5	225

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.103(a)(4)	(a)(4) After you select an ONRR-approved publication, you may not select a different publication more often than once every 2 years, . . .	8	2	16
1206.103(b)(1)	(b) *Production from leases in the Rocky Mountain Region* . . . (1) If you have an ONRR-approved tendering program, you must value oil . . .	400	2	800
1206.103(b)(1)(ii)	(b)(1)(ii) If you do not have an ONRR-approved tendering program, you may elect to value your oil under either paragraph (b)(2) or (b)(3) of this section . . .	400	2	800
1206.103(b)(4)	(4) If you demonstrate to ONRR's satisfaction that paragraphs (b)(1) through (b)(3) of this section result in an unreasonable value for your production as a result of circumstances regarding that production, the ONRR Director may establish an alternative valuation method.	400	2	800
1206.103(c)(1)	(c) *Production from leases not located in California, Alaska or the Rocky Mountain Region.* (1) Value is the NYMEX price, plus the roll, adjusted for applicable location and quality differentials and transportation costs under § 1206.112.	50	10	500
1206.103(e)(1) and (e)(2)	(e) *Production delivered to your refinery and the NYMEX price or ANS spot price is an unreasonable value.* (1) . . . you may apply to the ONRR Director to establish a value (2) You must provide adequate documentation and evidence demonstrating the market value at the refinery. . . . representing the market at the refinery if: . . .	330	2	660
1206.105	What records must I keep to support my calculations of value under this subpart? If you determine the value of your oil under this subpart, you must retain all data relevant to the determination of royalty value . . .	Burden covered under OMB Control Number 1012–0004.		
1206.107(a)	How do I request a value determination? (a) You may request a value determination from ONRR . . .	40	10	400
1206.109(c)(2)	When may I take a transportation allowance in determining value? (c) Limits on transportation allowances. (2) You may ask ONRR to approve a transportation allowance in excess of the limitation in paragraph (c)(1) of this section . . . Your application for exception (using Form ONRR–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for ONRR to make a determination . . .	8	2	16
1206.110(a)	How do I determine a transportation allowance under an arm's-length transportation contract? (a) . . . You must be able to demonstrate that your or your affiliate's contract is at arm's length. . . .	AUDIT PROCESS. See note.		
1206.110(d)(3)	(d) If your arm's-length transportation contract includes more than one liquid product, and the transportation costs attributable to each product cannot be determined . . . (3) You may propose to ONRR a cost allocation method . . .	20	2	40
1206.110(e)	(e) If your arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, then you must propose an allocation procedure to ONRR.	20	1	20

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.110(e)(1) and (e)(2)	(e)(1) . . . If ONRR rejects your cost allocation, you must amend your Form ONRR–2014 . . . (2) You must submit your initial proposal, including all available data, within 3 months after first claiming the allocated deductions on Form ONRR–2014.	Burden covered under OMB Control Number 1012–0004.		
1206.110(g)(2)	(g) If your arm's-length sales contract includes a provision reducing the contract price by a transportation factor, . . . (2) You must obtain ONRR approval before claiming a transportation factor in excess of 50 percent of the base price of the product.	5	1	5
1206.111(g)	How do I determine a transportation allowance if I do not have an arm's-length transportation contract or arm's-length tariff? (g) To compute depreciation, you may elect to use either . . . After you make an election, you may not change methods without ONRR approval . . .	30	1	30
1206.111(k)(2)	(k)(2) You may propose to ONRR a cost allocation method on the basis of the values . . .	30	1	30
1206.111(l)(1) and (l)(3)	(l)(1) Where you transport both gaseous and liquid products through the same transportation system, you must propose a cost allocation procedure to ONRR . . . (3) You must submit your initial proposal, including all available data, within 3 months after first claiming the allocated deductions on Form ONRR–2014.	20	1	20
1206.111(l)(2)	(l)(2) . . . If ONRR rejects your cost allocation, you must amend your Form ONRR–2104 for the months that you used the rejected method and pay any additional royalty and interest due.	Burden covered under OMB Control Number 1012–0004.		
1206.112(a)(1)(ii)	What adjustments and transportation allowances apply when I value oil production from my lease using NYMEX prices or ANS spot prices? (a)(1)(ii) . . . under an exchange agreement that is not at arm's length, you must obtain approval from ONRR for a location and quality differential . . .	80	1	80
1206.112(a)(1)(ii)	(a)(1)(ii) . . . If ONRR prescribes a different differential, you must apply . . . You must pay any additional royalties owed . . . plus the late payment interest from the original royalty due date, or you may report a credit . . .	20	2	40
1206.112(a)(3) and (a)(4)	(a)(3) If you transport or exchange at arm's length (or both transport and exchange) at least 20 percent, but not all, of your oil produced from the lease to a market center, determine the adjustment between the lease and the market center for the oil that is not transported or exchanged (or both transported and exchanged) to or through a market center as follows: . . . (4) If you transport or exchange (or both transport and exchange) less than 20 percent of your crude oil produced from the lease between the lease and a market center, you must propose to ONRR an adjustment between the lease and the market center for the portion of the oil that you do not transport or exchange (or both transport and exchange) to a market center. . . . If ONRR prescribes a different adjustment. . . . You must pay any additional royalties owed . . . plus the late payment interest from the original royalty due date, or you may report a credit . . .	80	4	320

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.112(b)(3)	(b)(3) . . . you may propose an alternative differential to ONRR. . . . If ONRR prescribes a different differential. . . . You must pay any additional royalties owed . . . plus the late payment interest from the original royalty due date, or you may report a credit . . .	80	4	320
1206.112(c)(2)	(c)(2) . . . If quality bank adjustments do not incorporate or provide for adjustments for sulfur content, you may make sulfur adjustments, based on the quality of the representative crude oil at the market center, of 5.0 cents per one-tenth percent difference in sulfur content, unless ONRR approves a higher adjustment.	80	2	160
1206.114	What are my reporting requirements under an arm's-length transportation contract? You or your affiliate must use a separate entry on Form ONRR–2014 to notify ONRR of an allowance based on transportation costs you or your affiliate incur.	Burden covered under OMB Control Number 1012–0004.		
	ONRR may require you or your affiliate to submit arm's-length transportation contracts, production agreements, operating agreements, and related documents . . .	AUDIT PROCESS. See note.		
1206.115(a)	What are my reporting requirements under a non-arm's-length transportation arrangement? (a) You or your affiliate must use a separate entry on Form ONRR–2014 to notify ONRR of an allowance based on transportation costs you or your affiliate incur.	Burden covered under OMB Control Number 1012–0004.		
1206.115(c)	(c) ONRR may require you or your affiliate to submit all data used to calculate the allowance deduction . . .	AUDIT PROCESS. See note.		
	Subpart D—Federal Gas			
1206.152(b)(1)(i) and (b)(1)(iii)	Valuation standards—unprocessed gas ..... (b)(1)(i) . . . The lessee shall have the burden of demonstrating that its contract is arm's-length. . . . (iii) . . . When ONRR determines that the value may be unreasonable, ONRR will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value.	AUDIT PROCESS. See note.		
1206.152(b)(2)	(b)(2) . . . The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; . . .	80	1	80
1206.152(b)(3)	(b)(3) ONRR may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the gas.	AUDIT PROCESS. See note.		
1206.152(e)(1)	(e)(1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value . . .	Burden covered under OMB Control Number 1012–0004.		
1206.152(e)(2)	206.152(e)(2) Any Federal lessee will make available upon request to the authorized ONRR or State representatives, to the Office of the Inspector General of the department of the Interior, or other person authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased or otherwise obtained by the lessee from the field or area or from nearby fields or areas.	AUDIT PROCESS. See note.		
1206.152(e)(3)	(e)(3) A lessee shall notify ONRR if it has determined value pursuant to paragraph (c)(2) or (c)(3) of this section . . .	10	10	100

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.152(g)	(g) The lessee may request a value determination from ONRR . . . The lessee shall submit all available data relevant to its proposal . . .	40	5	200
1206.153(b)(1)(i) and (b)(1)(iii)	Valuation standards—processed gas (b)(1)(i) . . . The lessee shall have the burden of demonstrating that its contract is arm's-length . . . (iii) . . . When ONRR determines that the value may be unreasonable, ONRR will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value.	AUDIT PROCESS. See note.		
1206.153(b)(2)	(b)(2) . . . The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; . . .	80	1	80
1206.153(b)(3)	(b)(3) ONRR may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the residue gas or gas plant product.	AUDIT PROCESS. See note.		
1206.153(e)(1)	(e)(1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value . . .	Burden covered under OMB Control Number 1012–0004.		
1206.153(e)(2)	(e)(2) Any Federal lessee will make available upon request to the authorized ONRR or State representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality residue gas and gas plant products sold, purchased or otherwise obtained by the lessee from the same processing plant or from nearby processing plants.	AUDIT PROCESS. See note.		
1206.153(e)(3)	(e)(2) A lessee shall notify ONRR if it has determined any value pursuant to paragraph (c)(2) or (c)(3) of this section . . .	10	2	20
1206.153(g)	206.153(g) The lessee may request a value determination from ONRR . . . The lessee shall submit all available data relevant to its proposal . . .	80	15	1,200
1206.154(c)(4)	Determination of quantities and qualities for computing royalties. (c)(4) . . . A lessee may request ONRR approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease . . .	40	1	40
1206.156(c)(3)	Transportation allowances—general (c)(3) Upon request of a lessee, ONRR may approve a transportation allowance deduction in excess of the limitation prescribed by paragraphs (c)(1) and (c)(2) of this section . . . An application for exception (using Form ONRR–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for ONRR to make a determination. . . .	40	7	280
1206.157(a)(1)(i)	Determination of transportation allowances (a) *Arm's-length transportation contracts.* (1)(i) . . . The lessee shall have the burden of demonstrating that its contract is arm's-length . . .	AUDIT PROCESS. See note.		
	The lessee must claim a transportation allowance by reporting it on a separate line entry on the Form ONRR–2014.	Burden covered under OMB Control Number 1012–0004.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.157(a)(1)(iii)	(a)(1)(iii) . . . When ONRR determines that the value of the transportation may be unreasonable, ONRR will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.	AUDIT PROCESS. See note.		
1206.157(a)(2)(ii)	(a)(2)(ii) . . . the lessee may propose to ONRR a cost allocation method on the basis of the values of the products transported . . .	40	1	40
1206.157(a)(3)	(a)(3) If an arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, the lessee shall propose an allocation procedure to ONRR . . . The lessee shall submit all relevant data to support its proposal . . .	40	1	40
1206.157(a)(5)	(a)(5) . . . The transportation factor may not exceed 50 percent of the base price of the product without ONRR approval.	10	3	30
1206.157(b)(1)	(b) *Non-arm's-length or no contract.* (1) The lessee must claim a transportation allowance by reporting it on a separate line entry on the Form ONRR–2014 . . .	Burden covered under OMB Control Number 1012–0004.		
1206.157(b)(2)(iv) and (b)(2)(iv)(A).	(b)(2)(iv) . . . After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of the ONRR. (A) . . . After an election is made, the lessee may not change methods without ONRR approval . . .	100	1	100
1206.157(b)(3)(i)	(b)(3)(i) . . . Except as provided in this paragraph, the lessee may not take an allowance for transporting a product which is not royalty bearing without ONRR approval.	100	1	100
1206.157(b)(3)(ii)	(b)(3)(ii) . . . the lessee may propose to the ONRR a cost allocation method on the basis of the values of the products transported . . .	100	1	100
1206.157(b)(4)	(b)(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to ONRR . . . The lessee shall submit all relevant data to support its proposal . . .	100	1	100
1206.157(b)(5)	(b)(5) You may apply for an exception from the requirement to compute actual costs under paragraphs (b)(1) through (b)(4) of this section.	100	1	100
1206.157(c)(1)(i)	(c) *Reporting Requirements.* (1) *Arm's-length contracts.* (i) You must use a separate entry on Form ONRR–2014 to notify ONRR of a transportation allowance.	Burden covered under OMB Control Number 1012–0004.		
1206.157(c)(1)(ii)	(c)(1)(ii) ONRR may require you to submit arm's-length transportation contracts, production agreements, operating agreements, and related documents . . .	AUDIT PROCESS. See note.		
1206.157(c)(2)(i)	(c)(2) *Non-arm's-length or no contract.* (i) You must use a separate entry on Form ONRR–2014 to notify ONRR of a transportation allowance.	Burden covered under OMB Control Number 1012–0004.		
1206.157(c)(2)(iii)	(c)(2)(iii) ONRR may require you to submit all data used to calculate the allowance deduction . . .	AUDIT PROCESS. See note.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.157(e)(2), (e)(3), and (f)(1).	(e) *Adjustments.* (2) For lessees transporting production from onshore Federal leases, the lessee must submit a corrected Form ONRR–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by ONRR. (3) For lessees transporting gas production from leases on the OCS, if the lessee's estimated transportation allowance exceeds the allowance based on actual costs, the lessee must submit a corrected Form ONRR–2014 to reflect actual costs, together with its payments, in accordance with instructions provided by ONRR . . . (f) Allowable costs in determining transportation allowances . . . (1) Firm demand charges paid to pipelines . . . if you receive a payment or credit from the pipeline for penalty refunds, rate case refunds, or other reasons, you must reduce the firm demand charge claimed on the Form ONRR–2014 by the amount of that payment. You must modify Form ONRR–2014 by the amount received or credited for the affected reporting period and pay any resulting royalty and late payment interest due;	Burden covered under OMB Control Number 1012–0004.		
1206.158(c)(3)	Processing allowances—general (c)(3) Upon request of a lessee, ONRR may approve a processing allowance in excess of the limitation prescribed by paragraph (c)(2) of this section . . . An application for exception (using Form ONRR–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation for ONRR to make a determination . . .	80	10	800
1206.158(d)(2)(i)	(d)(2)(i) If the lessee incurs extraordinary costs for processing gas production from a gas production operation, it may apply to ONRR for an allowance for those costs . . .	80	1	80
1206.158(d)(2)(ii)	(d)(2)(ii) . . . to retain the authority to deduct the allowance the lessee must report the deduction to ONRR in a form and manner prescribed by ONRR.	Burden covered under OMB Control Number 1012–0004.		
1206.159(a)(1)(i)	Determination of processing allowances.			
	(a) *Arm's-length processing contracts* (1)(i) . . . The lessee shall have the burden of demonstrating that its contract is arm's-length . . .	AUDIT PROCESS. See note.		
	The lessee must claim a processing allowance by reporting it on a separate line entry on the Form ONRR–2014.	Burden covered under OMB Control Number 1012–0004.		
1206.159(a)(1)(iii)	(a)(1)(iii) . . . When ONRR determines that the value of the processing may be unreasonable, ONRR will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's processing costs.	AUDIT PROCESS. See note.		
1206.159(a)(3)	(a)(3) If an arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to ONRR . . . The lessee shall submit all relevant data to support its proposal . . .	20	1	20
1206.159(b)(1)	(b) *Non-arm's-length or no contract.* (1) . . . The lessee must claim a processing allowance by reflecting it as a separate line entry on the Form ONRR–2014 . . .	Burden covered under OMB Control Number 1012–0004.		
1206.159(b)(2)(iv) and (b)(2)(iv)(A).	(b)(2)(iv) . . . When a lessee has elected to use either method for a processing plant, the lessee may not later elect to change to the alternative without approval of the ONRR. (A) . . . After an election is made, the lessee may not change methods without ONRR approval . . .	100	1	100

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 1202, 1204, 1206, and 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.159(b)(4)	(b)(4) A lessee may apply to ONRR for an exception from the requirements that it compute actual costs in accordance with paragraphs (b)(1) through (b)(3) of this section . . .	100	1	100
1206.159(c)(1)(i)	(c) *Reporting requirements*—(1) *Arm's-length contracts.* (i) The lessee must notify ONRR of an allowance based on incurred costs by using a separate line entry on the Form ONRR–2014.	Burden covered under OMB Control Number 1012–0004.		
1206.159(c)(1)(ii)	(c)(1)(ii) ONRR may require that a lessee submit arm's-length processing contracts and related documents . . .	AUDIT PROCESS. See note.		
1206.159(c)(2)(i)	(c)(2) *Non-arm's-length or no contract.* (i) The lessee must notify ONRR of an allowance based on incurred costs by using a separate line entry on the Form ONRR–2014.	Burden covered under OMB Control Number 1012–0004.		
1206.159(c)(2)(iii)	(c)(2)(iii) Upon request by ONRR, the lessee shall submit all data used to prepare the allowance deduction . . .	AUDIT PROCESS. See note.		
1206.159(e)(2) and (e)(3)	(e) *Adjustments* . . . (2) For lessees processing production from onshore Federal leases, the lessee must submit a corrected Form ONRR–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by ONRR. (3) For lessees processing gas production from leases on the OCS, if the lessee's estimated processing allowance exceeds the allowance based on actual costs, the lessee must submit a corrected Form ONRR–2014 to reflect actual costs, together with its payment, in accordance with instructions provided by ONRR . . .	Burden covered under OMB Control Number 1012–0004.		
Oil and Gas Valuation Subtotal.	.....	.....	123	8992
TOTAL	.....	.....	133	9518

Note: AUDIT PROCESS—The Office of Regulatory Affairs determined that the audit process is exempt from the Paperwork Reduction Act of 1995 because ONRR staff asks non-standard questions to resolve exceptions.

This 60-day **Federal Register** notice burden chart shows an adjustment increase of +320 burden hours. This adjustment is based on analyzed historical data since 2013 for the transportation and processing allowances (1206.156(c)(3) and 1206.158(c)(3)). The transportation processing allowance increased from 120 to 280 burden hours and the processing allowance increased from 640 to 800 burden hours for a total increase of +320 annual burden hours.

Estimated Annual Reporting and Recordkeeping ''Non-hour'' Cost Burden: We have not identified a ''non-hour'' cost burden associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person does not have to respond to, a collection of information unless it displays a currently valid OMB control number.

III. Request for Comments

Section 3506(c)(2)(A) of the PRA requires each agency to ''* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information that ONRR collects; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or record-keepers resulting from the collection of information. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods that you use to estimate (1) major cost factors, including system and technology acquisition, (2) expected useful life of capital equipment, (3) discount rate(s), and (4) the period over which you incur costs. Capital and startup costs include, among other items, computers and software that you purchase to prepare for collecting information and monitoring, sampling, and testing equipment, and record storage facilities. Generally, your estimates should not include equipment or services purchased (i) before October 1, 1995; (ii) to comply with requirements not associated with the information

collection; (iii) for reasons other than to provide information or keep records for the Federal Government; or (iv) as part of customary and usual business, or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you, without charge, upon request. We also will post the ICR at *http://www.onrr.gov/Laws_R_D/FRNotices/ICR0136.htm.*

Public Comment Policy: ONRR will post all comments, including names and addresses of respondents at *http://www.regulations.gov.* Before including Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal information in your comment(s), you should be aware that your entire comment (including PII) may be made available to the public at any time. While you may ask us, in your comment, to withhold PII from public view, we cannot guarantee that we will be able to do so.

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 Office of Management and Budget control number.

Dated: May 26, 2016.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2016–13206 Filed 6–3–16; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0019; DS63642000 DR2000000.CH7000 167D0102R2]

Major Portion Prices and Due Date for Additional Royalty Payments on Indian Gas Production in Designated Areas Not Associated With an Index Zone

AGENCY: Office of Natural Resources Revenue (ONRR).

ACTION: Withdrawal.

SUMMARY: On April 28, 2016, ONRR published (at 81 FR 25419) a notice of the due date for industry to pay additional royalties based on the major portion prices, titled ''Major Portion Prices and Due Date for Additional Royalty Payments on Indian Gas Production in Designated Areas Not Associated with an Index Zone.'' Unfortunately, due to an incorrect date in said notice, it is necessary to withdraw the notice and re-publish a corrected version. This notice withdraws the April 28, 2016, notice in question.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Mr. Luis Aguilar, Regulatory Specialist, ONRR, telephone (303) 231–3418, or email *Luis.Aguilar@onrr.gov.*

Dated: May 25, 2016.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2016–13207 Filed 6–3–16; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2016–0027; MMAA104000]

Atlantic Wind Lease Sale 6 (ATLW–6) for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore New York—Proposed Sale Notice

AGENCY: Bureau of Ocean Energy Management (BOEM or ''the Bureau''), Interior.

ACTION: Proposed Sale Notice for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore New York.

SUMMARY: This document is the Proposed Sale Notice (PSN) for the sale of one commercial wind energy lease on the Outer Continental Shelf (OCS) offshore New York, pursuant to 30 CFR 585.216. BOEM proposes to offer Lease OCS–A 0512 for sale using an ascending bidding auction format. In this PSN, you will find information pertaining to the area available for leasing, proposed lease provisions and conditions, auction details, the lease form, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution. BOEM invites public comment during a 60-day comment period following publication of this notice. The issuance of a lease resulting from this proposed sale would not constitute an approval of project-specific plans to develop offshore wind energy resources. Such plans, expected to be submitted by the auction winner, will be subject to subsequent environmental and technical reviews prior to a decision to proceed with development.

DATES: Comments should be submitted electronically or postmarked no later than August 5, 2016. All comments received or postmarked during the comment period will be made available to the public and considered prior to publication of the Final Sale Notice (FSN).

All entities interested in participating in the lease sale who have not previously been qualified by BOEM to participate in this lease sale must submit the required qualification materials by the end of the 60-day comment period for this notice. All qualification materials must be postmarked no later than August 5, 2016. Entities that have already been qualified to participate in this lease sale are not required to take any additional action to affirm their interest.

ADDRESSES: Potential auction participants, Federal, state, and local government agencies, tribal governments, and other interested parties are requested to submit their written comments on the PSN in one of the following ways:

1. *Electronically: http://www.regulations.gov.* In the entry entitled, ''Enter Keyword or ID'', enter BOEM–2016–0027 then click ''search.'' Follow the instructions to submit public comments.

2. *Written Comments:* In written form, delivered by hand or by mail, enclosed in an envelope labeled, ''Comments on New York PSN'' to: BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166, (703) 787–1320.

3. *Qualifications Materials:* Those submitting qualifications materials should contact Erin C. Trager, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166, (703) 787–1320, or *Erin.Trager@boem.gov.* If you wish to protect the confidentiality of your qualification materials, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information with the caption ''Contains Confidential Information'' and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in the section of this PSN entitled ''Protection of Privileged or Confidential Information.'' Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

FOR FURTHER INFORMATION CONTACT: Erin C. Trager, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166, (703) 787–1320 or *Erin.Trager@boem.gov.*

Authority: This PSN is published pursuant to subsection 8(p) of the OCS Lands Act (43

U.S.C. 1337(p)) (OCSLA) and the implementing regulations at 30 CFR part 585, including 30 CFR 585.211 and 585.216.

Background

The area described for leasing in this PSN is the same as the area described in the New York Call for Information and Nominations (79 FR 30645) and announced as the New York Wind Energy Area (WEA) on March 16, 2016. This Area Identification (Area ID) announcement is available at: *http://www.boem.gov/New-York/*. Detailed information regarding the lease area is provided in the section entitled, ''Proposed Area for Leasing.''

Call for Information and Nominations

On May 28, 2014, BOEM published a Call for Information and Nominations (Call) to seek additional nominations from companies interested in commercial wind energy leases within the Call Area offshore New York. BOEM also sought public input on the potential for wind development in the Call Area, including comments on site conditions, resources, and existing uses of the area that would be relevant to BOEM's wind energy development authorization process. In response to the Call, BOEM received three expressions of interest and 27 comment submissions, links to which are available at *http://www.boem.gov/New-York/*. Topics addressed in the comments included mitigation measures to protect wildlife and habitat; support for offshore wind's potential for job creation and as mitigation for climate change; concern about the potential impact of future development on maritime navigation, regional fisheries, and other competing uses; and desire for analysis at the leasing stage of potential environmental impacts of construction and operation of a wind facility, rather than just site assessment and characterization. BOEM considered these comments carefully during the Area ID process. To date, seven entities have expressed commercial interest in developing all or parts of the New York WEA.

Environmental Reviews

On May 28, 2014, BOEM published a Notice of Intent (NOI) to Prepare an Environmental Assessment (EA) for commercial wind lease issuance and approval of site assessment activities on the Atlantic OCS offshore New York with a 45-day public comment period (79 FR 30643). In response to the NOI, BOEM received 32 comment submissions, a link to which is available at *http://www.boem.gov/New-York/*. The comments addressed the same general topic categories as those addressed in the comment submissions in response to the Call. BOEM considered these comments in determining the scope of issues and alternatives analyzed in the EA.

Concurrent with the publication of this notice, BOEM is publishing the EA for public comment. The EA is available at: *http://www.boem.gov/New-York/*.

For the issuance of a commercial lease, BOEM considers the environmental consequences of associated site characterization activities (*e.g.,* biological, archeological, geological and geophysical surveys, and core samples) and site assessment activities (*i.e.,* installation of a meteorological tower and/or buoy on the lease). Mitigation measures designed to reduce or eliminate impacts from survey activities are included as the terms, conditions, and stipulations in Addendum ''C'' of the proposed lease (OCS–A 0512). Given ongoing development of the EA and associated consultations described below, the terms and conditions included in Addendum ''C'' are primarily based on the best available science and BOEM's prior consultations, and may be amended or revised and/or additional stipulations may be included as a result of our ongoing environmental review and consultations. Additional mitigation measures related to the installation and operation of meteorological towers and/or buoys will be included as terms and conditions of the eventual lessee's Site Assessment Plan (SAP) approval. BOEM will continue to work with affected stakeholders and assess ongoing and future research relating to potential survey and site assessment impacts, including possible mitigation measures.

BOEM will complete consultations for lease issuance under the Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) to inform the New York lease sale prior to publishing the FSN. BOEM will initiate consultations with the States of New York and New Jersey under the Coastal Zone Management Act (CZMA) concurrent with the publication of this PSN.

BOEM has determined that the issuance of a commercial lease and subsequent approval, approval with modification, or disapproval of a lessee's plans constitute undertakings subject to review under Section 106 of the National Historic Preservation Act. BOEM is currently in consultation with the State Historic Preservation Officers of New York and New Jersey, the Advisory Council on Historic Preservation, the Shinnecock Indian Nation, and the National Park Service to draft and execute a Programmatic Agreement (PA) to fulfill the bureau's obligations under Section 106 for renewable energy activities offshore New Jersey and New York. This PA will provide for consultation to continue throughout BOEM's staged decision-making process, and will establish the process to determine and document the area of potential effects for each undertaking; identify historic properties within the area of potential effects; assess potential adverse effects; and avoid, reduce, or mitigate any such effects through the process set forth in the agreement.

As the effort to execute the PA is ongoing and BOEM has not yet initiated consultation for the issuance of a commercial lease, the draft lease stipulations included in Addendum ''C'' of the proposed lease (OCS–A 0512) may be amended or revised and/or additional stipulations may be included as a result of this consultation. BOEM will continue to consult with affected tribes government to government.

Once BOEM has completed the EA and associated consultations, and if the EA concludes that the proposed action will not cause significant environmental impacts, BOEM will publish a Finding of No Significant Impact (FONSI) and may proceed with a FSN. If BOEM concludes that the proposed action would cause significant environmental impacts to the human environment, then BOEM will prepare an Environmental Impact Statement (EIS) before proceeding with a FSN. If a lease is issued, BOEM will prepare additional environmental reviews upon receipt of the lessee's SAP and Construction and Operations Plan (COP).

Additional Participation in the Lease Sale: Any parties that have not already been legally, financially and technically qualified to hold a lease for commercial wind development offshore New York must submit the required qualification materials by the end of the 60-day comment period for this notice if they wish to participate in the proposed New York lease sale. Guidelines to prospective lessees on meeting BOEM's requirements to qualify for and hold a renewable energy lease on the OCS—and the type of information that should be submitted to demonstrate your legal, technical and financial qualifications—can be found at: *http://www.boem.gov/National-and-Regional-Guidelines-for-Renewable-Energy-Activities/*. Any submitted documentation must be provided to BOEM in both paper and electronic formats. BOEM considers an Adobe PDF file stored on a storage

media device to be an acceptable format for submitting an electronic copy.

Please note: that it may take a number of weeks for BOEM to assess a potential bidder's legal, technical, and financial qualifications. BOEM advises potential bidders who plan to participate in a sale to establish their qualifications promptly. It is not uncommon for BOEM to request additional materials establishing qualifications following an initial review of the qualifications package. BOEM cannot determine a potential bidder to be qualified without a complete qualification package. Potential bidders, whom BOEM has not determined to be qualified before the FSN is published, will not be allowed to participate in the sale.

Deadlines and Milestones for Bidders: This section describes the major deadlines and milestones in the auction process from publication of this PSN to lease execution, should BOEM decide to proceed with a sale for Lease OCS–A 0512. This process is organized into five stages: (1) The PSN comment period; (2) from the end of PSN comment period to publication of the FSN; (3) the FSN waiting period; (4) conducting the Auction; and (5) from the Auction to Lease Execution.

The PSN Comment Period:

- *Submit Comments:* The public is invited to submit comments during this 60-day period, which will expire on August 5, 2016.
- *Public Seminar:* BOEM will host a public seminar to discuss the lease sale process and the auction format. The time and place of the seminar will be announced by BOEM and published on the BOEM Web site at *http://www.boem.gov/New-York/*. No registration or RSVP is required to attend.
- *Submit Qualifications Materials:* All qualifications materials must be received by BOEM by the end of the 60-day PSN comment period, August 5, 2016. This includes materials sufficient to establish a company's legal, technical, and financial qualifications pursuant to 30 CFR 585.106 and 107.

End of PSN Comment Period to FSN Publication

- *Review Comments:* BOEM will review all comments submitted in response to the PSN during the comment period.
- *Finalize Qualifications Reviews:* BOEM will complete any outstanding reviews of bidder qualifications materials submitted during the PSN comment period prior to the publication of the FSN. The final list of eligible bidders will be published in the FSN.
- *Prepare the FSN:* If BOEM continues with the lease sale, BOEM will prepare the FSN, and will update information contained in the PSN where necessary.
- *Publish FSN:* If BOEM continues with the lease sale, BOEM will publish the FSN in the **Federal Register**.

FSN Waiting Period: During this period, qualified bidders must take several steps before participating in the Auction.

- *Bidder's Financial Form (BFF):* BOEM must receive each qualified bidder's completed and signed BFF no later than the date listed in the FSN. Typically, this deadline is approximately 14 calendar days after publication of the FSN in the **Federal Register**. BOEM will consider extensions to this deadline only if BOEM determines that the failure to timely submit the BFF was caused by events beyond the bidder's control. Blank BFFs can be found at: *http://www.boem.gov/New-York/*. Once the BFF has been processed, bidders may log into *pay.gov* and submit bid deposits. BOEM will only accept an originally executed paper copy of the BFF, and will not consider for this auction BFFs submitted for previous lease sales. The BFF must be executed by an authorized representative as shown on the bidder's legal qualifications. Each bidder is required to sign the self-certification in the BFF, in accordance with 18 U.S.C. 1001 (Fraud and False Statements).
- *Bid Deposits:* Each qualified bidder must submit a bid deposit of $450,000 no later than the date listed in the FSN. Typically, this deadline is approximately 30 calendar days after the publication of the FSN. BOEM will consider extensions to this deadline only if BOEM determines that the failure to timely submit the bid deposit was caused by events beyond the bidder's control.
- *Mock Auction:* BOEM will hold an online Mock Auction that is open only to qualified bidders who have met the requirements and deadlines for auction participation, including submission of the bid deposit. Final details of the Mock Auction will be provided in the FSN.

Conduct the Auction: BOEM, through its contractor, will hold an auction as described in the FSN. The auction will take place no sooner than 30 days following publication of the FSN in **Federal Register**. The estimated timeframes described in this PSN assume the auction will take place approximately 45 days after publication of the FSN.

From Auction to Lease Execution. There are several steps between the conclusion of the auction and execution of the lease.

- *Bid Deposit Refund:* BOEM will refund the bid deposit of any bidder that did not win the lease. BOEM will provide a written explanation as to why the bidder did not win.
- *Department of Justice (DOJ) Review:* The Department of Justice (DOJ) has 30 days to conduct an antitrust review of the auction in consultation with the Federal Trade Commission, pursuant to 43 U.S.C 1337(c).
- *Delivery of the Lease:* BOEM will send three lease copies to the winner, with instructions on how to sign the lease. The first year's rent is due 45 days after the winner receives the lease copies for execution.
- *Return the Lease:* Within 10 business days of receiving the lease copies, the auction winner must post financial assurance, pay any outstanding balance of their bonus bid (*i.e.,* winning monetary bid minus bid deposit), and sign and return the three signed lease copies.
- *Execution of the Lease:* Once BOEM has received the lease copies and verified that it has received all other required materials, BOEM will execute the lease, if appropriate.

Area Proposed for Leasing: The area available for sale will be auctioned as one lease, Lease OCS–A 0512. The proposed New York lease area consists of approximately 81,130 acres. A description of the proposed New York lease area can be found in Addendum ''A'' of the proposed lease, which BOEM has made available with this notice on its Web site at: *http://www.boem.gov/New-York/*.

Map of the Area Offered for Leasing: A map of the proposed New York lease area, GIS spatial files, and a table of the boundary coordinates in X, Y (eastings, northings) UTM Zone 18, NAD83 Datum, and geographic X, Y (longitude, latitude), NAD83 Datum can be found on BOEM's Web site at: *http://www.boem.gov/New-York/*.

A large-scale map of the area, showing boundaries of the area with numbered blocks, is available from BOEM upon request at the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166, Phone: (703) 787–1300, Fax: (703) 787–1708.

Potential Mitigation Measures and Restrictions on Development

During the Area ID process, BOEM analyzed three potential concerns associated with development of the New York WEA: (1) Navigational safety, (2) commercial fishing, and (3) visual impacts to historic properties. Although BOEM did not remove any areas from

leasing consideration during Area ID, potential bidders should be aware that future analysis of these issues could result in required mitigation measures and/or development restrictions within the proposed New York lease area. In addition, mitigation measures and/or development restrictions could result from future BOEM environmental reviews and consultations (*e.g.,* future consultations under the Section 106 of the National Historic Preservation Act or future government-to-government consultations with federally recognized tribes). It is possible that some mitigation measures/development restrictions could have the same effect as removal of areas from leasing.

Navigational Safety: Potential bidders should note that future mitigation measures may be applied to development within all or portions of the New York proposed lease area to ensure navigation safety and the U.S. Coast Guard's ability to maintain mission readiness.

The New York proposed lease area has been delineated to accommodate a setback of 1 nautical mile (nmi) from the adjacent Traffic Separation Schemes (TSSs) for the Port of New York and New Jersey. This setback is consistent with BOEM's delineation of other lease areas that are in close proximity to TSSs (*e.g.,* the areas offshore Massachusetts, Rhode Island/Massachusetts, Delaware, and Maryland; and the Wilmington West area offshore North Carolina), and is based on input provided by the U.S. Coast Guard (USCG) as a member of the BOEM New York Renewable Energy Task Force during development of the 2013 Request for Interest (RFI). As noted in the RFI, the proposed lease area includes aliquots that are transected by the 1 nmi setback line, and BOEM will require that no structures be installed on portions of those aliquots located within the setback.

In September 2015, BOEM received additional input from USCG recommending a larger setback of 2 nmi from the TSSs. USCG's correspondence to BOEM, which explains the recommendation, is available on BOEM's Web site at *http://www.boem.gov/New-York/*. In addition, on March 22, 2016, USCG released the Final Report for its Atlantic Coast Port Access Route Study (ACPARS), available for review at *http://www.uscg.mil/lantarea/acpars.* The USCG's Marine Planning Guidelines, included as Enclosure 2 of the ACPARS, are consistent with their September 2015 recommendation to BOEM. Although BOEM did not adopt the USCG's recommendation during Area ID, BOEM may determine at a later stage in the process (*e.g.,* after evaluating a Navigational Safety Risk Assessment that is submitted as a part of a COP) that portions of the proposed lease area would be inappropriate for the installation of wind facilities due to navigational safety concerns.

Commercial Fishing: Potential bidders should note that future mitigation measures/development restrictions may be applied to development within all or portions of the proposed New York lease area due to the use of the area as a fishery.

BOEM received fishery-related comments in response to the RFI, Call, and NOI from National Marine Fisheries Service (NMFS); New England Fishery Management Council (NEFMC); and the Fisheries Survival Fund (FSF), a group representing members of the sea scallop fishery. BOEM also received comments from commercial squid fishery operators during BOEM's November 2015 fisheries workshops. A meeting summary of BOEM's November 2015 fisheries workshops and comments associated with these workshops are available on BOEM's Web site at *http://www.boem.gov/New-York/,* along with those comments received in response to BOEM's **Federal Register** notices relating to commercial fishing activities within the proposed New York lease area.

Through a joint study with NMFS, BOEM has also gathered information regarding the use of the lease area as a fishery. This data, specific to the proposed New York lease area, is available on BOEM's Web site at *http://www.boem.gov/Fishing-Revenue-NY-Call-Area/*. The full dataset is available at *http://www.boem.gov/Renewable-Energy-GIS-Data/*. Potential bidders should be aware that BOEM will be gathering additional data and may develop plan-specific mitigation measures/development restrictions to mitigate, minimize, or avoid impacts.

In addition, between 2012 and 2016, BOEM collaborated with numerous stakeholders in the fishing and offshore wind industries to develop best management practices (BMPs) in furtherance of its goal of eliminating or minimizing potential multiple use conflicts between offshore renewable energy developers and the fishing industry. As a result of this effort, BOEM recommends that lessees facilitate cooperation with the fishing industry by utilizing a fisheries liaison and fisheries representative during the development of their plans. BOEM has issued guidance to lessees for providing information on fisheries social and economic conditions for renewable energy development on the Atlantic Outer Continental Shelf: *http://www.boem.gov/Social-and-Economic-Conditions-Fishery-Communication-Guidelines/*.

Visual Impacts to Historic Properties: Potential bidders should note that the National Park Service (NPS) and New York State Historic Preservation Office (NY SHPO) have expressed concern regarding the potential for wind energy development within the New York WEA to cause adverse effects to onshore historic properties. Correspondence outlining these concerns is available for reference on BOEM's Web site at *http://www.boem.gov/New-York/*.

During the summer and fall of 2015, OREP conducted stakeholder outreach with the NPS, NY SHPO, and the New Jersey State Historic Preservation Office. OREP also completed a study entitled, ''Renewable Energy Viewshed Analysis and Visualization Simulation for the New York Outer Continental Shelf Call Area'' to assist in this outreach effort and to provide scientific and technical information about visual impacts to inform the Area ID decision. Results from this study are available under the header ''Visual Simulations'' at the following link: *http://www.boem.gov/New-York/*.

Withdrawal of Blocks: BOEM reserves the right to withdraw portions of the proposed lease area prior to its execution of the lease, based upon relevant information provided to the Bureau.

Lease Terms and Conditions: BOEM has made available proposed terms, conditions, and stipulations for the OCS commercial wind lease to be offered through this sale. After the lease is issued, BOEM reserves the right to require compliance with additional terms and conditions associated with approval of a SAP or COP. The proposed lease is on BOEM's Web site at: *http://www.boem.gov/New-York/*.

The lease includes the following seven attachments:

- Addendum ''A'' (Description of Leased Area and Lease Activities);
- Addendum ''B'' (Lease Term and Financial Schedule);
- Addendum ''C'' (Lease Specific Terms, Conditions, and Stipulations);
- Addendum ''D'' (Project Easement);
- Addendum ''E'' (Rent Schedule post COP approval);
- Appendix A to Addendum ''C'': (Incident Report: Protected Species Injury or Mortality); and
- Appendix B to Addendum ''C'': (Required Data Elements for Protected Species Observer Reports).

Addenda ''A,'' ''B,'' and ''C'' provide detailed descriptions of lease terms and

conditions. As discussed above, given ongoing development of the EA and associated consultations, the mitigation measures included in Addendum ''C'' may be amended or revised, and/or additional stipulations may be included prior to publication of the FSN. Addendum ''D'' will be completed at the time of COP approval or approval with modifications. Addendum ''E'' will be completed after COP approval or approval with conditions.

BOEM is soliciting comments on the provisions of Addendum ''C'' that require the submission of SAP and COP survey plans. Specifically, BOEM is interested in whether potential lessees and other stakeholders find the timeframes associated with those requirements to be reasonable, and whether those provisions could be written in a manner that better describes the realities associated with offshore wind survey efforts (*e.g.,* referring to survey mobilizations as opposed to ''SAP'' surveys and ''COP'' surveys specifically).

Plans: Pursuant to 30 CFR 585.601, the leaseholder must submit a SAP within 12 months of lease issuance and a COP at least 6 months before the end of the site assessment term of the lease.

Financial Terms and Conditions: This section provides an overview of the annual payments required of a lessee that are described in the proposed lease, and the financial assurance requirements that will be associated with the lease if it is awarded.

Rent: Pursuant to 30 CFR 585.224(b) and 585.503, the first year's rent payment of $3 per acre is due within 45 days of the date the lessee receives the lease for execution. Thereafter, annual rent payments are due on the anniversary of the Effective Date of the lease (the ''Lease Anniversary''). Once commercial operations under the lease begin, BOEM will charge rent only for the portions of the lease not authorized for commercial operations, *i.e.,* not generating electricity. However, instead of geographically dividing the lease area into acreage that is ''generating'' and ''non-generating,'' the fraction of the lease accruing rent will be based on the fraction of the total nameplate capacity of the project that is not yet in operation. This fraction is calculated by dividing the nameplate capacity not yet authorized for commercial operations at the time payment is due by the anticipated nameplate capacity after full installation of the project (as described in the COP). The annual rent due for a given year is then derived by multiplying this fraction by the amount of rent that would have been due for the lessee's entire lease area at the rental rate of $3 per acre.

For example, an 81,130 acre lease (the size of the entire proposed New York lease area) will have a rent payment of $243,390 per year if no portion of the leased area is authorized for commercial operations. If 300 megawatts (MW) of a project's nameplate capacity is operating (or authorized for operation), and the approved COP specifies a maximum project size of 500 MW, the rent payment will be $97,356. This payment is based on the 200 MW of nameplate capacity BOEM has not yet authorized for commercial operations. For the above example, this would be calculated as follows: 200MW/500MW × ($3/acre × 81,130 acres) = $97,356.

If the lessee submits an application for relinquishment of a portion of its lease area within the first 45 calendar days following the date that the lease is received by the lessee for execution, and BOEM approves that application, no rent payment will be due on that relinquished portion of the lease area. Later relinquishments of any portion of the lease area will reduce the lessee's rent payments starting in the year following BOEM's approval of the relinquishment.

The lessee also must pay rent for any project easement associated with the lease, commencing on the date that BOEM approves the COP (or modification thereof) that describes the project easement. Annual rent for a project easement that is 200 feet wide and centered on the transmission cable is $70 per statute mile. For any additional acreage required, the lessee must also pay the greater of $5 per acre per year or $450 per year.

Operating Fee: For purposes of calculating the initial annual operating fee payment and pursuant to 30 CFR 585.506, an operating fee rate is applied to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first twelve months of operations. This initial payment will be prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment is due within 45 days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments are due on or before each Lease Anniversary.

The subsequent annual operating fee payments are calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power production for the project. For the purposes of this calculation, the imputed market value is the product of the project's annual nameplate capacity, the total number of hours in the year (8,760), the capacity factor, and the annual average price of electricity derived from a historical regional wholesale power price index. For example, the annual operating fee for a 100 MW wind facility operating at a 40% capacity (*i.e.,* capacity factor of 0.4) with a regional wholesale power price of $50/MWh and an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operating Fee} = 100\text{MW} \times 8{,}760\,\frac{\text{hrs}}{\text{year}} \times 0.4 \times \frac{\$50}{\text{MWh}}\,\text{Power Price} \times 0.02 = \$350{,}400$$

Operating Fee Rate: The operating fee rate is the share of imputed wholesale market value of the projected annual electric power production due to BOEM as an annual operating fee. For the proposed New York lease area, BOEM will set the fee at 0.02 (*i.e.,* 2%) during the entire life of commercial operations.

Nameplate Capacity: Nameplate capacity is the maximum rated electric output, expressed in MW, that the turbines of the wind facility under commercial operations can produce at their rated wind speed as designated by the turbine's manufacturer. The lessee will specify in its COP the nameplate capacity available at the start of each year of commercial operations on the lease. For example, if the lessee specifies 20 turbines in its COP, and each is rated by the design manufacturer at 5 MW, the nameplate capacity of the wind facility would be 100 MW.

Capacity Factor: The capacity factor compares the amount of energy delivered to the grid during a period of time to the amount of energy the wind facility would have produced at full capacity. The amount of power delivered will always be less than the theoretical 100% capacity, largely because of the variability of wind speeds, transmission line loss, and down time for maintenance or other purposes.

The capacity factor is expressed as a decimal between zero and one, and represents the share of anticipated generation of the wind facility that is delivered to the interconnection grid (*i.e.,* where the lessee's facility interconnects with the electric grid) relative to the wind facility's generation at continuous full power operation at nameplate capacity. For the proposed lease area, BOEM has set the capacity factor for the year in which commercial operations commence and the six full years thereafter at 0.4 (*i.e.,* 40%). At the end of the sixth year, BOEM may adjust the capacity factor to reflect the performance over the previous five years based upon the actual metered electricity generation at the delivery point to the electrical grid. BOEM may make similar adjustments to the capacity factor once every five years thereafter. The maximum change in the capacity factor from one period to the next will be limited to plus or minus 10 percent of the previous period's value.

Wholesale Power Price Index: Pursuant to 30 CFR 585.506(c)(2)(i), the wholesale power price, expressed in dollars per MW-hour, is determined at the time each annual operating fee payment is due, based on the weighted average of the inflation-adjusted peak and off-peak spot price indices for the NYC Zone J (NYISO) electric region for the most recent year of spot price data available. The wholesale power price is adjusted for inflation from the year associated with the published spot price indices to the year in which the operating fee is to be due, based on the Lease Anniversary and using annual implicit price deflators as reported by the U.S. Department of Commerce Bureau of Economic Analysis.

BOEM proposes to use the NYC Zone J power price as the price in its operating fee formula due to its geographic proximity to the proposed lease area. BOEM is soliciting further comments on the merits of other electric power prices, including Long Island Zone K, that may be used in lieu of or in combination with the current proposed power price. In particular, BOEM would like to know if and why other electric power prices may be preferred over NYC Zone J.

Financial Assurance: Within 10 business days after receiving the lease copies and pursuant to 30 CFR 585.515–.516, the provisional winner of the New York lease area must provide an initial lease-specific bond or other approved means of meeting the lessor's initial financial assurance requirements. The provisional winner may meet financial assurance requirements by posting a surety bond or by setting up an escrow account with a trust agreement giving BOEM the right to withdraw the money held in the account on demand. BOEM encourages the provisional winner to discuss the financial assurance requirement with BOEM as soon as possible after the auction has concluded.

BOEM will base the amount of all SAP, COP, and decommissioning financial assurance requirements on cost estimates for meeting all accrued lease obligations at the respective stages of development. The required amount of supplemental and decommissioning financial assurance will be determined on a case-by-case basis.

The financial terms described above can be found in Addendum ''B'' of the proposed lease, which BOEM has made available with this notice on its Web site at: *http://www.boem.gov/New-York/.*

Bid Deposit: A bid deposit is an advance cash payment submitted to BOEM in order to participate in the auction. Each qualified bidder must submit a bid deposit of $450,000 no later than the deadline provided in the FSN. Any qualified bidder who fails to submit the bid deposit by this deadline may be disqualified from participating in the auction. Bid deposits will be accepted online via *pay.gov.*

Following the auction, bid deposits will be applied against bonus bids or other obligations owed to BOEM. If the bid deposit exceeds a bidder's total financial obligation, the balance of the bid deposit will be refunded to the bidder. BOEM will refund bid deposits to non-winners.

Bidder Financial Form: Each bidder must fill out the BFF referenced in this PSN. BOEM has also made a copy of the form available with this notice on its Web site at: *http://www.boem.gov/New-York/.* BOEM recommends that each bidder designate an email address in its BFF that the bidder will then use to create an account in *pay.gov* (if it has not already done so). Bidders may then use the BFF on the *pay.gov* Web site to leave a deposit.

BOEM will not consider BFFs submitted by qualified bidders for previous lease sales to satisfy the requirements of the proposed New York lease sale. BOEM will also only consider BFFs submitted after the deadline if BOEM determines that the failure to timely submit the BFF was caused by events beyond the bidder's control. BOEM will only accept an original, executed paper copy of the BFF. The BFF must be executed by an authorized representative who has been identified in the qualifications package on file with BOEM as authorized to bind the company.

Minimum Bid: The minimum bid is the lowest price BOEM will accept as a winning bid. BOEM has established a minimum bid per acre of $2.00, or $162,260, for the proposed lease sale.

Auction Procedures: Following is a summary of the auction procedures that BOEM intends to use if it proceeds with the proposed New York lease sale.

Summary of Auction Format

As authorized under 30 CFR 585.220(a)(2) and 585.221(a)(1), BOEM intends to conduct the proposed lease sale using an ascending format with cash as the bid variable. Using an online bidding system to host the auction, BOEM sets an initial asking price for Lease OCS–A 0512 and increases that price incrementally based on the number of active bidders in each round until no more than one active bidder remains in the auction. A bid submitted at the full asking price for the lease in a particular round is referred to as a live bid. During each round, active bidders may: (1) Submit a live bid indicating that they are interested in acquiring the lease at the current round's stated asking price, (2) submit an exit bid (see below for discussion of exit bids), or (3) exit the auction. All bids are considering binding until BOEM has determined the winning bid.

A bidder remains active in the auction as long as it continues to meet BOEM's asking price in each round. If more than one live bid is received in a round, BOEM increases the asking price incrementally and conducts another auction round. BOEM plans to raise the asking price following any round in which two or more bidders submitted live bids. The auction concludes at the end of the round in which the number of live bids received falls to one or zero.

Asking price increments are in BOEM's sole discretion. They will be determined round-by-round, based on a number of factors, including, but not necessarily limited to, the expected time needed to conduct the auction and the number of rounds that have already occurred. BOEM reserves the right to increase or decrease bidding increments as necessary.

Between rounds, BOEM will disclose to all bidders eligible to bid in the next round: (1) The number of live bids in the previous round of the auction (*i.e.,* the level of demand); and (2) the asking price in the upcoming round of the auction.

If a bidder is not willing to meet the asking price in the upcoming round, the bidder may submit an exit bid and then exit the auction. Bidders exiting the auction are allowed to submit one exit bid at an offer price greater than the

asking price in the previous round but less than the asking price in the current round. Exit bids allow bidders to express precisely the maximum price they are willing to offer and minimize the chance of ties. If a bidder exits the auction by placing an exit bid or by not submitting a live bid in the current round, it will no longer be allowed to submit bids in any subsequent round. If a bidder leaves the auction without submitting an exit bid, BOEM will treat the previous round's asking price as the bidder's exit bid in the current round. BOEM will not consider exit bids for the purpose of determining whether to increase the asking price or to end the auction.

BOEM will determine the provisionally winning bidder to be the bidder with the highest bid, whether the bid was a live bid or an exit bid. If there is a tie, BOEM will resolve the tie by randomized means. The provisional winner may be disqualified if it is subsequently found to have violated auction rules or otherwise engaged in conduct detrimental to the integrity of the competitive auction.

The auction winner for the proposed lease sale will have 10 business days from receiving the lease copies in which to post financial assurance, pay any outstanding balance of its bonus bid, and sign and return three copies of the lease. BOEM reserves the right to not issue the lease to the provisionally winning bidder if that bidder fails to timely sign and pay for the lease or otherwise fails to comply with applicable regulations or terms of the FSN. In that case, that bidder will forfeit its bid deposit. BOEM may consider failure of a bidder to timely pay the full amount due an indication that the bidder is no longer financially qualified to participate in other lease sales under BOEM's regulations at 30 CFR 585.106 and 585.107. If a winning bidder does not sign the lease pursuant to the proposed lease sale, BOEM reserves the right to identify the next best bid submitted during the proposed lease sale and offer the lease pursuant to this next highest bid.

Additional Information Regarding the Auction Format

Bidder Authentication

For the proposed online auction, BOEM will require two-factor authentication. Prior to the auction, the Auction Manager will send several bidder authentication packages to the bidders shortly after BOEM has processed the BFFs. One package will contain digital authentication tokens for each authorized individual allowing access to the auction Web site. The tokens will be mailed to the Primary Point of Contact indicated on the BFF. This individual is responsible for distributing the tokens to the individuals authorized to bid for that company. *Bidders are to ensure that each token is returned within three business days following the auction.* An addressed, stamped envelope will be provided to facilitate this process. In the event that a bidder fails to submit a bid deposit or does not participate in the proposed auction, BOEM will de-activate that bidder's token and login information, and the bidder will be asked to return its tokens.

The second package contains login credentials for authorized bidders. The login credentials will be mailed to the address provided in the BFF for each authorized individual. Bidders can confirm these addresses by calling 703–787–1320. This package will contain user login information and instructions for accessing the Auction System Technical Supplement and Alternative Bidding Form. The login information, along with the tokens, will be tested during the Mock Auction.

Timing of Auction

The FSN will provide specific information regarding when bidders can enter the auction system and when the proposed auction will start. Once bidders have logged in they should review the auction schedule, which lists the start, end, and recess times of each round in the auction. Each round is structured as follows:

- Round bidding begins;
- Bidders enter their bids;
- Round bidding ends and the recess begins;
- During the recess, the number of live bids received in the previous round and the next round's asking price are posted;
- Bidders review the previous round results and prepare their next round bids (or exit bids, as applicable);
- Next round bidding begins.

The first round will last about 30 minutes, though subsequent rounds may be shorter. Recesses are anticipated to last approximately 10 minutes. The descriptions of the auction schedule and asking price increments included in the PSN and FSN are tentative. Bidders should consult the auction schedule on the bidding Web site just before and during the auction for updated times. BOEM anticipates the auction will last one or two business days, but bidders are advised to prepare to continue bidding for additional business days as necessary to resolve the auction.

BOEM and the auction contractors will use the auction platform messaging service to keep bidders informed on issues of interest during the proposed auction. BOEM will use the messaging system for auction schedule changes and other updates during the auction.

Bidders may place bids at any time during the round. At the top of the bidding page, a countdown clock will show how much time remains in the round. Bidders have until the scheduled ending time to place bids. Bidders should bid according to the procedures described in both the FSN and the Auction System Technical Supplement. No information about bidding during the round is available until the round has closed and results have been posted, so there is no tactical advantage to placing bids early or late in the round.

The timing of the auction will be elaborated on and clarified in the Auction System Technical Supplement available on BOEM's Web site at: *http://www.boem.gov/New-York/* if and when the FSN is published in the **Federal Register**. The Auction System Technical Supplement will describe auction procedures that are incorporated by reference into the FSN. All bidders are required to comply with any rules or instructions in the Auction System Technical Supplement, except in the unexpected circumstance that any of the information in the Auction System Technical Supplement is inconsistent with the FSN, in which case, the provisions of the FSN will take precedence.

Alternate Bidding Procedures

Alternate Bidding Procedures enable a bidder who is having difficulties accessing the Internet to submit its bid via fax using an Alternate Bidding Form available on BOEM's Web site at: *http://www.boem.gov/New-York/.*

In order to be authorized to use an Alternative Bidding Form, a bidder must call the help desk number listed in the Auction Manual *before* the end of the round. BOEM will authenticate the caller to ensure he/she is authorized to bid on behalf of the company. The bidder must explain the reasons for which he/she cannot place a bid using the online bidding platform. BOEM may, in its sole discretion, permit or refuse to accept a request for the placement of a bid using the Alternate Bidding Procedures.

If Bidders Need To Submit an Alternate Bidding Form, They Are Strongly Encouraged To Do so Before the Round Ends

Consideration of Potential Non-Monetary Factor

BOEM has received a request to recognize a non-monetary credit for any bidder who has an executed power purchase agreement (PPA) term sheet with a potential power purchaser involving offshore wind energy generated from the proposed New York lease area. While a PPA term sheet is not typically a fully binding contract and may differ in that respect from other non-monetary factors that BOEM has credited to date, BOEM is considering whether to add this element to the auction in a fashion similar to prior BOEM offshore wind lease sales (*e.g.,* Maryland, New Jersey). It is BOEM's policy to offer non-monetary credits in an auction only for factors that (1) can be simply and objectively identified, and (2) reflect a true development advantage for the recipient. BOEM is soliciting comments on the merits of adopting a PPA term sheet as a non-monetary credit for this auction, as well as the specific parameters of such an instrument.

In particular, BOEM would like to know what key commercial terms should be included in a qualifying PPA term sheet to qualify for a credit; whether BOEM should only provide a credit for PPA term sheets that are executed with specific types of entities (*e.g.,* electric utility, municipality, government agency); whether the public utility commission of New York or a nearby state should be a party to or otherwise endorse a qualifying PPA term sheet; and whether and to what extent such a qualifying PPA term sheet should be binding on the signatories. BOEM is also soliciting comments on what percentage of the monetary bid would be appropriate for this bidding credit. At this time, should BOEM find it appropriate to add this element to the auction, BOEM would potentially consider offering a 5% credit for a qualifying PPA term sheet. BOEM is interested in receiving feedback on whether a 5% credit would sufficiently reflect the value of an executed PPA term sheet. Based on the comments that BOEM receives, BOEM will decide whether, and in what amount, to provide for this type of non-monetary credit in the FSN.

Rejection or Non-Acceptance of Bids: BOEM reserves the right and authority to reject any and all bids that do not satisfy the requirements and rules of the proposed auction, the FSN, or applicable regulations and statutes.

Anti-Competitive Review: This sale is subject to Federal antitrust laws. Accordingly, following the auction but before the acceptance of the bid and the issuance of the lease, BOEM will ''allow the Attorney General, in consultation with the Federal Trade Commission, 30 days to review the results of the lease sale.'' 43 U.S.C. 1337(c). If a provisionally winning bidder is found to have engaged in anti-competitive practices in connection with this sale, BOEM may reject its bid.

Anti-competitive practices may include, but are not limited to:

- An express or tacit agreement among bidders to not bid in an auction, or to bid at a particular price;
- An agreement among bidders not to bid against each other; and
- Other agreements among bidders that have the potential to affect the final auction price.

BOEM will decline to award the lease if the Attorney General, in consultation with the Federal Trade Commission, determines that doing so would be inconsistent with the antitrust laws. *See* 43 U.S.C. 1337(c).

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see *http://www.justice.gov/atr/public/business-resources.html,* or consult legal counsel.

Process for Issuing the Lease: Once all post-auction reviews have been completed to BOEM's satisfaction, BOEM will issue three unsigned copies of the lease to the provisionally winning bidder. Within 10 business days after receiving the lease copies, the provisionally winning bidder must:

1. Sign the lease on the bidder's behalf;

2. File financial assurance, as required under 30 CFR 585.515–537; and

3. Pay by electronic funds transfer (EFT) the balance (if any) of the bonus bid (winning bid less the bid deposit). BOEM requires bidders to use EFT procedures (not *pay.gov,* the Web site bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained in the ''Instructions for Making Electronic Payments'' available on BOEM's Web site at: *http://www.boem.gov/New-York/.*

BOEM will not execute a lease until the three requirements above have been satisfied, BOEM has accepted the provisionally winning bidder's financial assurance pursuant to 30 CFR 585.515, and BOEM has processed the provisionally winning bidder's payment.

If BOEM determines the delay was caused by events beyond the provisional winning bidder's control, BOEM may extend the ten business day deadline for executing the lease on the bidder's behalf, filing the required financial assurance, and/or paying the balance of the bonus bid.

If the provisionally winning bidder does not meet these requirements or otherwise fails to comply with applicable regulations or the terms of the FSN, BOEM reserves the right to not issue the lease to that bidder. In such a case, the provisionally winning bidder will forfeit its bid deposit.

Within 45 days of the date that the provisionally winning bidder receives copies of the lease, it must pay the first year's rent using the *pay.gov* Renewable Energy Initial Rental Payment form, available at: *https://pay.gov/paygov/forms/formInstance.html?agencyFormId=27797604.* Subsequent annual rent payments must be made following the detailed instructions contained in the ''Instructions for Making Electronic Payments,'' available on BOEM's Web site at: *http://www.boem.gov/New-York/.*

Non-Procurement Debarment and Suspension Regulations: Pursuant to regulations at 43 CFR part 42, subpart C, an OCS renewable energy lessee must comply with the Department of the Interior's non-procurement debarment and suspension regulations at 2 CFR 180 and 1400. The lessee must also communicate this requirement to persons with whom the lessee does business relating to this lease, by including this term as a condition in their contracts and other transactions.

Force Majeure: The Program Manager of BOEM's Office of Renewable Energy Programs has the discretion to change any auction details specified in the FSN, including the date and time, in case of a *force majeure* event that the Program Manager deems may interfere with a fair and proper lease sale process. Such events may include, but are not limited to: Natural disasters (*e.g.,* earthquakes, hurricanes, floods, blizzards), wars, riots, acts of terrorism, fire, strikes, civil disorder or other events of a similar nature. In case of such events, BOEM will notify all qualified bidders via email, phone, or through the BOEM Web site at: *http://www.boem.gov/Renewable-Energy-Program/index.aspx.* Bidders should call 703–787–1320 if they have concerns.

Appeals: The appeals procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). Pursuant to 30 CFR 585.225:

(a) If BOEM rejects your bid, BOEM will provide a written statement of the

reasons and refund any money deposited with your bid, without interest.

(b) You will then be able to ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection, under 30 CFR 585.118(c)(1). We will send you a written response either affirming or reversing the rejection.

The procedures for appealing final decisions with respect to lease sales are described in 30 CFR 585.118(c).

Protection of Privileged or Confidential Information: BOEM will protect privileged or confidential information that you submit as required by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to ''trade secrets and commercial or financial information that you submit that is privileged or confidential.'' 5 U.S.C. 552(b)(4). If you wish to protect the confidentiality of such information, clearly mark it ''Contains Privileged or Confidential Information'' and consider submitting such information as a separate attachment. BOEM will not disclose such information, except as required by FOIA. Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

BOEM will not treat as confidential aggregate summaries of otherwise confidential information or comments not containing such information. Additionally, BOEM will not treat as confidential the legal title of the commenting entity (*e.g.,* the name of your company).

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2016–13164 Filed 6–3–16; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2016–0038]

Environmental Assessment for Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf (OCS) Offshore New York; MMAA104000

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability.

SUMMARY: BOEM is announcing the availability of an Environmental Assessment (EA) for commercial wind lease issuance, site characterization activities (geophysical, geotechnical, archaeological, and biological surveys), and site assessment activities (including the installation and operation of a meteorological tower and/or buoys) on the Atlantic OCS offshore New York. The EA considers the potential impacts of the proposed action and an analysis of reasonable alternatives to the proposed action (excluding the area within two nautical miles of the traffic separation schemes, and no action). This Notice of Availability (NOA) also serves to announce the beginning of the public comment period on the EA. The EA and associated information are available on BOEM's Web site at *http://www.boem.gov/New-York/.*

Should a lessee propose to construct a commercial wind facility through submission of a Construction and Operations Plan, BOEM would conduct a separate site- and project-specific National Environmental Policy Act (NEPA) analysis, likely an Environmental Impact Statement, and would provide additional opportunities for public involvement pursuant to NEPA and the CEQ regulations at 40 CFR parts 1500–1508.

DATES: Comments on this EA will be accepted until July 6, 2016. See public meeting dates in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1340 or *michelle.morin@boem.gov.*

SUPPLEMENTARY INFORMATION:

Public Availability: BOEM will consider public comments on the EA in determining whether to issue a Finding of No Significant Impact, or conduct additional analysis under NEPA. Federal, state, tribal, and local governments and/or agencies and the public may submit written comments on this EA through the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* In the field entitled ''Enter Keyword or ID,'' enter BOEM–2016–0038, and then click ''search.'' Follow the instructions to submit public comments and view supporting and related materials available for this notice;

2. In written form, delivered by hand or by mail, enclosed in an envelope labeled ''Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore New York Environmental Assessment'' and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166. Comments must be received or postmarked no later than July 6, 2016.

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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Meetings: BOEM will also hold public meetings to explain the proposed activities analyzed in the EA and to provide additional opportunity for public comment on the EA. The meetings are scheduled as follows:

- Monday June 20, 2016; Long Branch Middle School (Auditorium), 404 Indiana Avenue, Long Branch, New Jersey 07740; 6:00–8:00 p.m.
- Tuesday June 21, 2016; Hofstra University (MPR Room), 900 Fulton Avenue, Hempstead, New York 11549; 6:00–8:00 p.m.
- Wednesday, June 22, 2016; Westhampton Beach High School, 49 Lilac Road, Westhampton Beach, New York 11978; 6:00–8:00 p.m.
- Thursday, June 23, 2016; University of Rhode Island, Narragansett Bay Campus, Coastal Institute Building (Hazard Rooms A & B), 215 S Ferry Road, Narragansett, Rhode Island 02882; 6:00–8:00 p.m.

Authority: This Notice of Availability (NOA) is published pursuant to the regulations (43 CFR 46.305) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.* (1988)).

Dated: May 31, 2016.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2016–13170 Filed 6–3–16; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR83550000, 167R5065C6, RX.59389832.1009676]

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation

(Reclamation) and are new, discontinued, or completed since the last publication of this notice on February 19, 2016 (81 FR 8537). This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Michelle Kelly, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2888.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of *1939,* and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Used in the Reports

ARRA American Recovery and Reinvestment Act of 2009
BCP Boulder Canyon Project
Reclamation Bureau of Reclamation
CAP Central Arizona Project
CUP Central Utah Project
CVP Central Valley Project
CRSP Colorado River Storage Project
FR Federal Register
IDD Irrigation and Drainage District
ID Irrigation District
M&I Municipal and Industrial
NMISC New Mexico Interstate Stream Commission
O&M Operation and Maintenance
OM&R Operation, maintenance, and replacement
P–SMBP Pick-Sloan Missouri Basin Program
PPR Present Perfected Right
RRA Reclamation Reform Act of 1982
SOD Safety of Dams
SRPA Small Reclamation Projects Act of 1956
USACE U.S. Army Corps of Engineers
WD Water District

PACIFIC NORTHWEST REGION: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

New contract action:

16. Clean Water Services and Tualatin Valley ID, Tualatin Project, Oregon: Long-term water service contract that provides for the District to allow Clean Water Services to beneficially use up to 6,000 acre-feet annually of stored water for water quality improvement.

MID-PACIFIC REGION: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

The Mid-Pacific Region has no updates to report for this quarter.

LOWER COLORADO REGION: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

Completed contract actions:

15. La Paz County and Ehrenberg Improvement Association, BCP, Arizona: Review and approve a proposed partial assignment to the Association of 150 acre-feet per year of La Paz County's Arizona fourth priority water entitlement amount of 500 acre-feet per year and execute the associated amendments to La Paz County's and the Association's contracts. Contract executed on December 22, 2015.

17. San Carlos Apache Tribe and the Pascua Yaqui Tribe, CAP, Arizona: Execute a CAP water lease in order for the San Carlos Apache Tribe to lease 790 acre-feet of its CAP water to the Pascua Yaqui Tribe during calendar year 2016. Contract executed on March 17, 2016.

18. Chandler Heights Citrus ID and Central Arizona Water Conservation District, CAP, Arizona: Execute a proposed assignment to Central Arizona Water Conservation District of Chandler

Heights Citrus ID's 315 acre-foot annual CAP water entitlement. Contract executed on March 14, 2016.

20. Mohave County Water Authority, BCP, Arizona: Amend Exhibit D to the Authority's Colorado River water delivery contract to update the list of subcontractors with the Authority. Contract executed on February 29, 2016.

UPPER COLORADO REGION: Bureau of Reclamation, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

New contract actions:

26. Ephraim Irrigation Company, Sanpete Project, Utah: The Company proposes to enclose the Ephraim Tunnel with a 54-inch pipe. A supplemental O&M agreement will be necessary to obtain the authorization to modify Federal facilities.

27. Eden Valley Irrigation and Drainage District, Eden Project, Wyoming: The District proposes to raise the level of Big Sandy Dam to shore up its water rights. A supplemental O&M agreement will be necessary to obtain the authorization to modify Federal facilities.

28. Uintah Water Conservancy District, Central Utah Project—Vernal Unit, Utah: Due to sloughing on the face of Steinaker Dam north of Vernal, Utah, a SOD fix authorized under the SOD Act of 1978 may be necessary to perform the various functions necessary to bring Steinaker Reservoir back to full capacity. This will require a repayment contract with the United States.

29. Navajo-Gallup Water Supply Project: Pursuant to legislation and Section 10602(h) of Pub. L. 111–11, project facilities may be used to treat and convey nonproject water. Before delivery of project water from the San Juan River, a need will exist for nonproject water to be delivered to the Navajo Nation. A carriage contract has been drafted and is currently under internal review (Reclamation) then will be negotiated with the Navajo Nation in a public setting.

30. Jicarilla Apache Nation, Navajo Project, New Mexico: Water service agreement between the Jicarilla Apache Nation and the San Juan Basin Water Haulers Association for delivery of 200 acre-feet of M&I water from the Jicarilla's settlement water from the Navajo Reservoir Supply. This agreement will have a term of 5 years (2016–2020) and will replace the expired previous agreement which was in place for 10 years.

31. North Fork Water Conservancy District and Ragged Mountain Water Users Association, Paonia Project, Colorado. An existing contract for 2,000 acre-feet will expire on December 31, 2016. The parties have requested a 5-year contract that will begin when the existing contract expires. The new contract will be for up to 2,000 acre-feet of water with up to 200 acre-feet available for M&I uses.

Modified contract action:

14. South Cache Water Users Association, Hyrum Project, Utah: The Association desires to pipe approximately 2,100 linear feel of the Hyrum-Mendota Canal to combat seepage issues below Hyrum Dam. A supplemental O&M agreement is necessary for Reclamation to provide consent to the modification of the Federal facilities.

Completed contract actions:

5. Uintah Water Conservancy District; Vernal Unit, CUP; Utah: Proposed carriage contract to both store up to 35,000 acre-feet of nonproject water in Steinaker Reservoir and carry nonproject water in the Steinaker Service and Feeder Canals. Contract executed on February 12, 2016.

21. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Requested a water delivery contract for 33,519 acre-feet of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554). Contract executed on January 14, 2016.

GREAT PLAINS REGION: Bureau of Reclamation, P.O. Box 36900, Federal Building, 2021 4th Avenue North, Billings, Montana 59101, telephone 406–247–7752.

New contract actions:

39. South Chester County Water District; Lower Marias Unit, P–SMBP; Montana: Consideration to renew of long-term M&I water service contract No. 14–06–600–2022A.

40. Nathan D. and Kindra Young; Canyon Ferry Unit, P–SMBP; Montana: Consideration to renew short-term M&I water service contract No. 129E670093.

41. Central Oklahoma Master Conservancy District, Norman Project, Oklahoma: Consideration of a contract for a supply of water made possible when infrequent and otherwise unmanageable flood flows of short duration create a temporary supply of water.

Modified contract action:

22. Helena Valley ID; Helena Valley Unit, P–SMBP; Montana: Consideration of a contract to allow for delivery of up to 500 acre-feet of water for M&I purposes.

Completed contract action:

29. Larry TenBensel; Frenchman Cambridge, P–SMBP; Nebraska: Consideration of a long-term Warren Act contract. Contract executed on March 15, 2016.

Dated: April 14, 2016.

Roseann Gonzales,

Director, Policy and Administration.

[FR Doc. 2016–13237 Filed 6–3–16; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. BBA Aviation plc, et al.; Public Comment and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the comment received on the proposed Final Judgment in *United States of America* v. *BBA Aviation plc, et al.,* Civil Action No. 1:16–cv–00174, together with the Response of the United States to Public Comment.

Copies of the comment and the United States' Response are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr,* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Patricia A. Brink,

Director of Civil Enforcement.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States Of America, Plaintiff, v. *BBA Aviation PLC, Landmark U.S. Corp LLC,* and *LM U.S. Member LLC, Defendants.*

Case: 1:16–cv–00174
Judge: Amy Berman Jackson

RESPONSE OF PLAINTIFF UNITED STATES TO PUBLIC COMMENT ON THE PROPOSED FINAL JUDGMENT

Pursuant to Sections 2(b)–(h) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (''APPA'' or ''Tunney Act''), Plaintiff, the United States of America (''United States'') hereby files the single public comment received concerning the proposed Final Judgment in this case and the United States's response to the comment. After careful consideration of the submitted comment, the United States continues to believe that the proposed Final Judgment (''PFJ'') provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint. The United States will move the Court for entry of the proposed Final Judgment after the public comment and this Response have been published in the

Federal Register pursuant to 15 U.S.C. 16(d).

I. BACKGROUND

On February 3, 2016, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Defendant BBA Aviation plc (''Signature'') of Defendants Landmark U.S. Corp LLC and LM U.S. Member LLC (''Landmark''), announced on September 23, 2015, would be likely to substantially lessen competition in the provision of full-service fixed-based operator (''FBO'') services at six airports in the United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint further alleged that, as a result of the acquisition as originally proposed, prices for these services in the United States would likely have increased and customers would have received services of lower quality.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order (''Hold Separate Order''); a Proposed Final Judgment (''PFJ''); and a Competitive Impact Statement (''CIS'') that explains how the PFJ is designed to remedy the likely anticompetitive effects of the proposed acquisition. As required by the Tunney Act, the United States published the PFJ and CIS in the **Federal Register** on February 10, 2016. In addition, the United States ensured that a summary of the terms of the PFJ and CIS, together with directions for the submission of the written comments, were published in *The Washington Post* on seven different days during the period of February 6, 2016 to February 12, 2016. *See* 15 U.S.C. 16)(c). The 60-day waiting period for public comments ended on April 12, 2016. Following expiration of that period, the United States received one comment, which is described below and attached hereto as Exhibit 1.

II. STANDARD OF JUDICIAL REVIEW

The Tunney Act requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day public comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see also United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1, 10–11 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* No. 08-cv-1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (discussing nature of review of consent judgment under the Tunney Act; inquiry is limited to ''whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable'').

Under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the Complaint, whether the decree is sufficiently clear, whether the enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)). Instead, courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement in ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).

In determining whether a proposed settlement is in the public interest, ''the court 'must accord deference to the government's predictions about the efficacy of its remedies.''' *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 76 (D.D.C. 2014) (quoting *SBC Commc'ns,* 489 F. Supp. at 17). *See also Microsoft,* 56 F.3d at 1461 (noting that the government is entitled to deference as to its ''predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' ''prediction as to the effect of the proposed remedies, its perception of the market structure, and its views of the nature of the case''); *United States* v. *Morgan Stanley,* 881 F. Supp. 2d 563, 567–68 (S.D.N.Y. 2012) (explaining that the government is entitled to deference in choice of remedies).

Courts ''may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17. Rather, the ultimate question is whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.''' *Microsoft,* 56 F.3d at 1461. Accordingly, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also United States* v. *Apple, Inc.* 889 F. Supp. 2d 623, 631 (S.D.N.Y. 2012). And, a ''proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is within the reaches of the public interest.'' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations and internal quotations omitted); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

In its 2004 amendments to the Tunney Act,[1] Congress made clear its

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for courts to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11

Continued

intent to preserve the practical benefits of using consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). The procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of the Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11; *see also United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (''[T]he Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to public comments alone.''); *US Airways,* 38 F. Supp. 3d at 76 (same).

III. SUMMARY OF PUBLIC COMMENT AND THE UNITED STATES'S RESPONSE

The United States received one public comment from the City of Dallas (''Dallas''). Though the comment was submitted after the deadline for comments had passed, the United States has nevertheless issued a full response. Dallas submitted the comment to express concern about the possible anticompetitive effects of Signature's acquisition of Landmark at Love Field Airport (''Love Field''), which Dallas operates. Combined, Signature and Landmark have 54 percent of the FBO market and lease nearly 70 percent of the FBO facilities at Love Field. Dallas submitted the comment to provide additional information about the situation at Love Field and highlight what Dallas believes to be competitive concerns the PFJ does not address. In particular, Dallas is concerned that the PFJ would not require Signature to report future FBO acquisitions at Love Field to the United States. Dallas does not, however, argue in favor of a divesture of FBO assets at Love Field.

The United States appreciates Dallas's advocacy efforts on behalf of competition at Love Field. The United States carefully considered the effects of the acquisition at Love Field and chose not to take enforcement action against such acquisition. Over the course of a five-month investigation, the United States reviewed party and third-party documents, conducted economic data analysis, and talked with dozens of industry participants including the Aviation Director for the City of Dallas. As a result of this investigation, the United States did not allege a violation of the Clayton Act resulting from the acquisition of Love Field in its Complaint. Therefore, the comment submitted by Dallas is not a comment addressing the question before the Court, which is whether the proposed remedy will cure the antitrust violations alleged in the Complaint. Should any future acquisitions by Signature at Love Field raise a possibility of competitive harm, Dallas or any other affected party may raise those concerns with the United States to be evaluated at such future date.

IV. CONCLUSION

After reviewing the public comment, the United States continues to believe that the PFJ, as drafted, provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint, and is therefore in the public interest. The United States will move this Court to enter the PFJ soon after the comment and this response are published in the **Federal Register**.

Dated: May 27, 2016

Respectfully submitted,

/s/Patricia L. Sindel

Patricia L. Sindel, (D.C. Bar #997505),

Trial Attorney, Networks & Technology Enforcement Section, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 7100, Washington, DC 20530, Telephone: (202) 598–8300, Facsimile: (202) 616–8544, Email: patricia.sindel@usdoj.gov.

KAPLAN KIRSCH ROCKWELL

April 20, 2016

James J. Tierney, Chief
Networks & Technology Enforcement Section
United States Department of Justice
Antitrust Division
450 Fifth Street NW., Suite 7100
Washington, DC 20530

Re: BBA Aviation, PLC and Landmark U.S. Corp LLC
Case No. 1:16-cv-00174

Dear Mr. Tierney:

As counsel to the City of Dallas (''City''), Kaplan Kirsch & Rockwell LLP (''Firm'') submits these comments in the matter of *United States* v. *BBA Aviation, et al.,* case no. 1:16-cv-00174, concerning the merger of BBA Aviation (parent corporation to Signature Flight Support Corporation (''Signature'')), and Landmark U.S. Corp LLC (''Landmark''). The Firm and the City recognize that the deadline for comments on this matter has passed, but respectfully request that the Department of Justice accept these comments despite their tardiness.[1]

The City owns and operates Dallas Love Field Airport (''Love Field''). The City is concerned about the possible anticompetitive effects of the merger between Landmark and Signature at Love Field, where both Landmark and Signature currently operate.

Presently, there are six (6) fixed base operator (''FBO'') locations at Love Field, operated by five different FBO entities. Landmark operates one (1) of the FBO locations, and Signature operates two (2) of the locations.[2] In 2015, Signature's two (2) locations combined sold 40 percent of the total aviation fuel [3] at Love Field (by FBOs), and Landmark's single location sold 14 percent of the total aviation fuel. This, after the proposed merger, would result in 54 percent of the fuel at Love Field being provided by the ''new'' Signature.

The remaining three (3) FBOs sold 46 percent of the fuel, with two smaller locations selling approximately 9 percent each, and one larger entity selling 28 percent. In addition to conducting a majority of the fuel sales, Landmark and Signature together lease nearly *70 percent* of the total hangar, general aviation terminal facilities, and office space at Love Field. A chart with a breakdown of the data used to calculate these percentages is enclosed with this letter as Attachment A.

Under the Department of Justice and Federal Trade Commission's *Horizontal Merger Guidelines,* markets with an initial score over 2500 on the Herfindahl-Hirschman Index (''HHI'') are considered ''highly concentrated.'' [4] When a prospective merger in a highly concentrated market would result in an HHI increase of 200 or more, the transaction ''will be presumed to be likely to enhance market power.'' [5] Such increases in HHI are considered indicators of transactions ''for which it is particularly important to examine whether other competitive factors confirm, reinforce, or counteract the potentially harmful effects of increased concentration.'' [6]

At Love Field, the fuel flowage data suggests that the existing market is already highly concentrated, and that a merger of Signature and Landmark would increase the HHI by well over 200 points.[7] Despite this potential effect, there are no indications that the Department of Justice examined any of the competitive effects of the merger at Love Field. In fact, it appears that the Department of Justice failed to consider the impact on Love Field whatsoever, or, alternatively, failed to adequately explain why it chose to ignore those impacts.

These facts and the Department's own guidelines demonstrate the need to carefully scrutinize the merger's potential effects at Love Field. Yet, the materials published by the Department of Justice in the **Federal Register** and filed with the United States District Court for the District of Columbia make no reference to operations at Love Field.

(concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[1] *See* 81 Fed. Reg. 7144 (Feb. 10, 2016) (setting 60-day comment period).

[2] Signature operates both Signature Flight Support (also known as Signature North) and Dalfort Fueling.

[3] 100LL and Jet-A.

[4] Horizontal Merger Guidelines § 5.3.

[5] *Id.*

[6] *Id.*

[7] The City recognizes that HHI is typically calculated using revenue data, but such information is proprietary and unavailable to the City.

The proposed consent decree requires Signature and Landmark to divest their assets from six airports where both currently operate, but there is not even an acknowledgement that both firms operate FBOs at Love Field.[8] While the City does not necessarily advocate for a divestiture of Signature or Landmark's assets at Love Field, the lack of discussion or findings on the issue is troubling, especially when such an absence is inconsistent with the Department's own guidance on this issue.

The proposed consent decree not only imposes no constraints on Signature-Landmark operations at Love Field, but would effectively allow Signature-Landmark to acquire another FBO at Love Field. The proposal allows such an acquisition at ''an airport where [the merged entity] is already providing FBO Services in the United States *unless* (1) the assumption or acquisition is valued at less than $20 million dollars, or (2) at least two Full-Service FBOs not involved in the transaction provide FBO Services at the airport where the assumption or acquisition will take place.'' [9] This provision will be insufficient to protect the competitive environment at Love Field [10] because BBA could acquire the remaining FBOs without Department of Justice scrutiny or permission. The new Signature-Landmark entity could acquire the next-largest FBO at Love Field because of the exception allowing such acquisition when there are two other FBOs at the airport, and could then acquire the other entities if they are valued below $20 million.[11] By failing to address this potential issue now, the Department of Justice leaves open the possibility that BBA could later acquire an exclusive right at Love Field.

The City urges the Department of Justice to include more specific protections for Love Field and other airports that are not proposed for divestiture, but where the market power of the merged entity could pose a serious threat of further market concentration. Specifically, the City suggests including provisions that would serve to prevent the future purchase of FBOs at any airport where Signature and Landmark both operated prior to the merger, regardless of the value of the transaction or presence of additional FBOs. As explained above, the current provision in the proposed consent decree is too narrow to adequately protect Love Field. A broader provision would better protect Love Field and other airports from potential anticompetitive environments.

Thank you for your time and consideration in this matter. If you have any questions about any of the comments in this letter, please do not hesitate to contact me.

Sincerely,

/s/

Peter J. Kirsch by Nicholas M. Clabbers,

On behalf of: City of Dallas, Department of Aviation, 8008 Herb Kelleher Way, LB16, Dallas, Texas 75235.

ATTACHMENT A

FBO fuel sales at Dallas Love Field
(2015 totals)

FBO	100 LL (gals)	Jet A (gals)	Total
Signature Flight Support	9,992	4,126,136	4,136,128
Signature Dalfort	8,335	3,935,851	3,944,186
Landmark Aviation	37,380	2,881,685	2,919,065
Total Signature + Landmark	55,707	10,943,672	10,999,379
All Other FBOs	101,600	9,238,107	9,339,707
S+L Market Share Post-Merger [1]	35.4%	54.2%	54%

FBO Facility Leaseholds at Dallas Love Field
(as of 2015)

FBO	Hangars (sqft)	Terminal and offices (sqft)	Total
Signature Flight Support	220,500	97,688	318,188
Signature Dalfort	400,703	14,212	414,915
Landmark Aviation	106,890	79,848	186,738
Total Signature + Landmark	728,093	191,748	919,841
All Other FBOs [2]	N/A	N/A	432,108
S + L Percentages Post-Merger	Unknown	Unknown	68%

[1] The calculations of approximate market share are based solely on the fuel quantities sold, as the City does not have access to proprietary revenue data.

[2] The data available for the other FBOs does not delineate between hangar and office space.

[8] The City also notes that there is no discussion of San Antonio International Airport or Teterboro Airport, the two other U.S. airports where both Signature and Landmark presently operate.

[9] 81 FR at 7155 (emphasis added).

[10] The City is also concerned that even greater concentration of FBO business at Love Field may result in violations of the Federal Aviation Administration Grant Assurances, which specifically prohibit the granting of ''exclusive rights'' to aeronautical service providers. *See* FAA Order 5.190.6B, ¶8.1. The City has an affirmative obligation to ensure that an exclusive right is not created at Love Field.

[11] The City presently has no information about the value of any of the other FBOs at Love Field, but all are small entities that operate only at Love Field.

[FR Doc. 2016–13185 Filed 6–3–16; 8:45 am]
BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On May 27, 2016, the Department of Justice (''DOJ'') lodged a proposed Consent Decree with the United States District Court for the Northern District of Illinois in the lawsuit entitled *United States* v. *Pilkington North America, Inc.,* Civil Action No. 16–5654.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''). The Complaint seeks reimbursement of response costs and injunctive relief under CERCLA for hazardous substance contamination at the Ottawa Township Flat Glass Site (''Site'').

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Pilkington North America, Inc.,* D.J. Ref. No. 90–11–3–11237. All comments must be submitted no later than thirty (30) days after the publication date of this Notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at the following DOJ Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $94.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $16.50.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–13188 Filed 6–3–16; 8:45 am]
BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 004–2016]

Privacy Act of 1974; Systems of Records; Extension of Comment Period

AGENCY: Federal Bureau of Investigation, United States Department of Justice.

ACTION: Notice of a modified system of records notice; extension of comment period.

SUMMARY: The Department of Justice (Department or DOJ), Federal Bureau of Investigation (FBI), is extending the comment period for its proposal to modify an existing FBI system of records notice titled, ''Fingerprint Identification Records System (FIRS),'' JUSTICE/FBI–009, which would be retitled, ''The Next Generation Identification (NGI) System,'' JUSTICE/FBI–009, published in the **Federal Register** on May 5, 2016 (81 FR 27284). The original comment period is scheduled to expire on June 6, 2016. The Department is now extending the time period for public comments by 30 days. The updated comment period is scheduled to expire on July 6, 2016. This action will allow interested persons additional time to analyze the proposal and prepare their comments.

DATES: Comments on the notice published May 5, 2016 (81 FR 27284) must be submitted on or before July 6, 2016.

ADDRESSES: Submit comments to the Department of Justice, ATTN: Privacy Analyst, Office of Privacy and Civil Liberties, Department of Justice, National Place Building, 1331 Pennsylvania Avenue NW., Suite 1000, Washington, DC 20530, or by facsimile at 202–307–0693. To ensure proper handling, please reference either this CPCLO Order No., or the CPCLO Order No. from the notice of modified system of records notice (CPCLO Order No. 002–2016) on your correspondence.

FOR FURTHER INFORMATION CONTACT: Roxane M. Panarella, Criminal Justice Information Services Division (CJIS), Privacy Attorney, 1000 Custer Hollow Road, Clarksburg WV 26306.

SUPPLEMENTARY INFORMATION: On May 5, 2016, the Department requested comments on its proposal to modify an existing FBI system of records notice titled, ''Fingerprint Identification Records System (FIRS),'' JUSTICE/FBI–009, and its proposal to amend the Department's Privacy Act regulations by establishing an exemption for records in this system of records from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k).

Both the notice of a modified system of records notice and notice of proposed rulemaking for this system of records originally provided that comments must be received by June 6, 2016. The Department has received requests to extend these comment periods. The Department believes that extending the comment periods would be appropriate in order to provide the public additional time to consider and comment on the proposals addressed in these notices. Therefore, the Department is extending both public comment periods for 30 days, until July 6, 2016. Elsewhere in the **Federal Register**, the Department is extending the comment period for the accompanying notice of proposed rulemaking.

Dated: June 1, 2016.

Erika Brown Lee,

Chief Privacy and Civil Liberties Officer, U.S. Department of Justice.

[FR Doc. 2016–13353 Filed 6–3–16; 8:45 am]
BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Comment Request for Information Collection for the Evaluation of the Disability Employment Initiative Round 5 and Future Rounds; Correction

AGENCY: Office of Disability Employment Policy, Department of Labor.

ACTION: Notice; correction.

SUMMARY: The Department of Labor, published a document in the **Federal Register** of January 12, 2016, concerning a request for comments for information collection for the evaluation of the Disability Employment Initiative round 5 and future rounds. The document contained a comment period of 30 days instead of the required 60 days. This correction notice reopens the comment period for an additional 30 days.

FOR FURTHER INFORMATION CONTACT: Cherise Hunter by telephone at 202–693–4931 (this is not a toll-free number) or by email at *hunter.cherise@dol.gov.*

Correction

In the **Federal Register** of January 12, 2016, in FR Document Number 2016–00460, on page 1446, in the second column, correct the ''Dates'' caption to read:

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before July 6, 2016.

Dated: May 26, 2016.

Jennifer Sheehy,

Deputy Assistant Secretary, Office of Disability Employment Policy, U.S. Department of Labor.

[FR Doc. 2016–13333 Filed 6–3–16; 8:45 am]

BILLING CODE 4510–FK–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

DATE AND TIME: The Legal Services Corporation's Finance Committee will meet telephonically on June 17, 2016. The meeting will commence at 3:00 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington DC 20007.

Public Observation: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

Call-In Directions for Open Sessions

- *Call toll-free number:* 1–866–451–4981;
- *When prompted, enter the following numeric pass code:* 5907707348;
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS OF MEETING: Open.

Matters To Be Considered

1. Approval of agenda
2. Approval of minutes of the Committee's meeting of April 17, 2016
3. Public comment regarding LSC's fiscal year 2016 budget request
   - Presentation by a representative of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants
   - Presentation by a representative of National Legal Aid and Defender Association
   - Other Interested Parties
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

Accessibility: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: June 2, 2016.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2016–13404 Filed 6–2–16; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2016–035]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: NARA must receive requests for copies in writing by July 6, 2016. Once NARA completes appraisal of the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send to you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

Mail: NARA (ACRA); 8601 Adelphi Road; College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: 301–837–3698

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update

previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it has created or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after a thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records or notes that the schedule has agency-wide applicability (in the case of schedules that cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of the Army, Agency-wide (DAA–AU–2016–0023, 1 item, 1 temporary item). Master files of an electronic information system that contains military and civilian personnel visa and passport transactions.

2. Department of Defense, Defense Information Systems Agency (DAA–0371–2014–0016, 1 item, 1 temporary item). Records relating to the test and evaluation of electronic information systems.

3. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0015, 1 item, 1 temporary item). Records relating to policies, procedures, and administration of secure facilities for the purposes of continuity of operations.

4. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0033, 1 item, 1 temporary item). Copies of records regarding administration and maintenance of critical materials stockpiles.

5. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0044, 1 item, 1 temporary item). Records relating to warehouse management of parts used by the nuclear industry, including purchase, shipping, tracking, and delivery documents.

6. Department of Defense, Office of the Secretary of Defense (DAA–0330–2014–0010, 4 items, 4 temporary items). Master files of an electronic information system used by customers to rate products and services provided by DoD offices and facilities.

7. Department of Defense, Office of the Secretary of Defense (DAA–0330–2016–0003, 1 item, 1 temporary item). Master files of an electronic information system used by victims of sexual assault to anonymously request help or assistance.

8. Department of Defense, Office of the Secretary of Defense (DAA–0330–2016–0004, 1 item, 1 temporary item). Master files of an electronic information system used to track help or assistance provided to victims of sexual assaults.

9. Department of Defense, Office of the Secretary of Defense (DAA–0330–2016–0005, 1 item, 1 temporary item). Master files of an electronic information system used to track inquiries for information on sexual assault cases.

10. Department of Health and Human Services, Administration for Children and Families (DAA–0292–2016–0015, 2 items, 2 temporary items). Records relating to the audit process of the National Child Support Program, including audit findings, correspondence, and interim reports.

11. Department of Homeland Security, United States Citizenship and Immigration Services (DAA–0566–2016–0005, 8 items, 8 temporary items). Applications for employment authorizations.

12. Department of Homeland Security, United States Citizenship and Immigration Services (DAA–0566–2016–0009, 1 item, 1 temporary item). Master files of an electronic information system used to track and process applications, petitions, and requests for benefits and services.

13. Department of Justice, Drug Enforcement Administration (DAA–0170–2015–0003, 1 item, 1 temporary item). Audit report files.

14. Department of the Navy, Agency-wide (DAA–NU–2015–0001, 42 items, 31 temporary items). Records relating to military personnel including program planning and management, recruiting, training, confinement of prisoners, routine communications traffic, and related matters. Proposed for permanent retention are personnel files, personnel information system master files, student records, visual information, and records relating to policy, personnel accounting, awards, casualties, education, review boards, and corrections management.

15. Department of the Navy, United States Marine Corps (DAA–0127–2013–0009, 1 item, 1 temporary item). Master files of an electronic information system that contains records relating to risk assessments of Marine Corps facilities, including asset location, asset names, asset missions and risk mitigation planning.

16. Department of State, Bureau of Counterterrorism (DAA–0059–2014–0024, 2 items, 1 temporary item). Records include staff program files of the Front Office. Proposed for permanent retention are program files of the Front Office, including those of the Coordinator and Principal Deputy Coordinator.

17. Department of Transportation, Federal Railroad Administration (DAA–0399–2014–0001, 8 items, 6 temporary items). Records relating to railroad policy and development, including completed and canceled project case files, environmental records, maps, subject files, and routine analysis records. Proposed for permanent retention are Amtrak Board of Directors records and landmark analysis records.

18. Department of the Treasury, Internal Revenue Service (DAA–0058–2016–0003, 3 items, 3 temporary items). Records relating to tax return preparer registration, renewal, and payment processing.

19. Department of Veterans Affairs, Veterans Health Administration (DAA–0015–2016–0004, 2 items, 2 temporary items). Records relating to health care worker training.

20. National Aeronautics and Space Administration, Agency-wide (DAA–0255–2015–0001, 6 items, 4 temporary items). Records relating to NASA building designs for the headquarters facility and centers located throughout the nation, including preliminary design files, drawings, and records of cancelled projects. Proposed for permanent retention are final design files of

architecturally, historically, and technologically significant facilities.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2016–13190 Filed 6–3–16; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Payments on Shares by Public Units and Nonmembers

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: NCUA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a reinstatement of a previously approved collection, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Written comments should be received on or before August 5, 2016 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428; Fax No. 703–519–8579; or Email at *PRAComments@NCUA.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0114.

Title: Payments on Shares by Public Units and Nonmembers.

Abstract: Under section 107(6) of the Federal Credit Union Act (Act) and § 701.32 of the NCUA Rules and Regulations, a Federal Credit Union may receive from public units and political subdivisions (as defined in § 754.1) and nonmember credit unions, payments on shares. Limitations on nonmember and public unit deposits in federally insured credit unions is 20 percent of their shares or $3 million, whichever is greater. This collection of information is necessary to protect the National Credit Union Share Insurance Fund (''Fund''). The NCUA Board has determined that deposits in excess of 20 percent of shares or $3 million can cause an undue risk to the Fund and a loss of confidence in the credit union system. The NCUA must be made aware of and be able to monitor those credit unions seeking an exemption from the requirement.

The information collection requirements is for those credit unions seeking an exemption from the nonmember deposit limit must adopt a specific written plan concerning the intended use of those shares and submit along with their lending and investment policies to the NCUA Regional Director. NCUA uses this information to determine whether or not a particular credit union will be granted an exemption to the limit on nonmember and public unit deposits. This collection of information is necessary to protect the National Credit Union Share Insurance Fund.

Type of Review: Extension of a previously approved collection.

Affected Public: Private Sector: Non-for-profit institutions.

Estimated No. of Respondents/ Recordkeepers: 20.

Estimated Annual Frequency: 2.1.

Estimated Annual No. of Responses: 42.

Estimated Burden Hours per Response: 1.95.

Estimated Total Annual Burden Hours: 82.

Adjustment are being made to included additional information collections requirements of § 701.32 that were omitted in the previous submission.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on June 1, 2016.

Dated: June 1, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–13240 Filed 6–3–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before July 6, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Alexandria, VA 22314–3428 or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRAComments@ncua.gov* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0061.

Type of Review: Reinstatement, with change, of a previously approved collection.

Title: Central Liquidity Facility, 12 CFR part 725

Form: NCUA Forms 7000, 7001, 7002, 7003, 7004, and CLF Forms 8702, and 8703.

Abstract: Part 725 contains the regulations implementing the National Credit Union Central Liquidity Facility Act, subchapter III of the Federal Credit Union Act. The NCUA Central Liquidity Facility is a mixed-ownership Government corporation within NCUA. It is managed by the NCUA Board and is owned by its member credit unions.

The purpose of the Facility is to improve the general financial stability of credit unions by meeting their liquidity needs and thereby encourage savings, support consumer and mortgage lending and provide basic financial resources to all segments of the economy. The Central Liquidity Facility achieves this purpose through operation of a Central Liquidity Fund (CLF).

The forms covered under this collection of information are necessary to implement the requirements associated with membership in the CLF and extension of credit to CLF members.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 175.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on June 1, 2016.

Dated: June 1, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–13281 Filed 6–3–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Corporate Credit Union Monthly Call Report

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The purpose of this notice is to allow for 60 days of public comment.

This action relates to the monthly submission of information by corporate credit unions. This information is used by the NCUA to monitor the financial conditions of those credit unions.

DATES: Comments will be accepted until August 5, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Troy Hillier, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428; Fax No. 703–519–8595; or Email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0067.

Title: Corporate Credit Union Monthly Call Report.

Abstract: NCUA is modifying the instrument for collecting call report data from corporate credit unions. This information is currently collected through a standalone application that requires manual input of data by respondents. NCUA is updating its systems to allow this information to be provided through an online portal in a way that allows respondents to automate the submission of this data. This will significantly reduce the burden associated with this collection.

Through this action, the NCUA is also combining two currently approved collections—the monthly call report (OMB Number 3133–0067) and the annual report of officials (OMB Number 3133–0053). These collections will both be submitted through the same online portal and the combination of the two collections under a single control number is consistent with the treatment of this data for natural person credit unions (OMB Number 3133–0004).

Type of Review: Revision of a currently approved collection.

Affected Public: Private sector: not-for-profit institutions.

Estimated No. of Respondents: 12.

Frequency of Response: 13 responses per year per respondent.

Estimated Burden Hours per Response: 4.

Estimated Total Annual Burden Hours: 624 burden hours.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on June 1, 2016.

Dated: June 1, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–13283 Filed 6–3–16; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382; NRC–2016–0078]

Waterford Steam Electric Station, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Intent to conduct scoping process and prepare environmental impact statement; public meeting and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission will conduct a scoping process to gather the information necessary to prepare an environmental impact statement (EIS) to evaluate the environmental impacts for the renewal of the operating license for Waterford Steam Electric Station, Unit 1 (Waterford). The NRC is seeking stakeholder input on this action and has scheduled a public meeting.

DATES: Submit comments by August 1, 2016. Comments received after these dates will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0078. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop OWFN–12 H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Elaine Keegan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–

0001; telephone: 301–415–8517, email: *Elaine.Keegan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0078 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0078.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The application for renewal of the Waterford license can be found in ADAMS under Accession No. ML16088A324.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0078 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comments submissions into ADAMS.

II. Discussion

On March 23, 2016, Entergy Operations, Inc. (Entergy) submitted to the NRC an application for renewal of Facility Operating License NPF–38 for an additional 20 years of operation at Waterford. Waterford is located in Killona, LA. The current operating license for Waterford expires on expires on December 18, 2024. The application for renewal was submitted pursuant to part 54 of title 10 of the *Code of Federal Regulations* (10 CFR) and included an environmental report (ER). A separate notice of receipt and availability of the application was published in the **Federal Register** on April 14, 2016 (81 FR 22128). A notice of acceptance for docketing of the application and opportunity for hearing regarding renewal of the facility operating license was published in the **Federal Register** on May 31, 2016.

III. Request for Comments

This notice informs the public of the NRC's intention to prepare an EIS related to the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29.

The regulations in 36 CFR 800.8, ''Coordination with the National Environmental Policy Act,'' allows agencies to use their National Environmental Policy Act of 1969 (NEPA) process to fulfill the requirements of Section 106 of the National Historic Preservation Act (NHPA). Therefore, pursuant to 36 CFR 800.8(c), the NRC intends to use its process and documentation for the preparation of the EIS on the proposed action to comply with Section 106 of the NHPA in lieu of the procedures set forth at 36 CFR 800.3 through 800.6.

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, Entergy submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR part 51 and is publicly available in ADAMS under Accession No. ML16088A324. The ER may also be viewed on the Internet at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html.* In addition, paper copies of the ER are available to the public near the site at the St. Charles Parish Library—East Regional Library, 160 W. Campus Drive, Destrehan, Louisiana 70047.

The NRC intends to gather the information necessary to prepare a plant-specific supplement to the NRC's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) related to the review of the application for renewal of the Waterford operating license for an additional 20 years.

Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95 to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with NEPA and the NRC's regulations found at 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action, which is to be the subject of the supplement to the GEIS;

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth;

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant;

d. Identify any environmental assessments and other ElSs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS being considered;

e. Identify other environmental review and consultation requirements related to the proposed action;

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule;

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies; and

h. Describe how the supplement to the GEIS will be prepared and include any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, Entergy;

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce relevant environmental standards;

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards;

d. Any affected Indian tribe;

e. Any person who requests or has requested an opportunity to participate in the scoping process; and

f. Any person who has petitioned or intends to petition for leave to intervene.

IV. Public Scoping Meeting

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold one public meeting for the Waterford license renewal supplement to the GEIS. The scoping meeting will be held on Wednesday, June 8, 2016. The meeting will be held from 7:00 p.m. to 9:00 p.m. at the St. Charles Parish Emergency Operation Center, 15026 River Road, Hahnville, Louisiana, 10057. There will be a registration period from 6:30 p.m. to 7:00 p.m. for members of the public to sign in to speak.

The meeting will be transcribed and will include: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. To be considered, comments must be provided either at the transcribed public meeting or in writing, as discussed in the **ADDRESSES** section of this notice.

Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting the NRC Project Manager, Ms. Elaine Keegan, by telephone at 800–368–5642, extension 8517, or by email at *Elaine.Keegan@nrc.gov* no later than June 3, 2016. Members of the public may also register to speak during the registration period prior to the start of meeting. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. Please contact Ms. Keegan no later than June 3, 2016, if accommodations or special equipment are needed to attend or present information at the public meeting so that the NRC staff can determine whether the request can be accommodated.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting. The notice of acceptance for docketing of the application and a description of the hearing process will be published separately in the **Federal Register**.

Dated at Rockville, Maryland, this 1st day of June, 2016.

For the Nuclear Regulatory Commission.

James G. Danna,

Chief, Environmental Review and Project Management Branch, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–13228 Filed 6–3–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0099]

Report to Congress on Abnormal Occurrences; Fiscal Year 2015; Dissemination of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–0090, Volume 38, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2015.'' The report describes a total of 17 events for Fiscal Year (FY) 2015. Fifteen events involved Agreement State licensees and two events involved NRC licensees.

DATES: NUREG–0090, Volume 38, is available June 6, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0099 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–2016–0099. 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: Minh-Thuy Nguyen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5163, email: *MinhThuy.Nguyen@nrc.gov.*

SUPPLEMENTARY INFORMATION: Section 208 of the Energy Reorganization Act of 1974, as amended (Pub. L. 93–438), defines an ''abnormal occurrence'' (AO) as an unscheduled incident or event that the NRC determines to be significant from the standpoint of public health or safety. The report describes those events that the NRC identified as AOs during FY 2015, based on the criteria defined in Appendix A of the report, ''Abnormal Occurrence Criteria and Guidelines for Other Events of Interest.''

The report describes 15 events at Agreement State-licensed facilities and two events at NRC-licensed facilities. One NRC-licensee event occurred in a medical facility and involved radiation exposure to an embryo/fetus. The 15 Agreement State-licensee events and the other NRC-licensee event were medical events as defined in part 35 of title 10 of the *Code of Federal Regulations,* ''Medical Use of Byproduct Material.'' Agreement States are the 37 States that currently have entered into formal agreements with the NRC pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (AEA), to regulate certain quantities of AEA-licensed

material at facilities located within their borders.

The Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–68) requires that the NRC report AOs to Congress annually. The full report, NUREG–0090, Volume 38, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2015,'' is available electronically at the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/,* and in ADAMS under Accession No. ML16145A026.

Dated at Rockville, Maryland, this 26th day of May, 2016.

For the Nuclear Regulatory Commission.

Richard J. Laufer,

Acting, Secretary of the Commission.

[FR Doc. 2016–13274 Filed 6–3–16; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77950; File No. SR–NYSE–2016–30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Amending the Definition of ''Block'' for Purposes of Rule 72(d) and the Size of a Proposed Cross Transaction Eligible for the Cross Function in Rule 76

May 31, 2016.

On April 12, 2016, New York Stock Exchange LLC (''Exchange'' or ''NYSE'') 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 its rules relating to pre-opening indications and opening procedures. The proposed rule change was published for comment in the **Federal Register** on April 29, 2016.[3] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 13, 2016. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates July 28, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSE–2016–30).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13210 Filed 6–3–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77952; File No. SR–NYSEArca–2016–83]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect a Change to the Benchmark Index Applicable to the WisdomTree Managed Futures Strategy Fund

May 31, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 27, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect a change to the benchmark index applicable to the WisdomTree Managed Futures Strategy Fund. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission previously approved the listing and trading of the shares (''Shares'') of the Fund on the Exchange under NYSE Arca Equities Rule 8.600,[4] which governs the listing and trading of ''Managed Fund Shares,'' on the Exchange.[5] The Fund is an actively-managed exchange traded fund. WisdomTree Asset Management, Inc. (''WisdomTree Asset Management'') is the investment adviser (''Adviser'') to the Fund. WisdomTree Investments, Inc. (''WisdomTree Investments'') is the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77701 (Apr. 25, 2016), 81 FR 25748.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Arca Equities Rule 8.600 (c)(1) provides that, among other criteria, a Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] *See* Securities Exchange Act Release No. 63598 (December 22, 2010), 75 FR 82106 (December 29, 2010)(SR–NYSEArca–2010–98) (''Prior Order''). *See also* Securities Exchange Act Release No. 63292 (November 9, 2010), 75 FR 70319 (November 17, 2010) (''Prior Notice'', and with the Prior Order, the ''Prior Releases'').

parent company of WisdomTree Asset Management. Mellon Capital Management Corporation (''Mellon'' or ''Sub-Adviser'') serves as the sub-adviser for the Fund. State Street Bank and Trust Company is the administrator, custodian and transfer agent for the Fund. Foreside Fund Services, LLC (''Distributor'') serves as distributor for the Fund.[6] The Shares are offered by the Trust, which is registered with the Commission as an investment company.[7]

The Prior Releases stated that the Adviser would manage the Fund using a strategy designed to correspond to the performance of the Diversified Trends Indicator™ (''Original Benchmark''). In this proposed rule change, the Exchange proposes to reflect a change to the benchmark index applicable to the Fund. The new benchmark will be the WisdomTree Managed Futures Index (''New Benchmark,'' and together with the Original Benchmark, the ''Benchmarks''), a proprietary index developed by WisdomTree Investments.[8] Upon implementation of the proposed rule change, the Adviser will manage the Fund using a strategy designed to correspond to the performance of the New Benchmark. The Adviser anticipates investing Fund assets through the Sub-Adviser based on the New Benchmark on or around June 30, 2016.

The Adviser believes that it is in the best interest of the Fund and its shareholders to replace the Original Benchmark with the New Benchmark while keeping the Fund's asset exposure and investment strategies similar, and without changing the Fund's investment objective. The Adviser believes that the New Benchmark will serve to optimize the Fund's investment strategy, while seeking to provide enhanced risk-adjusted returns over time.

Description of the Shares, the Benchmark and the Fund

According to the Prior Releases, the WisdomTree Managed Futures Strategy Fund seeks to provide investors with positive total returns in rising or falling markets that are not directly correlated to broad market equity or fixed income returns. The Fund is currently managed using a quantitative, rules-based strategy designed to provide returns that correspond to the performance of the Original Benchmark. The Original Benchmark is a widely used indicator designed to capture the economic benefit derived from rising or declining price trends in commodity, currency, and U.S. Treasury futures markets.

Under this proposed rule change, the Exchange seeks to permit the Fund to be managed using a different, quantitative, rules-based strategy, described below, that is designed to provide returns that correspond to the New Benchmark. The New Benchmark is a proprietary index, developed and owned by WisdomTree Investments that is also designed to capture the economic benefit derived from rising or declining price trends in commodity, currency, and U.S. Treasury futures markets.

Differences between the Original Benchmark and the New Benchmark are described below.

The Benchmarks

The Original Benchmark is a rules-based indicator designed to capture rising and falling price trends in the commodity, currency and U.S. Treasury futures markets through long and short positions on U.S. listed futures contracts. The Original Benchmark consists of U.S. listed futures contracts on 16 tangible commodities and 8 financial futures. The 16 commodity futures contracts are: Light crude oil, natural gas, RBOB gas (''Gasoline''), heating oil, soybeans, corn, wheat, gold, silver, copper, live cattle, lean hogs, coffee, cocoa, cotton and sugar. The 8 financial futures contracts are: the Australian dollar (''AUD''), British pound sterling (''GBP''), Canadian dollar (''CAD''), Euro (''EUR''), Japanese yen (''JPY''), Swiss franc (''CHF''), 10-year U.S. Treasury note and 30-year U.S. Treasury bond. Each contract is sometimes referred to as a ''Component'' of the Original Benchmark.

The New Benchmark also is a rules-based indicator designed to capture rising and falling price trends in the commodity, currency and U.S. Treasury futures markets through long and short positions on U.S. listed futures contracts. The New Benchmark consists of U.S. listed futures contracts on 16 tangible commodities and 8 financial futures. The 16 commodity futures contracts are: Light crude oil, natural gas, Gasoline, heating oil, soybeans, corn, wheat, gold, silver, copper, live cattle, lean hogs, coffee, cocoa, cotton and sugar. The 8 financial futures contracts are: the AUD, GBP, CAD, EUR, JPY, CHF, 10-year U.S. Treasury note and 30-year U.S. Treasury bond. Each contract is sometimes referred to as a ''Component'' of the New Benchmark.

(1) Asset Treatment

Under the Original Benchmark, Components that are similar in nature (such as gas and oil or gold and silver) are aggregated into ''Sectors.'' There are nine commodity Sectors in the Original Benchmark: Energy (light crude oil, natural gas, Gasoline, and heating oil), Grains (soybeans, corn), Precious Metals (gold and silver), Industrial Metals (copper), Livestock (live cattle, lean hogs), Coffee, Cocoa, Cotton, and Sugar. Each financial futures contract is considered to be its own Sector. As a result, there are eight financial Sectors in the Original Benchmark: The AUD, GBP, CAD, EUR, JPY, CHF, 10-year U.S. Treasury note and 30-year U.S. Treasury bond.

Under the New Benchmark, there are no Sectors, but rather each of the 24 Components is treated separately for weighting and long, short or flat position determinations. The twenty Components with the lowest 36-month rolling volatility are included. All Components may be long, short or flat, except for Energy futures (*i.e.,* light crude oil, natural gas, Gasoline and heating oil), which are held either long or flat.

(2) Weighting Methodology

Within the Original Benchmark, Components may be positioned as long or short, except that the Energy Sector and its Components may never be positioned short. The Original Benchmark's methodology provides that, due to significant levels of continuous consumption, limited reserves and other factors, the Energy Sector can only be long or flat (*i.e.,* no exposure).

At the beginning of each calendar year and month, the Original Benchmark is weighted evenly (*i.e.,* 50/50) between commodity futures contracts and

[6] The Prior Releases identified The Bank of New York Mellon as the administrator, custodian and transfer agent for the Fund and ALPS Distributors, Inc. as the distributor for the Fund.

[7] The Trust is registered under the 1940 Act. The Trust intends to file a prospectus supplement with the Commission or a post-effective amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act'') and under the 1940 Act relating to the Fund (File Nos. 333–132380 and 811–21864) (the ''Registration Statement''), to reflect the changes in this proposed rule change upon effectiveness of such proposed rule change. The descriptions of the operation of the Trust and the Fund will be reflected in any such filing. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28471 (October 27, 2008) (File No. 812–13458) (''Exemptive Order''). Investments by the Fund will comply with the conditions in the Exemptive Order. Share [sic] of the Fund are currently listed and traded on the Exchange in compliance with all original and continued listing standards of the Exchange and requirements of the Prior Releases.

[8] The changes described herein will be effected contingent upon filing of a prospectus supplement or upon effectiveness of the Trust's most recent post-effective amendment to its Registration Statement. *See* note 7, *supra.* The Adviser represents that the Adviser will not implement the changes described herein until the instant proposed rule change is operative.

financial futures contracts. If the Energy Sector is flat, financial futures represent approximately 61.5% of the weight of the original Benchmark and commodity futures represent approximately 38.5% of weighting of the Original Benchmark. When Energy is long, financial futures and commodity futures each represent 50% of the weight of the Original Benchmark.

If the Energy Sector is flat then the weighting of the other Sectors and Components within the Benchmark is increased on a pro-rata basis.[9] As a result, at the beginning of each calendar year and month, if Energy is flat, financial futures will represent approximately 61.5% of the weight of the Original Benchmark and commodities will represent approximately 38.5% of the weight of the Original Benchmark.

At the beginning of each calendar year and month, each Component and Sector within the Original Benchmark also has a ''Base Weight,'' depending on whether the Energy Sector is long or flat. If the Energy Sector is flat, then the Base Weight of the other Sectors and Components within the Original Benchmark is increased on a pro-rata basis. Commodity Sector weights are based on, but not exactly proportional to, historical world production levels. Commodity Sectors that have higher historical production levels are weighted higher in the Original Benchmark. Weightings of the financial futures Sectors are based on, but not directly proportional to, historical gross domestic product (''GDP''). Larger economic regions (*i.e.,* Europe as measured by the Euro) should get a higher weighting than smaller regions (*i.e.,* Australia as measured by AUD).[10]

Under the New Benchmark, the 20 Components with the lowest realized 36 month rolling volatility will be included.[11] If Energy futures are flat, then Energy assets will be excluded. The remaining assets will be weighted equally prior to the ''Composite Momentum Signal'' (described below) being applied.

The New Benchmark determines a Composite Momentum Signal for each asset, based on the 3-month, 6-month, and 12-month returns (each, a ''Signal'') for the asset, based on its rolling schedule. If the return is positive, the New Benchmark will assign positive one (+1) to it; if the return is negative, the New Benchmark will assign a negative one (−1) to it. The three Signals are aggregated by the New Benchmark, and if all signals are in the same direction, the Fund will invest the assigned weight. Otherwise, the Fund will invest two-thirds of the assigned weight. The direction of the trade (*i.e.,* long or short) will be based on the direction of the majority of the Signals.[12]

(3) Rebalancing

The weight of each Component and Sector in the Original Benchmark changes throughout each month based upon performance. At the end of each month, each Sector is reset back to its applicable Base Weight depending on whether the Energy Sector is long or flat. Within Sectors that have multiple Components, the weight of each Component relative to the others is allowed to fluctuate throughout the year and Component weights are reset back to their respective Base Weights only at year-end.

Under the New Benchmark, each month, the 20 assets with the lowest 36-month volatility on a rolling basis are included. If an asset within the Energy group is short, the value of that asset is flat and allocated proportionately to the included assets. Weighing is then determined as discussed above.

(4) Long/Short/Flat Determination

As stated in the Prior Releases, in order to capture both rising and falling price trends, at the end of each month each Sector in the Original Benchmark (other than the Energy Sector) is positioned as either ''long'' or ''short.'' This determination is made using an algorithm that compares the Sector's monthly return to the Sector's historic weighted moving average returns. If the Sector's returns are above its moving average returns, the Sector is positioned as ''long'' throughout the following month. If the Sector's returns are below its moving average, the Sector is positioned as ''short'' throughout the following month (with the exception of the Energy Sector, which would be positioned flat). All Components within a Sector are held in the same direction. The value of a Sector and the value of the Original Benchmark should increase if a long position increases in value or if a short position decreases in value. For example, if a Sector is long in the Original Benchmark and the value of its Components goes up intra-month, the return of the Sector (and therefore the Original Benchmark) should increase. If a Sector is short in the Original Benchmark, and the value of its Components goes down intra-month, the return of the Sector (and therefore the Original Benchmark) should increase.

Under the New Benchmark, the Fund will be rebalanced each month based on the Composite Momentum Signal framework described above. Just as under the Original Benchmark, the New Benchmark should increase if a long position increases in value or if a short position decreases in value. For example, if a Component is long in the New Benchmark and its value goes up intra-month, the return of the Component (and therefore the New Benchmark) should increase. If a Component is short in the New

[9] To arrive at the Sector weightings when Energy is flat, divide the Sector Base Weight by one minus the Energy Sector Base Weight *(i.e.,* Sector Base Weight/1—0.1875)).

[10] The Adviser represents that, as of March 31, 2016, the Fund's investment in the Components of the Original Benchmark are as follows: (i) Silver, corn, wheat and coffee were not selected into the portfolio for April (Nominal exposure, 0.00%) due to their high realized volatilities, and (ii) although selected into the portfolio, crude oil, natural gas, heating oil and Gasoline were not given any weight (nominal exposure, 0.00%) as short positions in those commodities were not allowed. The selected commodities were given equal nominal weight (6.25%): Copper, soybeans, cocoa, lean hogs, CHF and CAD were not fully invested due to lack of total conviction based on the Composite Momentum Signal methodology. Only ⅔ of the nominal exposure was invested into their respective futures contract (effective weight: 4.17%). Gold, sugar, cotton, live cattle, EUR, JPY, GBP, AUD, 30-year Treasury bond and 10-year Treasury note were fully invested (effective weight: 6.25%).

[11] The Adviser represents that the commodity futures contracts included in the New Benchmark (and therefore anticipated to be included in the Fund) are heavily traded and are based on some of the world's most liquid and actively-traded commodities. According to the Adviser, as of January 1, 2016, the 3-month average daily trading volume (''ADTV'') of the commodity futures contracts representing Components in the New Benchmark were as follows: Crude oil: $20,402,707,680; natural gas: $3,613,649,760); heating oil: $2,489,853,660; Gasoline: $3,367,039,200; copper: $434,060,000; sugar: $707,097,600; cotton: $285,940,000; wheat: $1,085,637,500; corn: $3,619,192,500; soybeans: $3,826,910,000; gold: $14,866,492,080; silver: $3,122,181,600; cocoa: $429,350,900; coffee: $452,838,750; live cattle: $1,786,550,000; and lean hogs: $437,824,000.

The listed financial futures contracts included in the New Benchmark (and therefore anticipated to be included in the Fund) are heavily traded and represent six of the world's most liquid and actively-traded currencies (as well as the U.S. dollar through futures on 30-year Treasury bonds and 10-year Treasury notes). According to the Adviser, as of January 1, 2016, the 3-month ADTV of the financial futures contracts representing Components in the New Benchmark were as follows: EUR: $33,014,630,700; AUD: $7,428,685,500; CAD: $6,686,911,000; GBP: $8,644,461,188; CHF: $9,904,476,250; 10-year Treasury note: $148,389,752,565; and 30-year Treasury bond: $38,918,903,603.

[12] The current weighting of the New Benchmark as of January 1, 2016, is as follows. Silver, corn, wheat and coffee were not selected due to high volatility. The Energy group is flat as Signals indicate a short position. The weight of the Energy group is therefore proportionately assigned to the included assets. Each of copper, gold, soybeans, sugar, cotton, cocoa, live cattle, lean hogs, EUR, JPY, GBP, CHF, AUD, CAD, 30-year Treasury bond, and 10-year Treasury note futures were therefore weighted at 6.25%.

Benchmark, and its value goes down intra-month, the return of the Component (and therefore the New Benchmark) should increase.[13]

The Adviser represents that the Sub-Adviser will continue to invest the Fund in the same assets as are contained in the Prior Releases and will remain subject to, and invest the Fund assets, in accordance [sic] all of the other requirements and limitations identified in the Prior Releases. As a condition to continued listing and trading Shares of the Fund on the Exchange, the Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Rule 8.600.

Except for the changes noted above, all other facts presented and representations made in the Prior Releases are unchanged.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)[14] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices. The Adviser is changing the representation that it will seek investment returns that correspond to the Original Benchmark to that it will seek investment returns that correspond to the New Benchmark.

The Adviser represents that there is no change to the Fund's investment objective or to the securities or other assets identified in the Prior Releases that the Fund utilizes in seeking to achieve its investment objective. The Fund's use of such securities and other assets will remain subject to all requirements and applicable limitations identified in the Prior Releases. As a condition to the continued listing and trading of the Shares on the Exchange, the Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Rule 8.600.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that there is no change to the Fund's investment objective. The Adviser represents that the allocations of the Fund's portfolio will remain consistent with the allocation limitations discussed in the Prior Releases, and that the Fund may invest in the same instruments as are contained in the Original Benchmark, as discussed in the Prior Release. However, the Adviser now represents that the Fund will use portfolio management strategies in seeking to achieve its investment objective in a manner that allocates the Fund's investments in those same instruments in a manner to correspond to the New Benchmark, rather than the Original Benchmark.

All statements and representations made in this filing and the Prior Releases regarding (a) the description of the Fund's portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange. The Adviser has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements.[15] If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5(m).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Rule 8.600. The proposed rule change will permit the Fund to continue to operate in a manner similar to other Managed Fund Shares that invest primarily in futures contracts, and will permit continued listing on the Exchange for the Fund after it begins to utilize the quantitative, rules-based strategy designed to seek performance that corresponds to the New Benchmark, which will enhance competition among issues Managed Fund Shares currently trading on the Exchange. Except for the changes noted above, all other representations made in the Prior Releases are unchanged.

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 purpose of the Exchange Act. The proposed rule change will permit the continued listing on the Exchange of the Fund after it begins to utilize the quantitative, rules-based strategy designed to correspond to the New Benchmark, which will enhance competition among issues of Managed Fund Shares.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the

[13] Because the New Benchmark does not classify Components into Sectors, the above explanation of the impact of changes in the value of long or short assets in the New Benchmark is discussed with respect to Components, rather than with respect to Sectors.

[14] 15 U.S.C. 78f(b)(5).

[15] The Commission notes that certain other proposals for the listing and trading of Managed Fund Shares include a representation that the exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428 (April 7, 2016) (Notice of Filing of Amendment No. 2, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the SPDR DoubleLine Short Duration Total Return Tactical ETF of the SSgA Active Trust), *available at: http://www.sec.gov/rules/sro/bats/2016/34–77499.pdf.* In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of the Fund's compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[18] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2016–83 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–83. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–83 and should be submitted on or before June 27, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13212 Filed 6–3–16; 8:45 am]

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[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77947; File No. SR–NYSEARCA–2016–76]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing the Quoting and Trading Provisions of the Plan To Implement a Tick Size Pilot Program Submitted to the Commission Pursuant to Rule 608 of Regulation NMS Under the Act

May 31, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 20, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to implement the quoting and trading provisions of the Plan to Implement a Tick Size Pilot Program submitted to the Commission pursuant to Rule 608 of Regulation NMS[4] under the Act (the ''Plan''). The proposed rule change is substantially similar to proposed rule changes recently approved or published by the Commission by New York Stock Exchange LLC to adopt NYSE Rules 67(a) and 67(c)–(e), which also implemented the quoting and trading provisions of the Plan.[5] Therefore, the Exchange has designated this proposal as ''non-controversial'' and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[6] The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish rules to require its ETP Holders[7] to comply with the requirements of the Plan to Implement a Tick Size Pilot Program (the ''Plan''),[8] which is designed to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 17 CFR 242.608.

[5] *See,* Securities Exchange Act Release No. 76229 (October 22, 2015), 80 FR 66065 (October 28, 2015) (SR–NYSE–2015–46), as amended by Partial Amendments No. 1 and No. 2 to the Quoting & Trading Rules Proposal. *See,* Securities Exchange Act Release No. 77703 (April 25, 2016), 81 FR 25725 (April 29, 2016) (SR–NYSE–2015–46).

[6] 17 CFR 240.19b–4(f)(6)(iii).

[7] The term ETP Holder is defined in NYSE Arca Equities Rule 1.1(n) to mean a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that has been issued an ETP. An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. An ETP Holder shall agree to be bound by the Certificate of Incorporation, Bylaws and Rules of NYSE Arca Equities, and by all applicable rules and regulations of the Commission.

The term ETP is defined in NYSE Arca Equities Rule 1.1(m) to mean an equity trading permit issued by NYSE Arca Equities for effecting approved securities transactions on NYSE Arca Equities' trading facilities.

[8] *See* Securities and Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (File No. 4–657) (''Tick Plan Approval Order''). *See,* also, Securities and Exchange Act Release No. 76382 (November 6, 2015) (File No. 4–657), 80 FR 70284 (File No. 4–657) (November 13, 2015), which extended the pilot period commencement date from May 6, 2015 to October 3, 2016.

companies. The Exchange proposes changes to its rules for a two-year pilot period that coincides with the pilot period for the Plan, which is currently scheduled as a two year pilot to begin on October 3, 2016.

Background

On August 25, 2014, NYSE Group, Inc., on behalf of Bats BZX Exchange, Inc. (f/k/a BATS Exchange, Inc.), Bats BYX Exchange, Inc. (f/k/a BATS Y-Exchange, Inc.), Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, New York Stock Exchange LLC, the Exchange and NYSE MKT LLC (collectively ''Participants''), filed with the Commission, pursuant to Section 11A of the Act [9] and Rule 608 of Regulation NMS thereunder, the Plan to Implement a Tick Size Pilot Program.[10] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014 (the ''June 2014 Order'').[11] The Plan[12] was published for comment in the **Federal Register** on November 7, 2014,[13] and approved by the Commission, as modified, on May 6, 2015.[14]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies. The Commission plans to use the Tick Size Pilot Program to assess whether wider tick sizes enhance the market quality of Pilot Securities for the benefit of issuers and investors. Each Participant is required to comply with, and to enforce compliance by its ETP Holders, as applicable, with the provisions of the Plan.

On October 9, 2015, the Operating Committee approved the Exchange's proposed rules as model Participant rules that would require compliance by a Participant's members with the provisions of the Plan, as applicable, and would establish written policies and procedures reasonably designed to comply with applicable quoting and trading requirements specified in the Plan.[15] As described more fully below, the proposed rules would require ETP Holders to comply with the Plan and provide for the widening of quoting and trading increments for Pilot Securities, consistent with the Plan.

The Tick Size Pilot Program will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average price of at least $2.00 for every trading day. The Tick Pilot Program will consist of a control group of approximately 1,400 Pilot Securities and three test groups with 400 Pilot Securities in each selected by a stratified sampling.[16] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group (''Test Group One'') will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[17] Pilot Securities in the second test group (''Test Group Two'') will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor exception, and a negotiated trade exception.[18] Pilot Securities in the third test group (''Test Group Three'') will be subject to the same terms as Test Group Two and also will be subject to the ''Trade-at'' requirement to prevent price matching by a person not displaying at a price of a Trading Center's ''Best Protected Bid'' or ''Best Protected Offer,'' unless an enumerated exception applies.[19] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that closely resemble those under Rule 611 of Regulation NMS [20] will apply to the Trade-at requirement.

The Tick Pilot Program also contains requirements for the collection and transmission of data to the Commission and the public. A variety of data generated during the Tick Pilot Program will be released publicly on an aggregated basis to assist in analyzing the impact of wider tick sizes on smaller capitalization stocks.[21]

Proposed NYSE Arca Equities Rule 7.46 (''Rule 7.46'')

The Plan requires the Exchange to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan.[22] Accordingly, the Exchange is proposing new Rule 7.46 to require its ETP Holders to comply with the quoting and trading provisions of the Plan. The proposed Rule is also designed to ensure the Exchange's compliance with the Plan.

Proposed paragraph (a)(1) of new Rule 7.46 would establish the following defined terms:

- ''Plan'' means the Tick Size Pilot Plan submitted to the Commission pursuant to Rule 608(a)(3) of Regulation NMS under the Act;
- ''Pilot Test Groups'' means the three test groups established under the Plan, consisting of 400 Pilot Securities each, which satisfy the respective criteria established by the Plan for each such test group.
- ''Retail Investor Order'' would mean an agency order or a riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a retail ETP Holder, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. A Retail Investor Order may be an odd lot, round lot, or partial round lot.[23]

[9] 15 U.S.C. 78k–1.

[10] *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

[11] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[12] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[13] *See* Securities and Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (File No. 4–657) (Tick Plan Filing).

[14] *See* Tick Plan Approval Order, *supra* note 8. *See,* also, Securities Exchange Act Release No. 77277 (March 3, 2016), 81 FR 12162 (March 8, 2016) (File No. 4–657), which amended the Plan to add National Stock Exchange, Inc. as a Participant.

[15] The Operating Committee is required under Section III(C)(2) of the Plan to ''monitor the procedures established pursuant to the Plan and advise Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate.'' The Operating Committee is also required to ''establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan.''

[16] See Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

[17] *See* Section VI(B) of the Plan. Pilot Securities in Test Group One will be subject to a midpoint exception and a retail investor exception.

[18] *See* Section VI(C) of the Plan.

[19] *See* Section VI(D) of the Plan.

[20] 17 CFR 242.611.

[21] *See* Section VII of the Plan.

[22] The Exchange was also required by the Plan to develop appropriate policies and procedures that provide for data collection and reporting to the Commission of data described in Appendixes B and C of the Plan. *See,* Securities Exchange Act Release No. 77484 (March 31, 2016), 81 FR 20024 (April 6, 2016) (SR–NYSEArca–2016–52).

[23] This definition is the approved definition for ''Retail Investor Order'' as contemplated by the Plan. It is also the same definition as given to ''Retail Orders'' pursuant to the approved rules of other national securities exchanges. *See,* NYSE Arca Equities Rule 7.44(a)(3). *See,* also NYSE MKT Rule 107C(a)(3), NYSE Rule 107C(a)(3), BATS Y-Exchange, Inc. Rule 11.24(a)(2) and NASDAQ Stock Market LLC Rule 4780(a)(2). The Retail Investor

• Trade-at Intermarket Sweep Order'' [24] would mean a limit order for a Pilot Security that meets the following requirements:

(i) When routed to a Trading Center, the limit order is identified as a Trade-at Intermarket Sweep Order; and

(ii) Simultaneously with the routing of the limit order identified as a Trade-at Intermarket Sweep Order, one or more additional limit orders, as necessary, are routed to execute against the full size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the Pilot Security with a price that is better than or equal to the limit price of the limit order identified as a Trade-at Intermarket Sweep Order. These additional routed orders also must be marked as Trade-at Intermarket Sweep Orders.

• Paragraph (a)(1)(E) would provide that all capitalized terms not otherwise defined in this rule shall have the meanings set forth in the Plan, Regulation NMS under the Act, or Exchange rules, as applicable.

Proposed Paragraph (a)(2) would state that the Exchange is a Participant in, and subject to the applicable requirements of, the Plan; proposed Paragraph (a)(3) would require ETP Holders to establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan, which would allow the Exchange to enforce compliance by its ETP Holders with the provisions of the Plan, as required pursuant to Section II(B) of the Plan.

In addition, Paragraph (a)(4) would provide that Exchange systems would not display, quote or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan and this proposed rule, unless such quotation or transaction is specifically exempted under the Plan.[25]

The Exchange also proposes to add Rule 7.46(a)(5) to provide for the treatment of Pilot Securities that drop below a $1.00 value during the Pilot Period.[26] The Exchange proposes that if the price of a Pilot Security drops below $1.00 during regular trading on any given business day, such Pilot Security would continue to be subject to the Plan and the requirements described below that necessitate ETP Holders to comply with the specific quoting and trading obligations for each respective Pilot Test Group under the Plan, and would continue to trade in accordance with the proposed rules below as if the price of the Pilot Security had not dropped below $1.00. However, if the Closing Price of a Pilot Security on any given business day is below $1.00, such Pilot Security would be moved out of its respective Pilot Test Group into the control group (which consists of Pilot Securities not placed into a Pilot Test Group), and may then be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder of the Pilot Period. Notwithstanding anything contained herein to the contrary, the Exchange proposes that, at all times during the Pilot Period, Pilot Securities (whether in the control group or any Pilot Test Group) would continue to be subject to the data collection rules, which are enumerated in Rule 7.46(b).

The Exchange proposes Rules 7.46(c)–(e), which would require ETP Holders to comply with the specific quoting and trading obligations for each Pilot Test Group under the Plan. With regard to Pilot Securities in Test Group One, proposed Rule 7.46(c) would provide that no ETP Holder may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the National Best Bid and National Best Offer (''NBBO'') or Best Protected Bid and Best Protect Offer (''PBBO'') and orders entered in the Exchange's Retail Liquidity Program as Retail Price Improvement Orders (''Retail Price Improvement Order'') [27] may be ranked and accepted in increments of less than $0.05. Pilot Securities in Test Group One may continue to trade at any price increment that is currently permitted by NYSE Arca Equities Rule 7.6.[28]

With regard to Pilot Securities in Test Group Two, proposed Rule 7.46(d)(1) would provide that such Pilot Securities would be subject to all of the same quoting requirements as described above for Pilot Securities in Test Group One, along with the applicable quoting exceptions. In addition, proposed Rule 7.46(d)(2) would provide that, absent one of the listed exceptions in proposed Rule 7.46(d)(3) enumerated below, no ETP Holder may execute orders in any Pilot Security in Test Group Two in

Order definition includes any order originating from a natural person and is not limited to orders submitted to the Exchange under the Exchange's retail liquidity program rule (NYSE Arca Equities Rule 7.44). Therefore, any ETP Holder that operates a Trading Center may execute against a Retail Investor Order otherwise than on an exchange to satisfy the retail investor order exception proposed in Rule 7.46.

[24] The Plan defines a Trade-at Intermarket Sweep Order (''ISO'') as a limit order for a Pilot Security that, when routed to a Trading Center, is identified as an ISO, and simultaneous with the routing of the limit order identified as an ISO, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid (in the case of a limit order to sell) or the full displayed size of any protected offer (in the case of a limit order to buy) for the Pilot Security with a price that is equal to the limit price of the limit order identified as an ISO. These additional routed orders also must be marked as ISOs. *See* Plan, Section I(MM). Since the Plan allows (i) an order that is identified as an ISO to be executed at the price of a Protected Quotation (*see,* Plan, Section VI(D)(8) and proposed Rule 7.46(a)(e)(4)(C)(ix)) and (ii) an order to execute at the price of a Protected Quotation that ''is executed by a trading center that simultaneously routed Trade-at ISO to execute against the full displayed size of the Protected Quotation that was trade at'' (*see,* Plan, Section VI(D)(9) and proposed Rule 7.46(a)(e)(4)(C)(x)), the Exchange proposes to clarify the use of an ISO in connection with the Trade-at requirement by adopting, as part of proposed Rule 7.46(a)(1), a comprehensive definition of ''Trade-at ISO.'' As set forth in the Plan and as noted above, the definition of a Trade-at ISO used in the Plan does not distinguish ISOs that are compliant with Rule 611 or Regulation NMS from ISOs that are compliant with Trade-at. The Exchange therefore proposes the separate definition of Trade-at ISO contained in proposed Rule 7.46(a). The Exchange believes that this proposed definition will further clarify to recipients of ISOs in Test Group Three securities whether the ISO satisfies the requirements of Rule 611 of Regulation NMS or Trade-at.

[25] The Exchange is still evaluating its internal policies and procedures to ensure compliance with the Plan, and plans to separately propose rules that would address violations of the Plan.

[26] New York Stock Exchange LLC, on behalf of the Participants, submitted a letter to Commission requesting exemption from certain provisions of the Plan related to quoting and trading. *See* letter from Elizabeth K. King, NYSE, to Brent J. Fields, Secretary, Commission, dated October 14, 2015 (the ''October Exemption Request''). FINRA, also on behalf of the Plan Participants, submitted a separate letter to Commission requesting additional exemptions from certain provisions of the Plan related to quoting and trading. *See* letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, to Robert W. Errett, Deputy Secretary, Commission, dated February 23, 2016 (the ''February Exemption Request,'' and together with the October Exemption Request, the ''Exemption Request Letters''). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted New York Stock Exchange LLC a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the Exemption Request Letters and noted herein. *See* letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Sherry Sandler, Associate General Counsel, New York Stock Exchange LLC, dated April 25, 2016 (the ''Exemption Letter''). The Exchange is seeking the same exemptions as requested in the Exemption Request Letters, including without limitation, an exemption relating to proposed Rule 7.46(a)(5).

[27] A Retail Price Improvement Order consists of non-displayed interest in NYSE Arca, Inc.-listed securities that is priced better than the Best Protected Bid or Best Protected Offer, as such terms are defined in Regulation NMS Rule 600(b)(57), by at least $0.001 and that is identified as such. *See* NYSE Arca Equities Rule 7.44(a)(4).

[28] NYSE Arca Equities Rule 7.6 describes the minimum price variation for quoting and entry of orders in equity securities admitted to dealings on the Exchange.

price increments other than $0.05. The $0.05 trading increment would apply to all trades, including Brokered Cross Trades.

Paragraph (d)(3) would set forth further requirements for Pilot Securities in Test Group Two. Specifically, ETP Holders trading Pilot Securities in Test Group Two would be allowed to trade in increments less than $0.05 under the following circumstances:

(A) Trading may occur at the midpoint between the NBBO or PBBO;

(B) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the Best Protected Bid or the Best Protected Offer;

(C) Negotiated Trades may trade in increments less than $0.05; and

(D) Execution of a customer order to comply with NYSE Arca Equities Rule 5320 [29] following the execution of a proprietary trade by the ETP Holder at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.[30]

Paragraph (e)(1)–(e)(3) would set forth the requirements for Pilot Securities in Test Group Three. ETP Holders quoting or trading such Pilot Securities would be subject to all of the same quoting and trading requirements as described above for Pilot Securities in Test Group Two, including the quoting and trading exceptions applicable to Test Group Two Pilot Securities. In addition, proposed Paragraph (e)(4) would provide for an additional prohibition on Pilot Securities in Test Group Three referred to as the ''Trade-at Prohibition.'' [31] Paragraph (e)(4)(B) would provide that, absent one of the listed exceptions in proposed Rule 7.46(e)(4)(C) enumerated below, no ETP Holder may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer.

Proposed Rule 7.46(e)(4)(C) would allow ETP Holders to execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer if any of the following circumstances exist:

(i) The order is executed as agent or riskless principal by an independent trading unit, as defined under Rule 200(f) of Regulation SHO,[32] of a Trading Center within an ETP Holder that has a displayed quotation as agent or riskless principal, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received,[33] but only up to the full displayed size of that independent trading unit's previously displayed quote; [34]

(ii) The order is executed by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within an ETP Holder that has a displayed quotation for the account of that Trading Center on a principal (excluding riskless principal [35]) basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of that independent unit's previously displayed quote; [36]

(iii) The order is of Block Size [37] at the time of origin and may not be:

A. an aggregation of non-block orders;

B. broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution; or

C. executed on multiple Trading Centers; [38]

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[29] NYSE Arca Equities Rule 5320 is the Exchange's Prohibition Against Trading Ahead of Customer Orders rule and states:

(a) Except as provided herein, an ETP Holder that accepts and holds an order in an equity security from its own customer or a customer of another broker-dealer without immediately executing the order is prohibited from trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless it immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account.

(b) An ETP Holder must have a written methodology in place governing the execution and priority of all pending orders that is consistent with the requirements of this Rule and NASD Rule 2320. An ETP Holder also must ensure that this methodology is consistently applied.

[30] The Exchange proposes to add this exemption to permit ETP Holders to fill a customer order in a Pilot Security at a non-nickel increment to comply with NYSE Arca Equities Rule 5320 under limited circumstances. Specifically, the exception would allow the execution of a customer order following a proprietary trade by the ETP Holder at an increment other than $0.05 in the same security, on the same side and at the same price as (or within the prescribed amount of) a customer order owed a fill pursuant to NYSE Arca Equities Rule 5320, where the triggering proprietary trade was permissible pursuant to an exception under the Plan. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See,* the Exemption Letter, supra note 26. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters. The Exchange believes such an exception best facilitates the ability of ETP Holders to continue to protect customer orders while retaining the flexibility to engage in proprietary trades that comply with an exception to the Plan.

[31] Proposed Rule 7.46(e)(4)(A) would define the ''Trade-at Prohibition'' to mean the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the price of a Protected Bid or the execution of a buy order for a Pilot Security at the price of a Protected Offer during regular trading hours.

[32] The Exchange is proposing that, for proposed Rules 7.46(e)(4)(C)(i) and (ii), a Trading Center operated by a broker-dealer would mean an independent trading unit, as defined under Rule 200(f) of Regulation SHO, within such broker-dealer. *See,* 17 CFR 242.200.

Independent trading unit aggregation is available if traders in an aggregation unit pursue only the particular trading objective(s) or strategy(s) of that aggregation unit and do not coordinate that strategy with any other aggregation unit. Therefore, a Trading Center cannot rely on quotations displayed by that broker dealer from a different independent trading unit. As an example, an agency desk of a broker-dealer cannot rely on the quotation of a proprietary desk in a separate independent trading unit at that same broker-dealer.

[33] The Exchange is proposing to adopt this limitation to ensure that a Trading Center does not display a quotation after the time of order receipt solely for the purpose of trading at the price of a protected quotation without routing to that protected quotation.

[34] This proposed exception to Trade-at would allow a Trading Center to execute an order at the Protected Quotation in the same capacity in which it has displayed a quotation at a price equal to the Protected Quotation and up to the displayed size of such displayed quotation.

[35] As described above, proposed Rule 7.46(e)(4)(C)(i) would establish the circumstances in which a Trading Center displaying an order as riskless principal would be permitted to Trade-at the Protected Quotation. Accordingly, the Exchange proposes that proposed Rule 7.46(e)(4)(C)(ii) would exclude such circumstances.

[36] The display exceptions to Trade-at set forth in proposed Rules 7.46(e)(4)(C)(i) and (ii) would not permit a broker-dealer to trade on the basis of interest it is not responsible for displaying. In particular, a broker-dealer that matches orders in the over-the-counter market shall be deemed to have ''executed'' such orders as a Trading Center for purposes of proposed Rule 7.46. Accordingly, if a broker-dealer is not displaying a quotation at a price equal to the Protected Quotation, it could not submit matched trades to an alternative trading center (''ATS'') that was displaying on an agency basis the quotation of another ATS subscriber. However, a broker-dealer that is displaying, as principal, via either a processor or an SRO Quotation Feed, a buy order at the protected bid, could internalize a customer sell order up to its displayed size. The display exceptions would not permit a non-displayed Trading Center to submit matched trades to an ATS that was displaying on an agency basis the quotation of another ATS subscriber and confirmed [sic] that a broker-dealer would not be permitted to trade on the basis of interest that it is not responsible for displaying.

[37] ''Block Size'' is defined in the Plan as an order (1) of at least 5,000 shares or (2) for a quantity of stock having a market value of at least $100,000.

[38] Once a Block Size order or portion of such Block Size order is routed from one Trading Center to another Trading Center in compliance with Rule 611 of Regulation NMS, the Block Size order would lose the Trade-at exemption provided under proposed Rule 7.46(e)(4)(C)(iii), unless the Block Size remaining after the first route and execution meets the Block Size definition under the Plan (*see* footnote 36). For example, if an exchange has a Protected Bid of 3,000 shares, with 2,000 shares in reserve, and receives a 5,000 share order to sell, the exchange would be able to execute the entire 5,000 share order without having to route to an away market at any other Protected Bid at the same price. If, however, that exchange only has 1,000 shares in reserve, the entire order would not be able to be executed on that exchange, and the exchange would only be able to execute 3,000 shares and route the rest to away markets at other Protected Bids at the same price, before executing the 1,000 shares in reserve. The same analysis would hold true at the next price point, if the size of the incoming order

(iv) The order is a Retail Investor Order executed with at least $0.005 price improvement;

(v) The order is executed when the Trading Center displaying the Protected Quotation that was traded at was experiencing a failure, material delay, or malfunction of its systems or equipment;

(vi) The order is executed as part of a transaction that was not a ''regular way'' contract;

(vii) The order is executed as part of a single-priced opening, reopening, or closing transaction on the Exchange;

(viii) The order is executed when a Protected Bid was priced higher than a Protected Offer in the Pilot Security in Test Group Three;

(ix) The order is identified as a Trade-at Intermarket Sweep Order; [39]

(x) The order is executed by a Trading Center that simultaneously routed Trade-at Intermarket Sweep Orders to execute against the full displayed size of the Protected Quotation that was traded at; [40]

(xi) The order is executed as part of a Negotiated Trade;

(xii) The order is executed when the Trading Center displaying the Protected Quotation that was traded at had displayed, within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security in Test Group Three with a price that was inferior to the price of the Trade-at transaction;

(xiii) The order is executed by a Trading Center which, at the time of order receipt, the Trading Center had guaranteed an execution at no worse than a specified price (a ''stopped order''), where:

A. The stopped order was for the account of a customer;

B. The customer agreed to the specified price on an order-by-order basis; and

C. The price of the Trade-at transaction was, for a stopped buy order, equal to or less than the National Best Bid in the Pilot Security in Test Group Three at the time of execution or, for a stopped sell order, equal to or greater than the National Best Offer in the Pilot Security in Test Group Three at the time of execution, as long as such order is priced at an acceptable increment; [41]

(xiv) The order is for a fractional share of a Pilot Security in Test Group Three, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security in Test Group Three into orders for fractional shares or was not otherwise effected to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan; or

(xv) The order is to correct a bona fide error, which is recorded by the Trading Center in its error account.[42] A bond fide error is defined as:

A. The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market;

B. The unauthorized or unintended purchase, sale, or allocation of

would exceed all available shares at the first price, and the remaining shares to be executed would be 5,000 shares or more.

[39] In connection with the definition of a Trade-at ISO proposed in Rule 7.46(a)(1)(D), this exception refers to the ISO that is received by a Trading Center.

The Exchange proposed an exemption to the Trade-at Prohibition for Trade-at ISOs to clarify that an ISO that is received by a Trading Center (and which could form the basis of an execution at the price of a Protected Quotation pursuant to Section VI(D)(8) of the Plan), is identified as a Trade-at ISO. Depending on whether Rule 611 of Regulation NMS or the Trade-at requirement applies, an ISO may mean that the sender of the ISO has swept better-priced Protected Quotations, so that the recipient of that ISO may trade through the price of the Protected Quotation (Rule 611 of Regulation NMS), or it could mean that the sender of the ISO has swept Protected Quotations at the same price that it wishes to execute at (in addition to any better-priced quotations), so the recipient of that ISO may trade at the price of the Protected Quotation (Trade-at). Given that the meaning of an ISO may differ under Rule 611 of Regulation NMS and Trade-at, the Exchange proposed an exemption to the Trade-at Prohibition for Trade-at ISOs so that the recipient of an ISO in a Test Group Three security would know, upon receipt of that ISO, that the Trading Center that sent the ISO had already executed against the full size of displayed quotations at that price, *e.g.,* the recipient of that ISO could permissibly trade at the price of the Protected Quotation.

[40] In connection with the definition of a Trade-at ISO proposed in Rule 7.46(a)(1)(D), this exception refers to the Trading Center that routed the ISO.

[41] The stopped order exemption in Rule 611 of Regulation NMS applies where ''[t]he price of the trade-through transaction was, for a stopped buy order, lower than the national best bid in the NMS stock at the time of execution or, for a stopped sell order, higher than the national best offer in the NMS stock at the time of execution'' (*see,* 17 CFR 242.611(b)(9)). The Trade-at stopped order exception applies where ''the price of the Trade-at transaction was, for a stopped buy order, equal to the national best bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to the national best offer in the Pilot Security at the time of execution'' (*see,* Plan, Section VI(D)(12)).

To illustrate the application of the stopped order exemption as it currently operates under Rule 611 of Regulation NMS and as it is currently proposed for Trade-at, assume the National Best Bid is $10.00 and another protected quote is at $9.95. Under Rule 611 of Regulation NMS, a stopped order to buy can be filled at $9.95 and the firm does not have to send an ISO to access the protected quote at $10.00 since the price of the stopped order must be lower than the National Best Bid. For the stopped order to also be executed at $9.95 and satisfy the Trade-at requirements, the Trade-at exception would have to be revised to allow an order to execute at the price of a protected quote which, in this case, could be $9.95.

Based on the fact that a stopped order would be treated differently under the Rule 611 of Regulation NMS exception than under the Trade-at exception in the Plan, the Exchange believes that it is appropriate to amend the Trade-at stopped order exception in the Plan to ensure that the application of this exception would produce a consistent result under both Regulation NMS and the Plan. Therefore, the Exchange proposes in this proposed Rule 7.46(e)(4)(C)(xiii) to allow a transaction to satisfy the Trade-at requirement if the stopped order price, for a stopped buy order, is equal to or less than the National Best Bid, and for a stopped sell order, is equal to or greater than the National Best Offer, as long as such order is priced at an acceptable increment. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See,* the Exemption Letter, supra note 26. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

[42] The exceptions to the Trade-at requirement set forth in the Plan and in the Exchange's proposed Rule 7.46(e)(4)(C) are, in part, based on the exceptions to the trade-through requirement set forth in Rule 611 of Regulation NMS, including exceptions for an order that is executed as part of a transaction that was not a ''regular way'' contract, and an order that is executed as part of a single-priced opening, reopening, or closing transaction by the Trading Center (*see,* 17 CFR 242.611(b)(2) and (b)(3)). Following the adoption of Rule 611 of Regulation NMS and its exceptions, the Commission issued exemptive relief that created exceptions from Rule 611 of Regulation NMS for certain error correction transactions. *See,* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007); Securities Exchange Act Release No. 55883 (June 8, 2007), 72 FR 32927 (June 14, 2007). The Exchange has determined that it is appropriate to incorporate this additional exception to the Trade-at Prohibition, as this exception is equally applicable in the Trade-at context.

Accordingly, the Exchange is proposing to exempt certain transactions to correct bona fide errors in the execution of customer orders from the Trade-at Prohibition, subject to the conditions set forth by the SEC's order exempting these transactions from Rule 611 of Regulation NMS. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See,* the Exemption Letter, supra note 26. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

As with the corresponding exception under Rule 611 of Regulation NMS, the bona fide error would have to be evidenced by objective facts and circumstances, the Trading Center would have to maintain documentation of such facts and circumstances and record the transaction in its error account. To avail itself of the exemption, the Trading Center would have to establish, maintain, and enforce written policies and procedures reasonably designed to address the occurrence of errors and, in the event of an error, the use and terms of a transaction to correct the error in compliance with this exemption. Finally, the Trading Center would have to regularly surveil to ascertain the effectiveness of its policies and procedures to address errors and transactions to correct errors and take prompt action to remedy deficiencies in such policies and procedures. *See,* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007).

securities, or the failure to follow specific client instructions;

C. The incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or

D. A delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order.

Finally, Proposed Rule 7.46(e)(4)(D) would prevent ETP Holders from breaking an order into smaller orders or otherwise effecting or executing an order to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[43] in general, and furthers the objectives of Section 6(b)(5) of the Act,[44] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with the Act because it ensures that the Exchange and its ETP Holders would be in compliance with a Plan approved by the Commission pursuant to an order issued by the Commission in reliance on Section 11A of the Act.[45] Such approved Plan gives the Exchange authority to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange believes that the proposed rule change is consistent with the authority granted to it by the Plan to establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan. Likewise, the Exchange believes that the proposed rule change provides interpretations of the Plan that are consistent with the Act, in general, and furthers the objectives of the Act, in particular.

Furthermore, the Exchange is a Participant under the Plan and subject, itself, to the provisions of the Plan. The proposed rule change ensures that the Exchange's systems would not display or execute trading interests outside the requirements specified in such Plan. The proposal would also help allow market participants to continue to trade NMS Stocks within quoting and trading requirements that are in compliance with the Plan, with certainty on how certain orders and trading interests would be treated. This, in turn, will help encourage market participants to continue to provide liquidity in the marketplace.

Because the Plan supports further examination and analysis on the impact of tick sizes on the trading and liquidity of the securities of small capitalization companies, and the Commission believes that altering tick sizes could result in significant market-wide benefits and improvements to liquidity and capital formation, adopting rules that enforce compliance by its ETP Holders with the provisions of the Plan would help promote liquidity in the marketplace and perfect the mechanism of a free and open market and national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the trading and quoting requirements specified in the Plan, of which other equities exchanges are also Participants. Other competing national securities exchanges are subject to the same trading and quoting requirements specified in the Plan. Therefore, the proposed changes would not impose any burden on competition, while providing certainty of treatment and execution of trading interests on the Exchange to market participants in NMS Stocks that are acting in compliance with the requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[46] and Rule 19b–4(f)(6) thereunder.[47] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[48] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[49] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[50] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2016–76 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.

[43] 15 U.S.C. 78f(b).

[44] 15 U.S.C. 78f(b)(5).

[45] 15 U.S.C. 78k–1.

[46] 15 U.S.C. 78s(b)(3)(A)(iii).

[47] 17 CFR 240.19b–4(f)(6).

[48] 17 CFR 240.19b–4(f)(6).

[49] 17 CFR 240.19b–4(f)(6)(iii).

[50] 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR–NYSEARCA–2016–76. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2016–76 and should be submitted on or before June 27, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[51]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13208 Filed 6–3–16; 8:45 am]

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[51] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77951; File No. SR–NYSEMKT–2016–49]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Amending the Definition of ''Block'' for Purposes of Rule 72(d)—Equities and the Size of a Proposed Cross Transaction Eligible for the Cross Function in Rule 76—Equities

May 31, 2016.

On April 22, 2016, NYSE MKT LLC (''Exchange'' or ''NYSE MKT'') 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 its rules relating to pre-opening indications and opening procedures. The proposed rule change was published for comment in the **Federal Register** on May 3, 2016.[3] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 17, 2016. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates August 1, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEMKT–2016–49).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13211 Filed 6–3–16; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77734 (Apr. 27, 2016), 81 FR 26598.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77949; File No. SR–NYSEMKT–2016–56]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing the Quoting and Trading Provisions of the Plan To Implement a Tick Size Pilot Program Submitted to the Commission Pursuant to Rule 608 of Regulation NMS Under the Act

May 31, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 20, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to implement the quoting and trading provisions of the Plan to Implement a Tick Size Pilot Program submitted to the Commission pursuant to Rule 608 of Regulation NMS [4] under the Act (the ''Plan''). The proposed rule change is substantially similar to proposed rule changes recently approved or published by the Commission by New York Stock Exchange LLC to adopt NYSE Rules 67(a) and 67(c)–(e), which also implemented the quoting and trading provisions of the Plan.[5] Therefore, the Exchange has designated this proposal as ''non-controversial'' and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[6] The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 17 CFR 242.608.

[5] *See,* Securities Exchange Act Release No. 76229 (October 22, 2015), 80 FR 66065 (October 28, 2015) (SR–NYSE–2015–46), as amended by Partial Amendments No. 1 and No. 2 to the Quoting & Trading Rules Proposal. *See,* Securities Exchange Act Release No. 77703 (April 25, 2016), 81 FR 25725 (April 29, 2016) (SR–NYSE–2015–46).

[6] 17 CFR 240.19b–4(f)(6)(iii).

and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish rules to require its member organizations to comply with the requirements of the Plan to Implement a Tick Size Pilot Program (the ''Plan''),[7] which is designed to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies. The Exchange proposes changes to its rules for a two-year pilot period that coincides with the pilot period for the Plan, which is currently scheduled as a two year pilot to begin on October 3, 2016.

Background

On August 25, 2014, NYSE Group, Inc., on behalf of Bats BZX Exchange, Inc. (f/k/a BATS Exchange, Inc.), Bats BYX Exchange, Inc. (f/k/a BATS Y-Exchange, Inc.), Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, New York Stock Exchange LLC, the Exchange and NYSE Arca, Inc. (collectively ''Participants''), filed with the Commission, pursuant to Section 11A of the Act[8] and Rule 608 of Regulation NMS thereunder, the Plan to Implement a Tick Size Pilot Program.[9] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014 (the ''June 2014 Order'').[10] The Plan[11] was published for comment in the **Federal Register** on November 7, 2014,[12] and approved by the Commission, as modified, on May 6, 2015.[13]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies. The Commission plans to use the Tick Size Pilot Program to assess whether wider tick sizes enhance the market quality of Pilot Securities for the benefit of issuers and investors. Each Participant is required to comply with, and to enforce compliance by its member organizations, as applicable, with the provisions of the Plan.

On October 9, 2015, the Operating Committee approved the Exchange's proposed rules as model Participant rules that would require compliance by a Participant's members with the provisions of the Plan, as applicable, and would establish written policies and procedures reasonably designed to comply with applicable quoting and trading requirements specified in the Plan.[14] As described more fully below, the proposed rules would require member organizations to comply with the Plan and provide for the widening of quoting and trading increments for Pilot Securities, consistent with the Plan.

The Tick Size Pilot Program will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average price of at least $2.00 for every trading day. The Tick Pilot Program will consist of a control group of approximately 1400 Pilot Securities and three test groups with 400 Pilot Securities in each selected by a stratified sampling.[15] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group (''Test Group One'') will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[16] Pilot Securities in the second test group (''Test Group Two'') will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor exception, and a negotiated trade exception.[17] Pilot Securities in the third test group (''Test Group Three'') will be subject to the same terms as Test Group Two and also will be subject to the ''Trade-at'' requirement to prevent price matching by a person not displaying at a price of a Trading Center's ''Best Protected Bid or ''Best Protected Offer,'' unless an enumerated exception applies.[18] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that closely resemble those under Rule 611 of Regulation NMS[19] will apply to the Trade-at requirement.

The Tick Pilot Program also contains requirements for the collection and transmission of data to the Commission and the public. A variety of data generated during the Tick Pilot Program will be released publicly on an aggregated basis to assist in analyzing the impact of wider tick sizes on smaller capitalization stocks.[20]

Proposed Rule 67—Equities

The Plan requires the Exchange to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan.[21]

[7] *See* Securities and Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (File No. 4–657) (''Tick Plan Approval Order''). *See,* also, Securities and Exchange Act Release No. 76382 (November 6, 2015) (File No. 4–657), 80 FR 70284 (File No. 4–657) (November 13, 2015), which extended the pilot period commencement date from May 6, 2015 to October 3, 2016.

[8] 15 U.S.C. 78k–1.

[9] *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

[10] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[11] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[12] *See* Securities and Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (File No. 4–657) (Tick Plan Filing).

[13] *See* Tick Plan Approval Order, *supra* note 7. *See,* also, Securities Exchange Act Release No. 77277 (March 3, 2016), 81 FR 12162 (March 8, 2016) (File No. 4–657), which amended the Plan to add National Stock Exchange, Inc. as a Participant.

[14] The Operating Committee is required under Section III(C)(2) of the Plan to ''monitor the procedures established pursuant to the Plan and advise Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate.'' The Operating Committee is also required to ''establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan.''

[15] See Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

[16] *See* Section VI(B) of the Plan. Pilot Securities in Test Group One will be subject to a midpoint exception and a retail investor exception.

[17] *See* Section VI(C) of the Plan.

[18] *See* Section VI(D) of the Plan.

[19] 17 CFR 242.611.

[20] *See* Section VII of the Plan.

[21] The Exchange was also required by the Plan to develop appropriate policies and procedures that provide for data collection and reporting to the Commission of data described in Appendixes B and C of the Plan. *See,* Securities Exchange Act Release No. 77478 (March 30, 2016), 81 FR 19665 (April 5, 2016) (SR–NYSEMKT–2016–40.

Accordingly, the Exchange is proposing new Rule 67—Equities to require its member organizations to comply with the quoting and trading provisions of the Plan. The proposed Rule is also designed to ensure the Exchange's compliance with the Plan.

Proposed paragraph (a)(1) of new Rule 67—Equities would establish the following defined terms:

• ''Plan'' means the Tick Size Pilot Plan submitted to the Commission pursuant to Rule 608(a)(3) of Regulation NMS under the Act;

• ''Pilot Test Groups'' means the three test groups established under the Plan, consisting of 400 Pilot Securities each, which satisfy the respective criteria established by the Plan for each such test group.

• ''Retail Investor Order'' would mean an agency order or a riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a retail member organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. A Retail Investor Order may be an odd lot, round lot, or partial round lot.[22]

• Trade-at Intermarket Sweep Order'' [23] would mean a limit order for a Pilot Security that meets the following requirements:

(i) When routed to a Trading Center, the limit order is identified as a Trade-at Intermarket Sweep Order; and

(ii) Simultaneously with the routing of the limit order identified as a Trade-at Intermarket Sweep Order, one or more additional limit orders, as necessary, are routed to execute against the full size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the Pilot Security with a price that is better than or equal to the limit price of the limit order identified as a Trade-at Intermarket Sweep Order. These additional routed orders also must be marked as Trade-at Intermarket Sweep Orders.

• Paragraph (a)(1)(E) would provide that all capitalized terms not otherwise defined in this rule shall have the meanings set forth in the Plan, Regulation NMS under the Act, or Exchange rules, as applicable.

Proposed Paragraph (a)(2) would state that the Exchange is a Participant in, and subject to the applicable requirements of, the Plan; proposed Paragraph (a)(3) would require member organizations to establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan, which would allow the Exchange to enforce compliance by its member organizations with the provisions of the Plan, as required pursuant to Section II(B) of the Plan.

In addition, Paragraph (a)(4) would provide that Exchange systems would not display, quote or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan and this proposed rule, unless such quotation or transaction is specifically exempted under the Plan.[24]

The Exchange also proposes to add Rule 67(a)(5)—Equities to provide for the treatment of Pilot Securities that drop below a $1.00 value during the Pilot Period.[25] The Exchange proposes that if the price of a Pilot Security drops below $1.00 during regular trading on any given business day, such Pilot Security would continue to be subject to the Plan and the requirements described below that necessitate member organizations to comply with the specific quoting and trading obligations for each respective Pilot Test Group under the Plan, and would continue to trade in accordance with the proposed rules below as if the price of the Pilot Security had not dropped below $1.00. However, if the Closing Price of a Pilot Security on any given business day is below $1.00, such Pilot Security would be moved out of its respective Pilot Test Group into the control group (which consists of Pilot Securities not placed into a Pilot Test Group), and may then be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder of the Pilot Period. Notwithstanding anything contained herein to the contrary, the Exchange proposes that, at all times during the Pilot Period, Pilot Securities (whether in the control group or any Pilot Test Group) would continue to be subject to the data collection rules, which are enumerated in Rule 67(b)—Equities.

The Exchange proposes Rules 67(c)–(e)—Equities, which would require member organizations to comply with the specific quoting and trading

[22] This definition is the approved definition for ''Retail Investor Order'' as contemplated by the Plan. It is also the same definition as given to ''Retail Orders'' pursuant to the approved rules of other national securities exchanges. *See* Rule 107C(a)(3)—Equities. *See* also NYSE Rule 107C(a)(3), NYSE Arca, Inc. Rule 7.44(a)(3), BATS Y-Exchange, Inc. Rule 11.24(a)(2) and NASDAQ Stock Market LLC Rule 4780(a)(2). The Retail Investor Order definition includes any order originating from a natural person and is not limited to orders submitted to the Exchange under the Exchange's retail liquidity program rule (Rule 107C—Equities). Therefore, any member organization that operates a Trading Center may execute against a Retail Investor Order otherwise than on an exchange to satisfy the retail investor order exception proposed in Rule 67—Equities.

[23] The Plan defines a Trade-at Intermarket Sweep Order (''ISO'') as a limit order for a Pilot Security that, when routed to a Trading Center, is identified as an ISO, and simultaneous with the routing of the limit order identified as an ISO, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid (in the case of a limit order to sell) or the full displayed size of any protected offer (in the case of a limit order to buy) for the Pilot Security with a price that is equal to the limit price of the limit order identified as an ISO. These additional routed orders also must be marked as ISOs. *See* Plan, Section I(MM). Since the Plan allows (i) an order that is identified as an ISO to be executed at the price of a Protected Quotation (*see,* Plan, Section VI(D)(8) and proposed Rule 67(a)(e)(4)(C)(ix)—Equities) and (ii) an order to execute at the price of a Protected Quotation that ''is executed by a trading center that simultaneously routed Trade-at ISO to execute against the full displayed size of the Protected Quotation that was trade at'' (*see,* Plan, Section VI(D)(9) and proposed Rule 67(a)(e)(4)(C)(x)—Equities), the Exchange proposes to clarify the use of an ISO in connection with the Trade-at requirement by adopting, as part of proposed Rule 67(a)(1)—Equities, a comprehensive definition of ''Trade-at ISO.'' As set forth in the Plan and as noted above, the definition of a Trade-at ISO used in the Plan does not distinguish ISOs that are compliant with Rule 611 or Regulation NMS from ISOs that are compliant with Trade-at. The Exchange therefore proposes the separate definition of Trade-at ISO contained in proposed Rule 67(a)—Equities. The Exchange believes that this proposed definition will further clarify to recipients of ISOs in Test Group Three securities whether the ISO satisfies the requirements of Rule 611 of Regulation NMS or Trade-at.

[24] The Exchange is still evaluating its internal policies and procedures to ensure compliance with the Plan, and plans to separately propose rules that would address violations of the Plan.

[25] New York Stock Exchange LLC, on behalf of the Participants, submitted a letter to Commission requesting exemption from certain provisions of the Plan related to quoting and trading. *See* letter from Elizabeth K. King, NYSE, to Brent J. Fields, Secretary, Commission, dated October 14, 2015 (the ''October Exemption Request''). FINRA, also on behalf of the Plan Participants, submitted a separate letter to Commission requesting additional exemptions from certain provisions of the Plan related to quoting and trading. *See* letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, to Robert W. Errett, Deputy Secretary, Commission, dated February 23, 2016 (the ''February Exemption Request,'' and together with the October Exemption Request, the ''Exemption Request Letters''). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted New York Stock Exchange LLC a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the Exemption Request Letters and noted herein. *See* letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Sherry Sandler, Associate General Counsel, New York Stock Exchange LLC, dated April 25, 2016 (the ''Exemption Letter''). The Exchange is seeking the same exemptions as requested in the Exemption Request Letters, including without limitation, an exemption relating to proposed Rule 67(a)(5)—Equities.

obligations for each Pilot Test Group under the Plan. With regard to Pilot Securities in Test Group One, proposed Rule 67(c)—Equities would provide that no member organization may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the National Best Bid and National Best Offer (''NBBO'') or Best Protected Bid and Best Protect Offer (''PBBO'') and orders entered in the Exchange's Retail Liquidity Program as Retail Price Improvement Orders (''Retail Price Improvement Order'') [26] may be ranked and accepted in increments of less than $0.05. Pilot Securities in Test Group One may continue to trade at any price increment that is currently permitted by Rule 62.10—Equities.[27]

With regard to Pilot Securities in Test Group Two, proposed Rule 67(d)(1)—Equities would provide that such Pilot Securities would be subject to all of the same quoting requirements as described above for Pilot Securities in Test Group One, along with the applicable quoting exceptions. In addition, proposed Rule 67(d)(2)—Equities would provide that, absent one of the listed exceptions in proposed Rule 67(d)(3)—Equities enumerated below, no member organization may execute orders in any Pilot Security in Test Group Two in price increments other than $0.05. The $0.05 trading increment would apply to all trades, including Brokered Cross Trades.

Paragraph (d)(3) would set forth further requirements for Pilot Securities in Test Group Two. Specifically, member organizations trading Pilot Securities in Test Group Two would be allowed to trade in increments less than $0.05 under the following circumstances:

(A) Trading may occur at the midpoint between the NBBO or PBBO;

(B) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the Best Protected Bid or the Best Protected Offer;

(C) Negotiated Trades may trade in increments less than $0.05; and

(D) Execution of a customer order to comply with Rule 5320—Equities [28] following the execution of a proprietary trade by the member organization at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.[29]

Paragraph (e)(1)–(e)(3) would set forth the requirements for Pilot Securities in Test Group Three. Member organizations quoting or trading such Pilot Securities would be subject to all of the same quoting and trading requirements as described above for Pilot Securities in Test Group Two, including the quoting and trading exceptions applicable to Test Group Two Pilot Securities. In addition, proposed Paragraph (e)(4) would provide for an additional prohibition on Pilot Securities in Test Group Three referred to as the ''Trade-at Prohibition.'' [30] Paragraph (e)(4)(B)—Equities would provide that, absent one of the listed exceptions in proposed Rule 67(e)(4)(C)—Equities enumerated below, no member organization may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer.

Proposed Rule 67(e)(4)(C)—Equities would allow member organizations to execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer if any of the following circumstances exist:

(i) The order is executed as agent or riskless principal by an independent trading unit, as defined under Rule 200(f) of Regulation SHO,[31] of a Trading Center within a member organization that has a displayed quotation as agent or riskless principal, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received,[32] but only up to the full displayed size of that independent trading unit's previously displayed quote; [33]

(ii) The order is executed by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within a member organization that has a displayed quotation for the account of that Trading Center on a principal (excluding riskless principal [34]) basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the

[26] A Retail Price Improvement Order consists of non-displayed interest in NYSE MKT-listed securities that is priced better than the Best Protected Bid or Best Protected Offer, as such terms are defined in Regulation NMS Rule 600(b)(57), by at least $0.001 and that is identified as such. *See* Rule 107C(a)(4)—Equities.

[27] Rule 62.10—Equities describes the minimum price variation for quoting and entry of orders in equity securities admitted to dealings on the Exchange.

[28] Rule 5320—Equities is the Exchange's Prohibition Against Trading Ahead of Customer Orders rule and states:

(a) Except as provided herein, a member organization that accepts and holds an order in an equity security from its own customer or a customer of another broker-dealer without immediately executing the order is prohibited from trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless it immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account.

(b) A member organization must have a written methodology in place governing the execution and priority of all pending orders that is consistent with the requirements of this Rule and NASD Rule 2320. A member organization also must ensure that this methodology is consistently applied.

[29] The Exchange proposes to add this exemption to permit member organizations to fill a customer order in a Pilot Security at a non-nickel increment to comply with Rule 5320—Equities under limited circumstances. Specifically, the exception would allow the execution of a customer order following a proprietary trade by the member organization at an increment other than $0.05 in the same security, on the same side and at the same price as (or within the prescribed amount of) a customer order owed a fill pursuant to Rule 5320—Equities, where the triggering proprietary trade was permissible pursuant to an exception under the Plan. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See,* the Exemption Letter, supra note 25. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters. The Exchange believes such an exception best facilitates the ability of member organizations to continue to protect customer orders while retaining the flexibility to engage in proprietary trades that comply with an exception to the Plan.

[30] Proposed Rule 67(e)(4)(A)—Equities would define the ''Trade-at Prohibition'' to mean the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the price of a Protected Bid or the execution of a buy order for a Pilot Security at the price of a Protected Offer during regular trading hours.

[31] The Exchange is proposing that, for proposed Rules 67(e)(4)(C)(i) and (ii)—Equities, a Trading Center operated by a broker-dealer would mean an independent trading unit, as defined under Rule 200(f) of Regulation SHO, within such broker-dealer. *See,* 17 CFR 242.200.

Independent trading unit aggregation is available if traders in an aggregation unit pursue only the particular trading objective(s) or strategy(s) of that aggregation unit and do not coordinate that strategy with any other aggregation unit. Therefore, a Trading Center cannot rely on quotations displayed by that broker dealer from a different independent trading unit. As an example, an agency desk of a broker-dealer cannot rely on the quotation of a proprietary desk in a separate independent trading unit at that same broker-dealer.

[32] The Exchange is proposing to adopt this limitation to ensure that a Trading Center does not display a quotation after the time of order receipt solely for the purpose of trading at the price of a protected quotation without routing to that protected quotation.

[33] This proposed exception to Trade-at would allow a Trading Center to execute an order at the Protected Quotation in the same capacity in which it has displayed a quotation at a price equal to the Protected Quotation and up to the displayed size of such displayed quotation.

[34] As described above, proposed Rule 67(e)(4)(C)(i)—Equities would establish the circumstances in which a Trading Center displaying an order as riskless principal would be permitted to Trade-at the Protected Quotation. Accordingly, the Exchange proposes that proposed Rule 67(e)(4)(C)(ii)—Equities would exclude such circumstances.

order was received, but only up to the full displayed size of that independent unit's previously displayed quote; [35]

(iii) The order is of Block Size [36] at the time of origin and may not be:

A. An aggregation of non-block orders;

B. broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution; or

C. executed on multiple Trading Centers; [37]

(iv) The order is a Retail Investor Order executed with at least $0.005 price improvement;

(v) The order is executed when the Trading Center displaying the Protected Quotation that was traded at was experiencing a failure, material delay, or malfunction of its systems or equipment;

(vi) The order is executed as part of a transaction that was not a ''regular way'' contract;

(vii) The order is executed as part of a single-priced opening, reopening, or closing transaction on the Exchange;

(viii) The order is executed when a Protected Bid was priced higher than a Protected Offer in the Pilot Security in Test Group Three;

(ix) The order is identified as a Trade-at Intermarket Sweep Order; [38]

(x) The order is executed by a Trading Center that simultaneously routed Trade-at Intermarket Sweep Orders to execute against the full displayed size of the Protected Quotation that was traded at; [39]

(xi) The order is executed as part of a Negotiated Trade;

(xii) The order is executed when the Trading Center displaying the Protected Quotation that was traded at had displayed, within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security in Test Group Three with a price that was inferior to the price of the Trade-at transaction;

(xiii) The order is executed by a Trading Center which, at the time of order receipt, the Trading Center had guaranteed an execution at no worse than a specified price (a ''stopped order''), where:

A. The stopped order was for the account of a customer;

B. The customer agreed to the specified price on an order-by-order basis; and

C. The price of the Trade-at transaction was, for a stopped buy order, equal to or less than the National Best Bid in the Pilot Security in Test Group Three at the time of execution or, for a stopped sell order, equal to or greater than the National Best Offer in the Pilot Security in Test Group Three at the time of execution, as long as such order is priced at an acceptable increment; [40]

(xiv) The order is for a fractional share of a Pilot Security in Test Group Three, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security in Test Group Three into orders for fractional shares or was not otherwise effected to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan; or

(xv) The order is to correct a bona fide error, which is recorded by the Trading Center in its error account.[41] A bond fide error is defined as:

[35] The display exceptions to Trade-at set forth in proposed Rules 67(e)(4)(C)(i) and (ii)—Equities would not permit a broker-dealer to trade on the basis of interest it is not responsible for displaying. In particular, a broker-dealer that matches orders in the over-the-counter market shall be deemed to have ''executed'' such orders as a Trading Center for purposes of proposed Rule 67—Equities. Accordingly, if a broker-dealer is not displaying a quotation at a price equal to the Protected Quotation, it could not submit matched trades to an alternative trading center (''ATS'') that was displaying on an agency basis the quotation of another ATS subscriber. However, a broker-dealer that is displaying, as principal, via either a processor or an SRO Quotation Feed, a buy order at the protected bid, could internalize a customer sell order up to its displayed size. The display exceptions would not permit a non-displayed Trading Center to submit matched trades to an ATS that was displaying on an agency basis the quotation of another ATS subscriber and confirmed [sic] that a broker-dealer would not be permitted to trade on the basis of interest that it is not responsible for displaying.

[36] ''Block Size'' is defined in the Plan as an order (1) of at least 5,000 shares or (2) for a quantity of stock having a market value of at least $100,000.

[37] Once a Block Size order or portion of such Block Size order is routed from one Trading Center to another Trading Center in compliance with Rule 611 of Regulation NMS, the Block Size order would lose the Trade-at exemption provided under proposed Rule 67(e)(4)(C)(iii)—Equities, unless the Block Size remaining after the first route and execution meets the Block Size definition under the Plan (*see* footnote 35). For example, if an exchange has a Protected Bid of 3,000 shares, with 2,000 shares in reserve, and receives a 5,000 share order to sell, the exchange would be able to execute the entire 5,000 share order without having to route to an away market at any other Protected Bid at the same price. If, however, that exchange only has 1,000 shares in reserve, the entire order would not be able to be executed on that exchange, and the exchange would only be able to execute 3,000 shares and route the rest to away markets at other Protected Bids at the same price, before executing the 1,000 shares in reserve. The same analysis would hold true at the next price point, if the size of the incoming order would exceed all available shares at the first price, and the remaining shares to be executed would be 5,000 shares or more.

[38] In connection with the definition of a Trade-at ISO proposed in Rule 67(a)(1)(D)—Equities, this exception refers to the ISO that is received by a Trading Center.

The Exchange proposed an exemption to the Trade-at Prohibition for Trade-at ISOs to clarify that an ISO that is received by a Trading Center (and which could form the basis of an execution at the price of a Protected Quotation pursuant to Section VI(D)(8) of the Plan), is identified as a Trade-at ISO. Depending on whether Rule 611 of Regulation NMS or the Trade-at requirement applies, an ISO may mean that the sender of the ISO has swept better-priced Protected Quotations, so that the recipient of that ISO may trade through the price of the Protected Quotation (Rule 611 of Regulation NMS), or it could mean that the sender of the ISO has swept Protected Quotations at the same price that it wishes to execute at (in addition to any better-priced quotations), so the recipient of that ISO may trade at the price of the Protected Quotation (Trade-at). Given that the meaning of an ISO may differ under Rule 611 of Regulation NMS and Trade-at, the Exchange proposed an exemption to the Trade-at Prohibition for Trade-at ISOs so that the recipient of an ISO in a Test Group Three security would know, upon receipt of that ISO, that the Trading Center that sent the ISO had already executed against the full size of displayed quotations at that price, *e.g.,* the recipient of that ISO could permissibly trade at the price of the Protected Quotation.

[39] In connection with the definition of a Trade-at ISO proposed in Rule 67(a)(1)(D)—Equities, this exception refers to the Trading Center that routed the ISO.

[40] The stopped order exemption in Rule 611 of Regulation NMS applies where ''[t]he price of the trade-through transaction was, for a stopped buy order, lower than the national best bid in the NMS stock at the time of execution or, for a stopped sell order, higher than the national best offer in the NMS stock at the time of execution'' (*see,* 17 CFR 242.611(b)(9)). The Trade-at stopped order exception applies where ''the price of the Trade-at transaction was, for a stopped buy order, equal to the national best bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to the national best offer in the Pilot Security at the time of execution'' (*see,* Plan, Section VI(D)(12)).

To illustrate the application of the stopped order exemption as it currently operates under Rule 611 of Regulation NMS and as it is currently proposed for Trade-at, assume the National Best Bid is $10.00 and another protected quote is at $9.95. Under Rule 611 of Regulation NMS, a stopped order to buy can be filled at $9.95 and the firm does not have to send an ISO to access the protected quote at $10.00 since the price of the stopped order must be lower than the National Best Bid. For the stopped order to also be executed at $9.95 and satisfy the Trade-at requirements, the Trade-at exception would have to be revised to allow an order to execute at the price of a protected quote which, in this case, could be $9.95.

Based on the fact that a stopped order would be treated differently under the Rule 611 of Regulation NMS exception than under the Trade-at exception in the Plan, the Exchange believes that it is appropriate to amend the Trade-at stopped order exception in the Plan to ensure that the application of this exception would produce a consistent result under both Regulation NMS and the Plan. Therefore, the Exchange proposes in this proposed Rule 67(e)(4)(C)(xiii)—Equities to allow a transaction to satisfy the Trade-at requirement if the stopped order price, for a stopped buy order, is equal to or less than the National Best Bid, and for a stopped sell order, is equal to or greater than the National Best Offer, as long as such order is priced at an acceptable increment. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See,* the Exemption Letter, supra note 25. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

[41] The exceptions to the Trade-at requirement set forth in the Plan and in the Exchange's proposed

Continued

A. The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market;

B. The unauthorized or unintended purchase, sale, or allocation of securities, or the failure to follow specific client instructions;

C. The incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or

D. A delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order.

Finally, Proposed Rule 67(e)(4)(D)—Equities would prevent member organizations from breaking an order into smaller orders or otherwise effecting or executing an order to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[42] in general, and furthers the objectives of Section 6(b)(5) of the Act,[43] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with the Act because it ensures that the Exchange and its member organizations would be in compliance with a Plan approved by the Commission pursuant to an order issued by the Commission in reliance on Section 11A of the Act.[44] Such approved Plan gives the Exchange authority to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange believes that the proposed rule change is consistent with the authority granted to it by the Plan to establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan. Likewise, the Exchange believes that the proposed rule change provides interpretations of the Plan that are consistent with the Act, in general, and furthers the objectives of the Act, in particular.

Furthermore, the Exchange is a Participant under the Plan and subject, itself, to the provisions of the Plan. The proposed rule change ensures that the Exchange's systems would not display or execute trading interests outside the requirements specified in such Plan. The proposal would also help allow market participants to continue to trade NMS Stocks within quoting and trading requirements that are in compliance with the Plan, with certainty on how certain orders and trading interests would be treated. This, in turn, will help encourage market participants to continue to provide liquidity in the marketplace.

Because the Plan supports further examination and analysis on the impact of tick sizes on the trading and liquidity of the securities of small capitalization companies, and the Commission believes that altering tick sizes could result in significant market-wide benefits and improvements to liquidity and capital formation, adopting rules that enforce compliance by its member organizations with the provisions of the Plan would help promote liquidity in the marketplace and perfect the mechanism of a free and open market and national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the trading and quoting requirements specified in the Plan, of which other equities exchanges are also Participants. Other competing national securities exchanges are subject to the same trading and quoting requirements specified in the Plan. Therefore, the proposed changes would not impose any burden on competition, while providing certainty of treatment and execution of trading interests on the Exchange to market participants in NMS Stocks that are acting in compliance with the requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[45] and Rule 19b–4(f)(6) thereunder.[46] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the

Rule 67(e)(4)(C)—Equities are, in part, based on the exceptions to the trade-through requirement set forth in Rule 611 of Regulation NMS, including exceptions for an order that is executed as part of a transaction that was not a ''regular way'' contract, and an order that is executed as part of a single-priced opening, reopening, or closing transaction by the Trading Center (*see,* 17 CFR 242.611(b)(2) and (b)(3)). Following the adoption of Rule 611 of Regulation NMS and its exceptions, the Commission issued exemptive relief that created exceptions from Rule 611 of Regulation NMS for certain error correction transactions. *See,* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007); Securities Exchange Act Release No. 55883 (June 8, 2007), 72 FR 32927 (June 14, 2007). The Exchange has determined that it is appropriate to incorporate this additional exception to the Trade-at Prohibition, as this exception is equally applicable in the Trade-at context.

Accordingly, the Exchange is proposing to exempt certain transactions to correct bona fide errors in the execution of customer orders from the Trade-at Prohibition, subject to the conditions set forth by the SEC's order exempting these transactions from Rule 611 of Regulation NMS. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See,* the Exemption Letter, supra note 25. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

As with the corresponding exception under Rule 611 of Regulation NMS, the bona fide error would have to be evidenced by objective facts and circumstances, the Trading Center would have to maintain documentation of such facts and circumstances and record the transaction in its error account. To avail itself of the exemption, the Trading Center would have to establish, maintain, and enforce written policies and procedures reasonably designed to address the occurrence of errors and, in the event of an error, the use and terms of a transaction to correct the error in compliance with this exemption. Finally, the Trading Center would have to regularly surveil to ascertain the effectiveness of its policies and procedures to address errors and transactions to correct errors and take prompt action to remedy deficiencies in such policies and procedures. *See,* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007).

[42] 15 U.S.C. 78f(b).

[43] 15 U.S.C. 78f(b)(5).

[44] 15 U.S.C. 78k–1.

[45] 15 U.S.C. 78s(b)(3)(A)(iii).

[46] 17 CFR 240.19b–4(f)(6).

proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [47] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[48] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [49] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2016–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–56. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–56 and should be submitted on or before June 27, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[50]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13209 Filed 6–3–16; 8:45 am]

BILLING CODE 8011–01–P

[47] 17 CFR 240.19b–4(f)(6).

[48] 17 CFR 240.19b–4(f)(6)(iii).

[49] 15 U.S.C. 78s(b)(2)(B).

[50] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14730 and #14731]

Oklahoma Disaster #OK–00103

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Oklahoma dated 05/26/2016.

Incident: Tornadoes, Severe Storms, Flooding and Straight-line Winds.

Incident Period: 05/09/2016 through 05/13/2016.

Effective Date: 05/26/2016.

Physical Loan Application Deadline Date: 07/25/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 02/27/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Murray.

Contiguous Counties:

Oklahoma: Carter, Garvin, Johnston, Pontotoc.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.250
Homeowners Without Credit Available Elsewhere	1.625
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14730 B and for economic injury is 14731 0.

The State which received an EIDL Declaration # is Oklahoma.

(Catalog of Federal Domestic Assistance Number 59008)

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–13174 Filed 6–3–16; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2016–0025]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2016–0025].

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 August 5, 2016. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Waiver of Your Right to Personal Appearance before an Administrative Law Judge—20 CFR 404.948(b)(l)(i) and 416.1448(b)(l)(i)–0960–0284. Applicants for Social Security, Old Age, Survivors and Disability Insurance (OASDI) benefits and Supplemental Security Income (SSI) payments have the statutory right to appear in person, or through a representative, and present evidence about their claims at a hearing before an administrative law judge (ALJ). If claimants wish to waive this right to appear before an ALJ, they must do so in writing. Form HA–4608 serves as a written waiver for the claimant's right to a personal appearance before an ALJ. The ALJ uses the information we collect on Form HA–4608 to continue processing the case, and makes the completed form a part of the documentary evidence of record by placing it in the official record of the proceedings as an exhibit. Respondents are applicants or claimants for OASDI and SSI, or their representatives, who request to waive their right to appear in person before an ALJ.

Type of Request: Revision of an approved-OMB information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–4608	12,000	1	2	400

2. Letter to Custodian of Birth Records/Letter to Custodian of School Records—20 CFR 404.704, 404.716, 416.802, and 422.107—0960–0693. When individuals need help in obtaining evidence of their age in connection with Social Security number (SSN) card applications and claims for benefits, SSA can prepare the SSA–L106, Letter to Custodian of School Records, or SSA–L706, Letter to Custodian of Birth Records. SSA uses the SSA–L706 to determine the existence of primary evidence of age of SSN applicants. SSA uses both letters to verify with the issuing entity, when necessary, the authenticity of the record submitted by the SSN applicant or claimant. The respondents are schools, State and local bureaus of vital statistics, and religious entities.

Type of Request: Revision of an OMB-approved information collection.

SSA–L106

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Private Sector	1,800	1	10	300
State/Local/Tribal Government	1,800	1	10	300
Total	3,600			600

SSA–L706

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Private Sector	1,800	1	10	300
State/Local/Tribal Government	1,800	1	10	300
Total	3,600			600
Grand Total	7,200			1,200

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 6, 2016. Individuals can obtain copies of

the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Waiver of Supplemental Security Income Payment Continuation—20 CFR 416.1400–416.1422—0960–0783. SSI recipients who wish to discontinue their SSI payments while awaiting a determination on their appeal complete Form SSA–263–U2, Waiver of Supplemental Security Income Payment Continuation, to inform SSA of this decision. SSA collects the information to determine whether the SSI recipient meets the provisions of The Social Security Act regarding waiver of payment continuation and as proof respondents no longer want their payments to continue. Respondents are recipients of SSI payments who wish to discontinue receipt of payment while awaiting a determination on their appeal

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–263–U2	3,000	1	5	250

Dated: May 31, 2016.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2016–13202 Filed 6–3–16; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 9597]

Notice of Public Meeting

The Department of State will conduct an open meeting at 10:00 a.m. on Thursday, July 14, 2016, in room 5Y23–21, U.S. Coast Guard Headquarters, 2703 Martin Luther King, Jr. Ave SE., Washington, DC 20593–7213. The primary purpose of the meeting is to prepare for the third Session of the International Maritime Organization's (IMO) Sub-Committee on Implementation of IMO Instruments (III 3) to be held at the IMO Headquarters, United Kingdom, on July 18–22, 2016.

The agenda items to be considered include:

—Decisions of other IMO bodies;
—Consideration and analysis of reports on alleged inadequacy of port reception facilities;
—Lessons learned and safety issues identified from the analysis of marine safety investigation reports;
—Measures to harmonize port state control (PSC) activities and procedures worldwide;
—Identified issues related to the implementation of IMO instruments from the analysis of PSC data;
—Analysis of consolidated audit summary reports;
—Updated survey guidelines under the Harmonized System of Survey and Certification (HSSC);
—Non-exhaustive list of obligations under the instruments relevant to the IMO Instruments Implementation Code (III Code); and
—Unified interpretation of provisions of IMO safety, security, and environment related conventions.

The public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Mr. Christopher Gagnon, by email at *christopher.j.gagnon@uscg.mil* or by phone at (202) 372–1231, or in writing at 2703 Martin Luther King Jr. Ave. SE. Stop 7213, Washington DC 20593–7509 not later than July 5, 2016. Requests made after July 5, 2016 might not be able to be accommodated, and same day requests will not be accommodated due to the building's security process. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to Coast Guard Headquarters. It is recommended that attendees arrive to the Headquarters building no later than 30 minutes ahead of the scheduled meeting for the security screening process. The Headquarters building is accessible by taxi and public transportation. Parking in the vicinity of the building is extremely limited and not guaranteed. Due to the size of the room and security protocols at Coast Guard Headquarters, members of the public are encouraged to participate via teleconference. The access number for this teleconference line will be posted online at *http://www.uscg.mil/imo/iii/default.asp.* Additional information regarding this and other IMO public meetings may be found at: *www.uscg.mil/imo.*

Dated: May 28, 2016.

Jonathan W. Burby,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2016–13162 Filed 6–3–16; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 9598]

60-Day Notice of Proposed Information Collection: Application for a U.S. Passport: Corrections, Name Change Within 1 Year of Passport Issuance, and Limited Passport Holders

AGENCY: Department of State.

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to August 5, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2016–0022'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: PPTFormsOfficer@state.gov.*

You must include the DS form number, information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to PPT Forms Officer, U.S. Department of State, CA/PPT/S/L 44132 Mercure

Cir, P.O. Box 1227, Sterling, VA 20166–1227, or at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application for a U.S. Passport: Correction, Name Change Within 1 Year of Passport Issuance, And Limited Passport Holders.
- *OMB Control Number:* 1405–0160.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Legal Affairs and Law Enforcement Liaison (CA/PPT/S/L).
- *Form Number:* DS–5504.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 136,833.
- *Estimated Number of Responses:* 136,833.
- *Average Time per Response:* 40 minutes per response.
- *Total Estimated Burden Time:* 91,222 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Under 22 United States Code (U.S.C.) Section 211a *et seq.* and Executive Order 11295 (August 5, 1966), the Secretary of State issues U.S. passports to U.S. citizens and non-citizen nationals. When the bearer of a valid U.S. passport applies for a new passport with corrected personal data or when the bearer of a limited validity passport applies for a fully-valid replacement passport, the Department must confirm the applicant's identity and eligibility before the Department can issue the new passport to the applicant. Form DS–5504 requests information needed to determine whether the applicant is eligible to receive this service in accordance with the requirements of Title III of the Immigration and Nationality Act (INA) (U.S.C. 1402–1504), the regulations at 22 CFR parts 50 and 51, and other applicable treaties and laws.

Methodology

Passport applicants can either download the DS–5504 from the internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, signed, and submitted along with the applicant's valid U.S. passport and supporting documents for corrective action.

Additional Information

The Privacy Act statement has been amended to clarify that an applicant's failure to provide his or her Social Security number may result in the denial of an application, consistent with Section 32101 of the Fixing America's Surface Transportation Act (Pub. L. 114–94) which authorizes the Department to deny U.S. passport applications when the applicant failed to include his or her Social Security number. It also makes clear that failure to include one's Social Security number may also subject the applicant to a penalty enforced by the International Revenue Service. These requirements and the underlying legal authorities are further described on page 3 of the instructions titled ''Federal Tax Law'' which has also been amended to include a reference to Public Law 114–94.

Dated: May 24, 2016.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2016–13347 Filed 6–3–16; 8:45 am]

BILLING CODE 4710–06–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 682 (Sub-No. 7)]

2015 Tax Information for Use in the Revenue Shortfall Allocation Method

AGENCY: Surface Transportation Board.

ACTION: Notice.

SUMMARY: The Board is publishing, and providing the public an opportunity to comment on, the 2015 weighted average state tax rates for each Class I railroad, as calculated by the Association of American Railroads (AAR), for use in the Revenue Shortfall Allocation Method (RSAM).

DATES: Comments are due by July 6, 2016. If any comment opposing AAR's calculation is filed, AAR's reply will be due by July 26, 2016. If no comments are filed by the due date, AAR's calculation of the 2015 weighted average state tax rates will be automatically adopted by the Board, effective July 7, 2016.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies referring to Docket No. EP 682 (Sub-No. 7) to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Nathaniel Bawcombe, (202) 245–0376. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The RSAM figure is one of three benchmarks that together are used to determine the reasonableness of a challenged rate under the Board's *Simplified Standards for Rail Rate Cases,* EP 646 (Sub-No. 1) (STB served Sept. 5, 2007),[1] as further revised in *Simplified Standards for Rail Rate Cases–Taxes in Revenue Shortfall Allocation Method,* EP 646 (Sub-No. 2) (STB served Nov. 21, 2008). RSAM is intended to measure the average markup that the railroad would need to collect from all of its ''potentially captive traffic'' (traffic with a revenue-to-variable-cost ratio above 180%) to earn adequate revenues as measured by the Board under 49 U.S.C. 10704(a)(2) (*i.e.,* earn a return on investment equal to the railroad industry cost of capital). *Simplified Standards–Taxes in RSAM,* slip op. at 1. In *Simplified Standards–Taxes in RSAM,* slip op. at 3, 5, the Board modified its RSAM formula to account for taxes, as the prior formula mistakenly compared pre-tax and after-tax revenues. In that decision, the Board stated that it would institute a separate proceeding in which Class I railroads would be required to submit the annual tax information necessary for the

[1] *Aff'd sub nom. CSX Transp., Inc.* v. *STB,* 568 F.3d 236 (D.C. Cir. 2009), *and vacated in part on reh'g, CSX Transp., Inc.* v. *STB,* 584 F.3d 1076 (D.C. Cir. 2009).

Board's annual RSAM calculation. *Id.* at 5–6.

In *Annual Submission of Tax Information for Use in the Revenue Shortfall Allocation Method,* EP 682 (STB served Feb. 26, 2010), the Board adopted rules to require AAR—a national trade association—to annually calculate and submit to the Board the weighted average state tax rate for each Class I railroad. *See* 49 CFR 1135.2(a). On May 27, 2016, AAR filed its calculation of the weighted average state tax rates for 2015, listed below for each Class I railroad:

WEIGHTED AVERAGE STATE TAX RATES

[In percent]

Railroad	2015	2014	% Change
BNSF Railway Company	5.271	5.478	−0.207
CSX Transportation, Inc.	5.247	5.398	−0.151
Grand Trunk Corporation	7.767	8.058	−0.291
The Kansas City Southern Railway	5.430	5.746	−0.316
Norfolk Southern Combined	5.501	5.713	−0.212
Soo Line Corporation	8.083	8.092	−0.009
Union Pacific Railroad Company	5.655	5.885	−0.230

Any party wishing to comment on AAR's calculation of the 2015 weighted average state tax rates should file a comment by July 6, 2016. *See* 49 CFR. 1135.2(c). If any comments opposing AAR's calculations are filed, AAR's reply will be due by July 26, 2016. *Id.* If any comments are filed, the Board will review AAR's submission, together with the comments, and serve a decision within 60 days of the close of the record that either accepts, rejects, or modifies AAR's railroad-specific tax information. *Id.* If no comments are filed by July 6, 2016, AAR's submitted weighted average state tax rates will be automatically adopted by the Board, effective July 7, 2016. *Id.*

Decided: June 1, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. Contee,

Clearance Clerk.

[FR Doc. 2016–13268 Filed 6–3–16; 8:45 am]

BILLING CODE 4915–01–P

TENNESSEE VALLEY AUTHORITY

Agency Information Collection Activities: Proposed Collection; Comment Request; Correction

AGENCY: Tennessee Valley Authority.

ACTION: Notice; correction.

SUMMARY: The Tennessee Valley Authority published a document in the **Federal Register** of May 26, 2016, concerning a proposed information collection that will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). This correction adds additional contact information.

FOR FURTHER INFORMATION CONTACT: Christopher A. Marsalis, (865) 632–2467 or by email at *camarsalis@tva.gov.*

Correction

In the **Federal Register** of May 26, 2016, in FR Doc. 2016–12401, on page 33577, in the first column, correct the ''Addresses'' caption to read:

ADDRESSES: Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Senior Privacy Program Manager: Christopher A. Marsalis, Tennessee Valley Authority, 400 W. Summit Hill Dr. (WT 5D), Knoxville, Tennessee 37902–1401; telephone (865) 632–2467 or by email at *camarsalis@tva.gov;* or to Joy L. Lloyd, Tennessee Valley Authority, 400 W. Summit Hill Dr. (WT 5A), Knoxville, Tennessee 37902–1401; telephone (865) 632–8370 or by email at *jllloyd@tva.gov;* or to the Agency Clearance Officer: Philip D. Propes, Tennessee Valley Authority, 1101 Market Street (MP 2C), Chattanooga, Tennessee 37402–2801; telephone (423) 751–8593 or email at *pdpropes@tva.gov.*

Dated: May 26, 2016.

Philip D. Propes,

Director, Enterprise Information Security and Policy.

[FR Doc. 2016–13214 Filed 6–3–16; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Airport Property

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on request to release airport property at the Ankeny Regional Airport, Ankeny, Iowa.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the Ankeny Regional Airport, Ankeny, Iowa, under the provisions of 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before July 6, 2016.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Polk County Aviation Authority, Jeff Wangsness, President, C/O Brick Gentry P.C. 6701 Westown Parkway Suite 100, West Des Moines, IA 50266, 515–274–1450.

FOR FURTHER INFORMATION CONTACT: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106, (816) 329–2644, *lynn.martin@faa.gov.*

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 approximately 10.42 acres of airport property at the Ankeny Regional Airport (IKV) under the provisions of 49 U.S.C. 47107(h)(2). On March 16, 2016, the Airport Authority at the Ankeny Regional Airport requested from the FAA that approximately 10.42 acres of property be released for sale to Mr. and Mrs. Darryl Bresson for use as an agriculture operation with future business prospects. On March 16, 2016, the FAA determined that the request to

release property at the Ankeny Regional Airport (IKV) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

Ankeny Regional Airport (IKV) is proposing the release of one parcel, of 10.42 acres, more or less. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at the Ankeny Regional Airport (IKV) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for general aviation facilities at the Ankeny Regional Airport.

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 determined by the FAA to be related to the application in person at the Ankeny Regional Airport.

Issued in Kansas City, MO on May 24, 2016.

Jim A. Johnson,

Manager, Airports Division.

[FR Doc. 2016–13183 Filed 6–3–16; 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 Ralph Wenz Field, Pinedale, Wyoming

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 Ralph Wenz Field 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 July 6, 2016.

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. James C. Parker, Jr., Airport Manager, Ralph Wenz Field, Pinedale, Wyoming, at the following address: Mr. James C. Parker, Jr., Airport Manager, Ralph Wenz Field, P.O. Box 1766, Pinedale, Wyoming 82941.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse Lyman, Wyoming State Engineer, 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 Ralph Wenz Field under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On May 23, 2016, the FAA determined that the request to release property at Ralph Wenz Field submitted by The Town of Pinedale meets the procedural requirements of the FAA. The FAA may approve the request, in whole or in part, no later than July 6, 2016.

The following is a brief overview of the request:

The Town of Pinedale, Wyoming, is proposing the release from the terms, conditions, reservations, and restrictions on a 0.76 acre parcel of property acquired by the Town of Pinedale on November 9, 2004, with the assistance of Airport Improvement Program (AIP) Grant No. 3–56–0021–11. This parcel is outside of the Runway Protection Zone and is considered a non-economic remnant. The parcel in question has been part of a long-standing lawsuit regarding a property line dispute with the adjacent landowners. A settlement has been reviewed and approved by the district court to deed this parcel of land back to the adjacent landowners. As the property was purchased with AIP funds, the fair market value of the property will be reinvested in future AIP eligible projects and will be used to offset future AIP grants.

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 Ralph Wenz Field.

Issued in Denver, Colorado, on May 23, 2016.

John P. Bauer,

Manager, Denver Airports District Office.

[FR Doc. 2016–13179 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0341]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 40 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on February 17, 2016. The exemptions expire on February 17, 2018.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays.

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

II. Background

On January 14, 2016, FMCSA published a notice of receipt of Federal diabetes exemption applications from 40 individuals and requested comments from the public (81 FR 1987. The public comment period closed on February 16, 2016, and 1 comment was received.

FMCSA has evaluated the eligibility of the 40 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 40 applicants have had ITDM over a range of 1 to 41 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the January 14, 2016, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received one comment in this proceeding. Jayme Dehner stated that, in her opinion, drivers with diabetes manage their health better than other drivers and is in favor of granting the exemptions.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 40 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Kevin D. Aaron (PA)
Juan Acevedo (FL)
Philip K. Allen (NY)
Marvin L. Attaway (NM)
Lewis M. Belcher (WV)
Walter E. Boles (OH)
Eugene O. Carr, Jr. (DE)
Tracy R. Clark (KY)
Jerry L. Coward (NC)
Wesley N. Cubby (NJ)
Robert C. Davis (MI)
Michael G. Deschenes (MN)
James C. Detwiler (PA)
Jay E. Diller (PA)
Thomas M. Ellis (PA)
Jose N. Escobar (MD)
James C. Gilkerson (OH)
Frank J. Gogno (PA)
Michael D. Hashem (MA)
George W. Hauck (LA)
Aseneka K. Igambi (TX)
Hayward G. Jinright (AL)
James S. Kauffman (PA)
Kevin M. Kemp (NJ)
Anthony M. Lopez (TX)
Carlos A. Montano (NY)
Patrick O. Parent (DE)
Michael J. Payne (MD)
Charles B. Perry (OR)
Christopher M. Seals (MS)
Robert Sienkiewicz (MI)
Craig A. Sines (OR)
Joel K. Spencer (AL)
Michael J. Sweeney (NY)
Kendall W. Unruh (MO)
Daniel R. Vilart (WA)
Billy F. Wallace (AL)
Travis J. Womack (NC)
Logan D. Yoder (IN)
Landon L. Zimmerman (PA)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: May 31, 2016

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–13263 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2015–0061]

Request for Approval of a New Information Collection

ACTION: Notice and request for comments .

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on October 29, 2016.

DATES: Written comments should be submitted on or before July 6, 2016.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Ritchie Huang, Crash Avoidance and Electronic Controls Division, NHTSA, 1200 New Jersey Ave. SE., Washington, DC 20590; Telephone (202) 366–5586; Facsimile: (202) 366–8546; email address: *ritchie.huang@dot.gov.*

SUPPLEMENTARY INFORMATION: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). In compliance with these requirements, this notice announces that the following information collection request has been forwarded to OMB. In the October 29, 2015 **Federal Register** [1], NHTSA published a 60-day notice requesting public comment on the proposed collection of information. We received zero comments.

OMB Control Number: To be issued at time of approval.

Title: Heavy Vehicle Collision Warning Interfaces.

Form Numbers: None.

Type of Review: New information collection.

Abstract: Crash warning systems (CWSs) for commercial motor vehicles have been available for more than 20 years. CWSs can include features such as forward collision and lane departure warnings and use a variety of sensor technologies (*e.g.,* radar) to determine the crash risk of a collision. CWSs are designed to warn the driver to take action to avoid or mitigate a potential crash.

CWSs are available as both options from OEMs and as aftermarket/retrofit devices. While there are certain similarities between offerings within a particular CWS product class (*e.g.,* forward collision warning (FCW)), there are also differences in how suppliers present collision warnings, including the design of visual displays and auditory alerts. Typically, suppliers will use a combination of visual and audio modalities to convey a potential crash situation to the driver. However, their implementations vary across factors such as the visual interface, auditory alert, and the salience of alerts. While CWS implementations change and evolve, it is likely that certain warning interfaces are more effective than others during crash-imminent situations. This research seeks to examine the impact of CWSs as they pertain to commercial motor vehicle safety. The primary goal of this effort is to evaluate CWSs and assess the effectiveness of these driver-vehicle interfaces for heavy trucks and motorcoaches.

Respondents: Virginia, West Virginia, North Carolina, and Tennessee drivers with a valid Class A commercial driver license.

Estimated Number of Respondents: It is estimated that up to 60 Class A CDL drivers will participate; however, it is estimated that up to 100 Class A CDL drivers will complete the eligibility questionnaire in order to obtain 60 Class A CDL drivers that meet the criteria to participate.

Estimated Time per Response: Completion of the eligibility questionnaire is expected to take 10 minutes while the demographics questionnaire is expected to take two minutes. The mid-study questionnaires 10 minutes total and the post study questionnaire will take 15 minutes.

Total Estimated Burden: 37 minutes per respondent (44 hours total).

Frequency of Collection: Onetime for the eligibility, post study, and demographic questionnaire; three times for the mid study questionnaire.

NHTSA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED BURDEN HOURS

Instrument	Number of respondents [1]	Frequency of responses	Number of questions	Estimated individual burden (minutes)	Total estimated burden hours	Total annualize cost to respondents [2]
Eligibility questionnaire	100	1	26	10	17	$ 414.80
Demographic questionnaire	60	1	7	2	2	48.80
Mid-study questionnaires	60	3	9	10	10	244.00
Post study questionnaire	60	1	12	15	15	366.00
Total					44	1,073.60

[1] The number of respondents in this table includes drop-out rates.

[2] Estimated based on the mean hourly rate for Virginia (all occupations) is $24.40 as reported in the May 2014 Occupational Employment and Wage Estimates, Bureau of Labor Statistics. *http://www.bls.gov/oes/current/oes_va.htm.*

[1] 80 FR 24314 (April 30, 2015).

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.95.

Nathaniel Beuse,

Associate Administrator, Office of Vehicle Safety Research.

[FR Doc. 2016–13186 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2016–0053]

Establishment of Interim National Multimodal Freight Network

AGENCY: Office of the Secretary of Transportation (OST), Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Maritime Administration (MARAD), Saint Lawrence Seaway Development Corporation (SLSDC), and U.S. Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: Section 70103 of title 49, United States Code (U.S.C.), which was established in section 8001 of the Fixing America's Surface Transportation (FAST) Act, directs the Under Secretary of Transportation for Policy (Under Secretary) to establish a National Multimodal Freight Network (NMFN) to: (1) Assist States in strategically directing resources toward improved system performance for the efficient movement of freight on the NMFN; (2) inform freight transportation planning; (3) assist in the prioritization of Federal investment; and (4) assess and support Federal investments to achieve the national multimodal freight policy goals described in section 70101(b) of title 49, U.S.C., and the national highway freight program goals described in section 167 of title 23, U.S.C.

Within 180 days of the enactment of the FAST Act, the Under Secretary is directed to establish an Interim NMFN. This notice establishes an Interim NMFN per the statutory requirements and solicits public comment to help inform the Final NMFN that will be designated by December 4, 2017, per the statutory requirement.

DATES: Comments must be received on or before September 6, 2016 to receive consideration by DOT with respect to the final designation of the NMFN.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.
- *Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ryan Endorf, 202–366–4835 or email *freight@dot.gov.*

SUPPLEMENTARY INFORMATION:

Additional Information

Background: Each day, our roads, rails, bridges, seaports, airports, and waterways transport 55 million tons of goods, worth more than $49 billion. Freight travels over an extensive multimodal network of highways, railroads, ports, waterways, pipelines, and airways. A significant portion of the freight moved on this network requires multiple modes of transportation and intermodal connections to reach its final destination. Thus, the reliable movement of freight in the United States depends on all modes working together such that the multimodal freight system functions smoothly and without costly delays.

In a transportation law passed in July, 2012—the Moving Ahead for Progress in the 21st Century Act (MAP–21)—Congress directed DOT to develop a National Freight Strategic Plan and a National Freight Network (NFN) of highways. The NFN was to include the designation of a Primary Freight Network (PFN) of 27,000 centerline miles. On November 19, 2013, DOT published a draft PFN for comment in the **Federal Register**. In developing the PFN and reviewing the resulting public comments, DOT determined that efforts to incorporate all of the criteria required by MAP–21 did not yield a network that could comprehensively represent the most critical elements of the national freight system. Among other factors, the effort to link qualifying PFN segments to achieve a contiguous network, and to ensure sufficient connections to Mexico and Canada, would require the designation of many thousands of miles beyond the 27,000 centerline miles allowed by MAP–21. Significantly, the draft PFN also did not reflect the location of non-truck freight modes including rail, water and pipeline, which play an essential role in long-distance movement of freight.

In October 2015, DOT released a draft Multimodal Freight Network (MFN) as part of its draft National Freight Strategic Plan (NFSP).[1] That draft network addressed the deficiencies of the PFN by identifying 65,000 centerline miles of road, more than 28 percent of the mileage of the National Highway System (NHS) and approximately 1.6 percent of the nation's total public road mileage; 49,900 route miles of railways representing 35 percent of the nation's rail route miles; 78 ports that accounted for approximately 90 percent of total 2013 U.S. tonnage; and 56 airports that accounted for approximately 90 percent by weight of the nation's landed air cargo in 2013.

Section 70103 of title 49, U.S.C., which was established in section 8001 of the FAST Act, directs the Under Secretary to establish a NMFN that will be used to: (1) Assist States in strategically directing resources toward improved system performance for the efficient movement of freight on the NMFN; (2) inform freight transportation planning; (3) assist in the prioritization of Federal investment; and (4) assess and support Federal investments to achieve the national multimodal freight policy goals described in section 70101(b) of title 49, U.S.C., and the national highway freight program goals described in section 167 of title 23, U.S.C.

Within 180 days of the enactment of the FAST Act, the Under Secretary is directed to establish an Interim NMFN that includes the following components: (1) The National Highway Freight Network (NHFN), as established under section 167 of title 23, U.S.C.; (2) the freight rail systems of Class I railroads as designated by the Surface Transportation Board; (3) the public ports of the United States that have total annual foreign and domestic trade of at least 2,000,000 short tons, as identified by the Waterborne Commerce Statistics Center of the Army Corps of Engineers (USACE), using the data from the latest year for which such data are available; (4) the inland and intracoastal waterways of the United States, as described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804); (5) the Great Lakes, the St. Lawrence Seaway, and coastal and ocean routes along which domestic freight is transported; (6) the 50 airports

[1] *https://www.transportation.gov/freight/MFNOct2015*

located in the United States with the highest annual landed weight, as identified by the FAA; and (7) other strategic freight assets, including strategic intermodal facilities and freight rail lines of Class II and Class III railroads, designated by the Under Secretary as critical to interstate commerce.

Not later than 1 year after the enactment of the FAST Act, the Under Secretary is directed, after soliciting input from stakeholders [2] through a public process and providing notice and an opportunity for comment on a draft NMFN, to designate a Final NMFN with the goal of (1) improving network and intermodal connectivity; and (2) using measurable data as part of the assessment of the significance of freight movement, including consideration of points of origin, destinations, and linking components of domestic and international supply chains. The Interim NMFN will serve as the draft NMFN.

Interim National Multimodal Freight Network Establishment: The Interim NMFN is based on the statutory requirements identified in 49 U.S.C. 70103(b)(2).[3] Maps and tables that provide details of this Interim NMFN can be found at *https://www.transportation.gov/freight/InterimNMFN.* This section will describe the factors used to establish the Interim NMFN.

The NHFN is established under 23 U.S.C. 167 and includes: (1) The Primary Highway Freight System (PHFS), which Congress designated in the FAST Act to replace the PFN (the new PHFS is a 41,518-mile network identified during the designation process for the PFN); (2) the critical rural freight corridors established under 23 U.S.C. 167(e); (3) the critical urban freight corridors established under 23 U.S.C. 167(f); and (4) the portions of the Interstate System not designated as part of the PHFS. States have the authority to designate critical rural freight corridors. Critical urban freight corridors may be designated by the relevant States or Metropolitan Planning Organization (MPOs), in consultation with each other, depending on population size. As no State or MPO has yet designated a critical rural or urban freight corridor as part of the NHFN, the highway portion of the Interim NMFN will consist of the 41,518-mile PHFS and the other portions of the Interstate System not designated as part of the PHFS. The current total mileage of the NHFN shown on the maps for the Interim NMFN is 51,029 miles, however, this mileage will continue to fluctuate as there are some Interstate System segments that have been recently constructed or converted to Interstate System designation and, as such, are automatically included in the NHFN. These additional segments are not yet shown on our NHFN maps or calculated in the 51,029 miles.

As specified by the FAST Act, the Interim NMFN contains the freight rail systems of the Class I railroads as designated by the Surface Transportation Board (STB), totaling more than 95,000 route miles. Compared to the draft MFN released by DOT in October 2015, the rail network provided for in the FAST Act is much more expansive. Additionally, the statute specifically references other strategic freight assets, including other intermodal facilities and freight rail lines of Class II and Class III railroads, designated by the Under Secretary as critical to interstate commerce.

DOT has included (as strategic freight assets) routes critical to interstate commerce which encompassed any rail connections to ports that are included on the Interim NMFN. In addition, those routes critical to national defense, which are designated by the U.S. Department of Defense's (DOD) Strategic Rail Corridor Network (STRACNET), are included in the Interim NMFN. These additional designations, which draw extensively from the Class II and Class III railroads, are necessary to promote network connectivity, which is vital for interstate commerce and national defense. The designation of the Interim NMFN consists of 104,296 rail route miles, which includes the entire Class I network of 95,200 route miles and 9,096 route miles of Class II and Class III railroad.[4] Of these, the Class II and Class III rail lines account for 9 percent of the rail network by mileage in the Interim NMFN. Class IIs comprise 1,235 route miles while Class IIIs are represented by 7,861 route miles.

Similarly, the 116 ports listed for the Interim NMFN exceed the 78 ports identified in the October 2015 draft MFN proposed by DOT. Using the latest available data obtained from the USACE's Waterborne Commerce Statistics Center (calendar year 2014), DOT has determined that 113 U.S. ports satisfy the 2,000,000 short ton threshold criterion specified in the FAST Act.[5] DOT also included (as strategic freight assets) three additional ports (Portsmouth, VA, San Diego, CA, and Apra Harbor, Guam) in the Interim NMFN that did not satisfy the 2,000,000 short ton threshold but which were strategic ports as of April 1, 2016 as designated by the DOD, bringing the total ports included in the Interim NMFN to 116 ports.[6] The 116 ports included in the Interim NMFN collectively handled more than 95 percent of the nation's domestic and foreign cargo in 2014. The total national waterborne traffic for 2014 was more than 2.3 billion short tons, of which 937 million were domestic traffic.

The maritime component of the Interim NMFN also includes navigable waterways that are used to transport domestic and international freight. The locations and dimensions of these waterways are based on data contained in the published USACE Waterway Network files (Waterway Network).[7] As required by the FAST Act, the Interim NMFN includes U.S. inland and intracoastal waterways specified in section 206 of the Inland Waterways Revenue Act of 1978 (codified at 33 U.S.C. 1804), which provides explicit descriptions of the portions of waterways that are covered under it. DOT used these descriptions to spatially identify those inland and intracoastal waterway links on the Waterway Network that are shown on the NMFN map. As further directed by the FAST Act, other maritime routes on the Waterway Network commonly used for the transport of domestic freight are also depicted in the Interim NMFN,

[2] These stakeholders include the following: multimodal freight system users, transportation providers, Metropolitan Planning Organizations (MPOs), local governments, ports, airports, railroads, and States.

[3] Note that pipelines are not identified specifically in title 49 as a network component to include on the Interim NMFN. DOT considered the inclusion of pipelines in the draft MFN released in October 2015 and concluded that mapping this system or identifying its most important components would likely not yield an enriched level of field information. Additionally, the inclusion of high volume pipelines would likely raise security concerns as pipelines carry valuable energy products that could be potential targets for acts of domestic terrorism and key pipeline networks stretch across miles of remotely populated areas that may not necessarily be monitored regularly. Moreover, pipelines carry only a limited number of product types and are primarily privately owned and operated. For all of these reasons, DOT has not included pipelines in the Interim NMFN.

[4] Note that the entire combined network of Class II and Class III railroad route miles is slightly over 43,200.

[5] The 2014 calendar year tonnage by port for calendar year 2014 published by the U.S. Army Corps of Engineers Waterborne Commerce Statistics Center can be found at *http://www.navigationdatacenter.us/wcsc/porttons14.html.*

[6] The U.S. Army Military Surface Deployment and Distribution Command (SDDC) of the DOD currently has 17 commercial seaports designated as strategic ports, 14 of which handle more than 2,000,000 short tons and are included in the 113 ports described above.

[7] The U.S. Army Corps of Engineers Waterway Network can be found at *http://www.navigationdatacenter.us/data/datanwn.htm.*

including routes on the Great Lakes, U.S. components of the St. Lawrence Seaway, and coastal and open ocean areas.[8]

In all cases, links between designated Interim NMFN ports and the Waterway Network are provided to show continuity. In total, the Interim NMFN includes approximately 26,000 miles of inland, intracoastal, Great Lakes, St. Lawrence Seaway, coastal, and open-ocean waterways. This total does not include the waterway mileage in international waters or foreign waters from the U.S. Mainland to our nation's non-contiguous states (Alaska and Hawaii) or to the territories of Puerto Rico, Guam, and other locations, although waterway routes at and around these locations are included where significant domestic trade takes place.

Collectively, the routes described above also encompass the entire America's Marine Highways route system as designated by the Secretary of Transportation (46 U.S.C. 55601).[9] Marine Highways are available to provide additional freight transportation capacity between U.S. ports, supplementing highway and rail systems. Routes on the inland waterways, intracoastal waterways, Great Lakes, St. Lawrence Seaway, coastal, and open-ocean that are officially designated as Marine Highways are labeled as such in the Interim NMFN map.

In addition, DOT notes that the section 70103 of the FAST Act requires the Interim NMFN to include the top 50 airports by landed weight as identified by the FAA. The FAA identified the top 50 airports by landed weight using the Air Carrier Activity Information System (ACAIS), an FAA database that reflects the certificated maximum gross landed weight of all-cargo aircraft as required by 49 U.S.C. 47102(10) and 49 U.S.C. 47114(2). The ACAIS data, however, do not reflect the actual weight of the cargo being transported on all-cargo aircraft and do not account for other manner of cargo operations, such as belly cargo on passenger operations.

Because the FAA's ACAIS database excludes belly cargo, which is a significant source of freight movement, DOT also considered Bureau of Transportation Statistics (BTS) data that capture cargo weight reported on DOT Form 41, Schedules T–100 [U.S. carriers] and T–100(f) [foreign carriers], which reflects the weight of cargo being transported on both passenger and cargo aircraft.

When considering the top 50 airports in the BTS' Form 41 market data for 2014 (excluding mail and attributing weight by destination to be consistent with the cargo data in ACAIS), there are a total of six airports that are not in the top 50 using the FAA's ACAIS database for 2014, presumably because these airports receive a large amount of belly cargo activity that is not captured by the FAA's ACAIS database.

1. Charlotte Douglas International Airport (CLT)—Charlotte, NC
2. McCarran International Airport (LAS)—Las Vegas, NV
3. Huntsville International Airport (HSV)—Huntsville, AL
4. Spokane International Airport (GEG)—Spokane, WA
5. Tampa International Airport (TPA)—Tampa, FL
6. Pittsburgh International Airport (PIT)—Pittsburgh, PA

DOT has included these six additional airports on the Interim NMFN as ''other strategic freight assets'' that are critical to the movement of interstate commerce. Including these six airports on the Interim NMFN provides a more complete picture of how air freight (including belly cargo) is moving through the airports in the United States.

Final National Multimodal Freight Network Designation: Not later than 1 year after the enactment of the FAST Act, the Under Secretary is directed, after soliciting input from stakeholders (listed in 49 U.S.C. 70103(c)) [10] through a public process and providing notice and an opportunity for comment on a draft NMFN, to designate a Final NMFN with the goal of: (1) Improving network and intermodal connectivity; and (2) using measurable data as part of the assessment of the significance of freight movement, including consideration of points of origin, destinations, and linking components of domestic and international supply chains. The Interim NMFN will serve as the draft NMFN. In designating the route miles and facilities on the Final NMFN, the Under Secretary shall have considered the following factors:

1. Origins and destinations of freight movement within, to, and from the United States;

2. Volume, value, tonnage, and the strategic importance of freight;

3. Access to border crossings, airports, seaports, and pipelines;

4. Economic factors, including balance of trade;

5. Access to major areas for manufacturing, agriculture, or natural resources;

6. Access to energy exploration, development, installation, and production areas;

7. Intermodal links and intersections that promote connectivity;

8. Freight choke points and other impediments contributing to significant measurable congestion, delay in freight movement, or inefficient modal connections;

9. Impacts on all freight transportation modes and modes that share significant freight infrastructure;

10. Facilities and transportation corridors identified by a multi-State coalition, a State, a State freight advisory committee, or an MPO, using national or local data, as having critical freight importance to the region;

11. Major distribution centers, inland intermodal facilities, and first- and last-mile facilities; [11] and

12. The significance of goods movement, including consideration of global and domestic supply chains.

During this designation process, the Under Secretary shall: (1) Use, to the extent practicable, measurable data to assess the significance of goods movement, including the consideration of points of origin, destinations, and linking components of the United States global and domestic supply chains; (2) consider the 12 factors listed above and any changes in the economy that affect freight transportation network demand; and (3) provide the States with an opportunity to submit proposed designations.[12]

DOT seeks comments on corridors or facilities (across all modes) not included in the Interim NMFN that address one or more of the 12 factors noted above, including a discussion of why additional components should be considered for inclusion on the Final NMFN. In particular, DOT seeks public comment on intermodal facilities and border crossings that are not included on the Interim NMFN. DOT requests that any proposed corridors or facilities be supported with data from the most

[8] See 49 U.S.C. 70103(b)(2)(E).

[9] The short sea transportation routes authorized by 46 U.S.C. 55601 are implemented under the America's Marine Highways program, with specific routes referred to as Marine Highways or Connectors.

[10] Stakeholders listed in 49 U.S.C. 70103(c)(1) include multimodal freight system users, transportation providers, MPOs, local governments, ports, airports, railroads, and States. States are assigned additional requirements described in 49 U.S.C. 70103(c)(4).

[11] DOT proposes that the definition for major distribution centers, inland intermodal facilities, and first- and last-mile facilities include both those specific points, such as manufacturers, distribution points, rail intermodal, and port facilities, that handle high volumes of freight, and specific transportation assets, such as roadways, rail lines, or inland waterways, that provide the primary means of transport in the case of first mile, or to the final delivery point in the case of last mile.

[12] See 49 70103(c)(3).

recent year available that demonstrate one or more of the above factors. DOT also requests that any proposed corridors or facilities be submitted with shapefiles, to the extent possible. Below, there is a list of specific questions or data requests pertaining to each mode of transportation reflected on the Interim NMFN.

Highway: DOT seeks input on both the size and composition of the highway portion of the Final NMFN. DOT is also looking for input on what should be the relevant factors for including a land border crossing and roads at that crossing; on whether to include the entire Strategic Highway Network (STRAHNET) [13] or some subset of its routes, such as STRAHNET connectors; and which specific roadway segments (including intermodal connectors and border crossings) should be added to or deleted from the Interim NMFN, with a fact-based or data-driven rationale. State-proposed additions should follow the statutory requirements identified below, under ''State Input.''

DOT also seeks input on whether the 65,000-mile highway network included in the draft MFN released in October 2015 (as part of the draft NFSP)—with or without additional modification for STRAHNET, border crossings, urban or rural connectors, etc.—should be designated as the Final highway portion of the NMFN instead of the highway portion of the Interim NMFN. When proposed last fall, the draft MFN was uncapped and data-driven, featured a lower threshold for truck volumes to capture last and first mile connectors and reflected improved linkages to intermodal facilities compared to the PHFS in the NHFN. The additional continuity and connectivity of the 65,000-miles of the highway portion of the draft MFN provides a more complete representation of the multimodal system that is required to efficiently and effectively move freight in the U.S. For more information on the characteristics and methodology of the larger draft MFN, see the following links to maps, draft MFN, and **Federal Register** notice:

https://www.transportation.gov/sites/dot.gov/files/docs/DRAFT_NFSP_for_Public_Comment_508_10%2015%2015%20v1.pdf (See discussion of methodology in Appendix D beginning on p.138).

https://www.transportation.gov/freight/NationalMFN

https://www.transportation.gov/freight/StateMFNs

https://www.transportation.gov/freight/MFN

https://www.transportation.gov/sites/dot.gov/files/docs/FHWA-151002-013_F%20PFN.pdf

Rail: DOT specifically requests comments relating to the proposed rail network. By statute, the Interim NMFN requires all Class I rail lines to be included. This type of designation does not consider the traffic density and volume across the Class I network, and that some Class II and III systems and segments can handle more traffic than lighter density Class I branch lines. Prior to the implementation of the FAST Act, DOT proposed a draft MFN and defined the rail network using traffic density and volume, among other factors.

In this approach, FRA used the 2013 Carload Waybill Sample and the designated STRACNET coded within the FRA network to determine the rail components of the draft MFN map. Based on the Waybill Sample, FRA developed the following three categories of rail service for potential inclusion in the draft MFN:

- Intermodal rail traffic, which includes trailer on flatcar, container on flatcar, and rail double stack;
- Bulk shipments, which FRA defined to include all non-intermodal moves that consisted of 50 cars or more of the same commodity on the same waybill;
- General merchandise shipments, which include moves that are not intermodal and did not meet the bulk traffic criteria.

All intermodal rail routes are included in the draft MFN. For bulk and general merchandise shipments, FRA allocated the waybill data into three volume tiers and relied on the natural breaks in the volume data to determine those parts of the network that had the greatest volumes, removing those lines on the network with the lowest tier of tons for bulk and general merchandise. All STRACNET lines were included in the draft rail MFN map.

The rail component of the draft MFN map consists of 49,900 route miles, representing 35 percent of the nation's rail route miles. Of this, approximately 94 percent belong to Class I railroads, with the balance belonging to Class II and Class III railroads. Collectively, the rail routes on the draft MFN map account for 60 percent of all rail freight traffic as measured by tons of freight.

FRA also used the 2013 Surface Transportation Board Carload Waybill Sample to determine which rail connectors (interchange points with other modes) should be identified within the draft MFN map. FRA selected the top 50 bulk origination/destination markets (100 locations) and the top 25 intermodal origination/destination markets (50 locations). Since there are duplicates in the 150 total locations, FRA consolidated these to 53 unique locations. This process gave FRA a narrow accounting of the rail connectors, since the waybill sample is not totally structured to identify multimodal connectors. DOT is seeking public comment on any other key factors that should be considered to better capture and identify freight moving on multiple modes. DOT seeks public input on FRA's methodology to structure the rail component of the Final NMFN. This approach would designate routes based primarily on traffic density and volume. Commenters should also address what density levels should be used to determine those lines which should be included in the network. Commenters should also consider Class II and Class III lines with particular attention focused on the statutory language identifying those lines that are critical to interstate commerce. Commenters should also note what criteria are used for determining critical to interstate commerce. Finally, DOT requests alternative methodologies and/or datasets to identify rail lines and the rail connection locations to construct a more robust rail component of the NMFN.

Maritime: DOT requests public comment on the maritime component of the Interim NMFN. As specified by the FAST Act, the Interim NMFN depicts public ports that handle at least 2,000,000 short tons of domestic and foreign trade, annually.

DOT seeks public input regarding the 2,000,000 short ton and strategic port standards that DOT was required to use as the selection criteria for U.S. ports in the Interim NMFN. Specifically, DOT requests comment on whether this standard should be maintained in the Final NMFN or if there are other selection criteria that would more appropriately identify commercial ports that are critical to the NMFN. DOT notes that special considerations (such as status as strategic ports or other ports critical to moving strategic freight assets efficiently by water, such as fuel or energy commodities) will be considered. For instance, DOT requests assistance in identifying any ports that are unique in handling specialty cargoes critical to economic competitiveness and resilience. DOT recognizes that some ports that fall below the 2 million short ton threshold may become critical to movement of goods in times of national emergency and, in those times, could

[13] Note that the 63,000 mile STRAHNET includes the 47,000 mile Interstate routes and an additional 16,000 non-Interstate routes. The bulk of the STRAHNET (the Interstate Routes) is already included in the Interim NMFN.

become the cornerstone for large scale movement of goods. Further, DOT requests public input as to whether the navigable waterways included in the Interim NMFN sufficiently depict routes along which domestic waterborne freight is commonly transported.

Aviation: DOT requests feedback regarding the most appropriate data to use when determining which airports to include in the Final NMFN. As noted above, the FAST Act directed that the Interim NMFN include the top 50 airports by landed all-cargo weight as identified by the FAA. However, this dataset does not account for the amount of cargo moved in the bellies of passenger aircraft. Further, this dataset captures maximum ''landed weight'' of all-cargo aircraft, which is based on the weight determined by aircraft type, regardless of actual cargo carried. DOT supplemented the Interim NMFN by considering additional candidates selected from the top 50 airports using cargo data reported to BTS. These BTS data reflect the weight of cargo being transported on both passenger and cargo aircraft.

For determining how to supplement the interim network, several choices were made regarding the BTS data:

- DOT selected market data rather than segment data. We believe that market data provide a better sense of cargo moving on and off airports, which is appropriate for an intermodal network.
- DOT selected destination (landed) weight rather than origin weight, in order to be consistent with the type of data required in the interim network.
- DOT selected cargo weight only, excluding mail.

Considering the data sources used to determine the interim network, DOT seeks public input regarding what data specifically should be considered for the Final NMFN. Should DOT use only the BTS data? Should DOT continue to combine the BTS data with the ACAIS data? DOT also requests comment on additional methodologies and data sources that have not been considered for the Interim NMFN.

State Input: 49 U.S.C. 70103(c)(1) and 49 U.S.C. 70103(c)(3)(C) direct the Under Secretary to provide the States with an opportunity to submit proposed designations to the NMFN during the process of designating the Final NMFN. 49 U.S.C. 70103(c)(4)(A) requires each State that proposes additional designations to consider nominations for additional designations from a wide range of stakeholders, including MPOs, State Freight Advisory Committees (if applicable), and owners and operators of port, rail, pipeline, and airport facilities. Additionally, each State proposing additional designations is required to ensure that all additional designations are consistent with the State transportation improvement program (STIP) or freight plan. States may designate a freight facility or corridor within the borders of the State as a critical rural freight facility or corridor for the Final NMFN designation. Importantly, please note that this authority and process is unrelated to the highway-specific designation of critical rural freight corridors by States and critical urban freight corridors by States and MPOs for inclusion in the NHFN.[14] In order to qualify as a critical rural freight facility or corridor for the NMFN, the facility or corridor must meet *at least one* of the following conditions:

1. Is a rural principal arterial;
2. Provides access or service to energy exploration, development, installation, or production areas;
3. Provides access or service to—
   a. A grain elevator;
   b. An agricultural facility;
   c. A mining facility;
   d. A forestry facility; or
   e. An intermodal facility;
4. Connects to an international port of entry;
5. Provides access to a significant air, rail, water, or other freight facility in the State; or
6. Has been determined by the State to be vital to improving the efficient movement of freight of importance to the economy of the State.

There is no limitation that such critical rural freight facilities or corridors must be highways. Each State may propose additional designations that are up to 20 percent of the total mileage of modal routes designated by the Under Secretary for the State. For the purposes of this first designation, the ''total mileage'' will be the total mileage in each State on the Interim NMFN. If a State wishes to propose a designation of a future Interstate or NHS route, it should provide information sufficient to demonstrate that the route is critical to the future efficient movement of goods and that the State will make such designation before the end of this year (when the Final NMFN is due). States should submit a list of additional designations to the Under Secretary as part of the public comment process described below. Each State submitting additional designations should also certify that the State has satisfied the requirements of 49 U.S.C. 70103(c)(4) and that each proposed designation addresses one or more of the factors listed in 49 U.S.C. 70103(c)(2) (also listed above).

Public Comment: The DOT invites comments by all those interested in the NMFN. Comments on the Interim NMFN may be submitted and viewed at Docket Number DOT–OST–2016–0053. Comments must be received on or before September 6, 2016 to receive full consideration by DOT with respect to the final designation of the NMFN. After September 6, 2016, comments will continue to be available for viewing by the public.

The Final NMFN will be designated not later than December 4, 2016 by the Under Secretary per the statutory requirement.

Dated: May 27, 2016.

Carlos Monje Jr.,

Acting Under Secretary of Transportation for Policy.

[FR Doc. 2016–13261 Filed 6–3–16; 8:45 am]

BILLING CODE 4910–9X–P

[14] For more information on the designation of critical rural freight corridors under the NHFP program, please see FHWA's guidance located at *http://www.ops.fhwa.dot.gov/fastact/crfc/sec_1116_gdnce.htm.*

DEPARTMENT OF THE TREASURY

Government Securities: Call for Large Position Reports

AGENCY: Office of the Assistant Secretary for Financial Markets, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (''Department'' or ''Treasury'') called for the submission of Large Position Reports by those entities whose positions in the 1⅝% Treasury Notes of May 2026 equaled or exceeded $2.3 billion as of close of business May 16, 2016.

DATES: Large Position Reports must be received by 5:00 p.m. Eastern Time on June 8, 2016.

ADDRESSES: The reports must be submitted to the Federal Reserve Bank of New York, Government Securities Dealer Statistics Unit, 4th Floor, 33 Liberty Street, New York, New York 10045; or faxed to 212–720–8707.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena, Kurt Eidemiller, or Kevin Hawkins; Government Securities Regulations Staff, Department of the Treasury, at 202–504–3632.

SUPPLEMENTARY INFORMATION: In a press release issued on June 1, 2016, and in this **Federal Register** notice, the Treasury called for Large Position Reports from entities whose positions in the 1⅝% Treasury Notes of May 2026 equaled or exceeded $2.3 billion as of

the close of business Monday, May 16, 2016. Entities whose positions in this note equaled or exceeded the $2.3 billion threshold must submit a report to the Federal Reserve Bank of New York. This call for Large Position Reports is a test pursuant to Treasury's large position reporting rules under the Government Securities Act regulations (17 CFR part 420). Entities with positions in this note below $2.3 billion are not required to file reports. Reports must be received by the Government Securities Dealer Statistics Unit of the Federal Reserve Bank of New York before 5:00 p.m. Eastern Time on Wednesday, June 8, 2016, and must include the required position and administrative information. The reports may be faxed to (212) 720–8707 or delivered to the Bank at 33 Liberty Street, 4th floor.

The 1⅝% Treasury Notes of May 2026, Series C–2026, have a CUSIP number of 912828R36, a STRIPS principal component CUSIP number of 9128202R7, and a maturity date of May 15, 2026.

The press release, a copy of a sample Large Position Report, which appears in Appendix B of the rules at 17 CFR part 420, and supplementary formula guidance are available at *www.treasurydirect.gov/instit/statreg/gsareg/gsareg.htm.*

Questions about Treasury's large position reporting rules should be directed to Treasury's Government Securities Regulations Staff at (202) 504–3632. Questions regarding the method of submission of Large Position Reports should be directed to the Government Securities Dealer Statistics Unit of the Federal Reserve Bank of New York at (212) 720–7993 or (212) 720–8107.

The collection of large position information has been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB Control Number 1530–0064.

Daleep Singh,

Acting Assistant Secretary for Financial Markets.

[FR Doc. 2016–13348 Filed 6–2–16; 11:15 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF VETERANS AFFAIRS

MyVA Federal Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2., that the MyVA Advisory Committee (MVAC) will meet July 12–13, 2016, at the Department of Veterans Affairs, VA Boston Healthcare System—West Roxbury Campus, 1400 VFW Parkway, West Roxbury, MA 02132.

The purpose of the Committee is to advise the Secretary, through the Executive Director, MyVA Task Force Office regarding the My VA initiative and VA's ability to rebuild trust with Veterans and other stakeholders, improve service delivery with a focus on Veteran outcomes, and set the course for longer-term excellence and reform of VA.

On July 12, from 8:00 a.m. to 10:00 a.m., the Committee will convene a closed session in order to protect Veteran privacy as the Committee tours the VA Boston Healthcare System—Jamaica Plain Division, 150 S. Huntington Avenue, Boston, MA 02130. From 10:30 a.m. to 5:15 p.m., the Committee will reconvene in an open session to discuss the progress on and the integration of the work in the five key MyVA work streams—Veteran Experience (explaining the efforts conducted to improve the Veteran's experience), Employees Experience, Support Services Excellence (such as information technology, human resources, and finance), Performance Improvement (projects undertaken to date and those upcoming), and VA Strategic Partnerships.

On July 13, from 8:00 a.m. to 12:30 p.m., the Committee will meet at the VA Boston Healthcare System—West Roxbury Campus, 1400 VFW Parkway, West Roxbury, MA 02132, to discuss and recommend areas for improvement on VA's work to date, plans for the future, and integration of the MyVA efforts. This session is open to the public.

Portions of these visits are closed to the public in accordance with 5 U.S.C. 552b(c)(6). Exemption 6 permits to Committee to close those portions of a meeting that is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. During the closed sessions, the Committee will discuss VA beneficiary and patient information in which there is a clear unwarranted invasion of the Veteran or beneficiary privacy.

No time will be allocated at this meeting for receiving oral presentations from the public. However, the public may submit written statements for the Committee's review to Debra Walker, Designated Federal Officer, MyVA Program Management Office, Department of Veterans Affairs, 1800 G Street NW., Room 880–40, Washington, DC 20420, or email at *Debra.Walker3@va.gov.* Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Walker. Because the meeting will be held in a Government building, anyone attending must be prepared to show a valid photo government issued ID. Please allow a minimum 15 minutes to move through the security process.

Dated: June 1, 2016.

Jelessa Burney,

Federal Advisory Committee Management Officer.

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Endangered and Threatened Wildlife and Plants; Revision of the Section 4(d) Rule for the African Elephant (*Loxodonta africana*); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–IA–2013–0091; 96300–1671–0000–R4]

RIN 1018–AX84

Endangered and Threatened Wildlife and Plants; Revision of the Section 4(d) Rule for the African Elephant (*Loxodonta africana*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are revising the rule for the African elephant promulgated under section 4(d) of the Endangered Species Act of 1973, as amended (ESA), to increase protection for African elephants in response to the alarming rise in poaching to fuel the growing illegal trade in ivory. The African elephant (*Loxodonta africana*) was listed as threatened under the ESA effective June 11, 1978, and at the same time a rule was promulgated under section 4(d) of the ESA (a ''4(d) rule'') to regulate import and use of specimens of the species in the United States. This final rule updates the current 4(d) rule with measures that are appropriate for the current conservation needs of the species. We adopted measures that are necessary and advisable to provide for the conservation of the African elephant as well as appropriate prohibitions from section 9(a)(1) of the ESA.

DATES: This rule is effective July 6, 2016.

FOR FURTHER INFORMATION CONTACT: Craig Hoover, Chief, Division of Management Authority; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: IA; Falls Church, VA 22041 (telephone, (703) 358–2093).

SUPPLEMENTARY INFORMATION:

Executive Summary

Why We Need To Publish a Final Rule

When a species is listed as threatened, section 4(d) of the ESA gives discretion to the Secretary of the Interior to issue regulations that he or she ''deems necessary and advisable to provide for the conservation of such species.'' In response to an unprecedented increase in poaching of elephants across Africa and the escalation of the illegal trade in ivory, we reevaluated the provisions of the existing ESA 4(d) rule for the African elephant, and, on July 29, 2015, we published a proposed rule to revise the 4(d) rule (80 FR 45154). We are revising the 4(d) rule by adopting measures that are necessary and advisable for the current conservation needs of the species, based on our evaluation of the current threats to the African elephant and the comments received from the public. The poaching crisis is driven by demand for elephant ivory. This final rule will allow us to more strictly regulate trade in African elephant ivory and help to ensure that the U.S. ivory market is not contributing to the poaching of elephants in Africa. This action is consistent with recommendations adopted by the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or the Convention) in March 2013 to help curb the illegal killing of elephants and illegal trade in ivory, issuance of Executive Order 13648 on Combating Wildlife Trafficking in July 2013, and the stated priorities in the National Strategy for Combating Wildlife Trafficking, issued by President Obama in February 2014.

What is the effect of this final rule?

We are revising the 4(d) rule for the African elephant to increase protection and benefit the conservation of African elephants by more strictly controlling U.S. trade in ivory, without unnecessarily restricting activities that have no conservation effect or are strictly regulated under other law. The final rule prohibits import and export of African elephant ivory with limited exceptions for: Musical instruments, items that are part of a traveling exhibition, and items that are part of a household move or inheritance when specific criteria are met; and ivory for law enforcement or genuine scientific purposes. With regard to import, these exceptions remain prohibited under the African Elephant Conservation Act (AfECA) import moratorium (54 FR 24758, June 9, 1989). However, under Director's Order 210, as amended on May 15, 2014, as a matter of law enforcement discretion, the Service will not enforce the AfECA moratorium with respect to these limited exceptions. Antiques (as defined under section 10(h) of the ESA) are not subject to the provisions of this rule. Antiques containing or consisting of ivory may, therefore, be imported into or exported from the United States without a threatened species permit issued under § 17.32, provided the requirements of 50 CFR parts 13, 14, and 23 have been met. However, import of most African elephant ivory, including antique ivory, remains prohibited under the AfECA import moratorium. This final rule allows for import of sport-hunted trophies but limits the number of sport-hunted African elephant trophies imported into the United States to two per hunter per year. The prohibition on export of raw ivory in the current 4(d) rule is maintained in the final rule. Interstate and foreign commerce in African elephant ivory is prohibited by the final rule except for items that qualify as ESA antiques and certain manufactured or handcrafted items that contain a small (*de minimis*) amount of ivory and meet specific criteria.

The final rule prohibits take of live African elephants in the United States, which will help to ensure that elephants held in captivity receive an appropriate standard of care. As stated in the proposed rule (80 FR 45154, July 29, 2015), while the taking of live African elephants held in captivity within the United States or being transported is not a threat to the species, including a prohibition against take, even for species that are not native to the United States, is a standard protection for threatened species and ensures an adequate level of care for wildlife held in captivity. (This prohibition is the same as the prohibition on take of Asian elephants, which has been in place since 1976 when the Asian elephant was listed under the ESA.) Trade in live African elephants and African elephant parts and products other than ivory is allowed under the final rule provided the requirements in 50 CFR parts 13, 14, and 23 have been met.

The Basis for Our Action

The Service reevaluated U.S. domestic controls, given the current poaching crisis in Africa and the associated increase in illegal trade in ivory, recent CITES recommendations, and evidence that substantial quantities of illegal ivory are making their way into U.S. markets. We determined that it is appropriate to take certain regulatory actions, including revision of the 4(d) rule as necessary and advisable for the conservation of the species and to include certain prohibitions from section 9(a)(1) of the ESA, to more strictly regulate U.S. trade in ivory. The final rule will regulate import, export, and commercial use of African elephant ivory and sport-hunted trophies and appropriately protect live elephants within the United States, while including certain limited exceptions for items and activities that we do not believe, based on all available evidence, are contributing to the poaching of elephants in Africa, including for certain manufactured or handcrafted items containing ivory that meet specific criteria. The final rule will

facilitate enforcement efforts within the United States and improve regulation of both domestic and foreign trade in elephant ivory by U.S. citizens. Improved domestic controls will make it more difficult to launder illegal elephant ivory through U.S. markets, which will contribute to a reduction in poaching of African elephants.

This final rule is consistent with Executive Order 13648 on Combating Wildlife Trafficking signed by President Obama on July 1, 2013, to ''address the significant effects of wildlife trafficking on the national interests of the United States.'' The Executive Order calls on executive departments and agencies to take all appropriate actions within their authority to ''enhance domestic efforts to combat wildlife trafficking, to assist foreign nations in building capacity to combat wildlife trafficking, and to assist in combating transnational organized crime.'' Increased control of the U.S. market for elephant ivory is also among the administrative actions called for in the National Strategy for Combating Wildlife Trafficking, issued by President Obama on February 11, 2014. Director's Order No. 210, issued by the Director of the U.S. Fish and Wildlife Service, established policy and procedures for the Service to follow in implementing the National Strategy with regard to trade in African elephant ivory and parts and products of other ESA-listed species.

Background

In the United States, the African elephant is primarily protected and managed under the ESA (16 U.S.C. 1531 *et seq.*); CITES (27 U.S.T. 1087), as implemented in the United States through the ESA; and the AfECA (16 U.S.C. 4201 *et seq.*). The ESA designates responsibility for CITES implementation to the Secretary of the Interior, acting through the U.S. Fish and Wildlife Service.

Endangered Species Act. Under the ESA, species may be listed either as ''threatened'' or as ''endangered.'' When a species is listed as endangered under the ESA, certain actions are prohibited under section 9 (16 U.S.C. 1538), as specified at 50 CFR 17.21. These include prohibitions on take within the United States, within the territorial seas of the United States, or upon the high seas; import; export; sale and offer for sale in interstate or foreign commerce; and delivery, receipt, carrying, transport, or shipment in interstate or foreign commerce in the course of a commercial activity.

The ESA does not specify particular prohibitions and exceptions to those prohibitions for threatened species. Instead, under section 4(d) of the ESA, the Secretary of the Interior is given the discretion to issue such regulations as deemed necessary and advisable to provide for the conservation of the species. The Secretary also has the discretion to prohibit by regulation with respect to any threatened species any act prohibited under section 9(a)(1) of the ESA for endangered species. Exercising this discretion under section 4(d), the Service has developed general prohibitions (50 CFR 17.31) and established a permitting process for specified exceptions to those prohibitions (50 CFR 17.32) that apply to most threatened species. Permits issued under 50 CFR 17.32 must be for ''Scientific purposes, or the enhancement of propagation or survival, or economic hardship, or zoological exhibition, or educational purposes, or incidental taking, or special purposes consistent with the purposes of the [ESA].''

Under section 4(d) of the ESA, the Service may also develop specific prohibitions and exceptions tailored to the particular conservation needs of a threatened species. In such cases, the Service issues a 4(d) rule that may include some of the prohibitions and authorizations set out at 50 CFR 17.31 and 17.32, but that also may be more or less restrictive than the general provisions at 50 CFR 17.31 and 17.32.

Convention on International Trade in Endangered Species of Wild Fauna and Flora. CITES entered into force in 1975, and currently has 182 Parties (countries or regional economic integration organizations that have ratified the Convention), including the United States. The aim of CITES is to regulate international trade in listed animal and plant species, including their parts and products, to ensure the trade is legal and does not threaten the survival of species. CITES regulates both commercial and noncommercial international trade through a system of permits and certificates that must be presented when leaving and entering a country with CITES specimens. Species are listed in one of three appendices, which provide different levels of protection. In some circumstances, different populations of a species are listed at different levels. Appendix I includes species that are threatened with extinction and are or may be affected by trade. The Convention states that Appendix-I species must be subject to ''particularly strict regulation'' and trade in specimens of these species should only be authorized ''in exceptional circumstances.'' Appendix II includes species that are not necessarily threatened with extinction now, but may become so if international trade is not regulated. Appendix III includes species that a range country has identified as being subject to regulation within its jurisdiction and as needing cooperation of other Parties in the control of international trade.

Import and export of CITES species is prohibited unless accompanied by any required CITES documents. Documentation requirements vary depending on the appendix in which the species or population is listed and other factors. CITES documents cannot be issued until specific biological and legal findings have been made. CITES does not regulate take or domestic trade of listed species. It contributes to the conservation of listed species by regulating international trade and, in order to make the findings necessary for issuance of CITES permits, encouraging assessment and analysis of the population status of species in trade and the effects of international trade on wild populations.

African Elephant Conservation Act. The AfECA was enacted in 1988 to ''perpetuate healthy populations of African elephants'' by regulating the import and export of certain African elephant ivory to and from the United States. Building from and supporting existing programs under CITES, the AfECA called on the Service to establish moratoria on the import of raw and worked ivory from both African elephant range countries and intermediary countries (those that export ivory that does not originate in that country) that failed to meet certain statutory criteria. The statute also states that it does not provide authority for the Service to establish a moratorium that prohibits the import of sport-hunted trophies that meet certain standards.

In addition to authorizing establishment of the moratoria and prohibiting any import in violation of the terms of any moratorium, the AfECA prohibits: The import of raw African elephant ivory from any country that is not a range country; the import of raw or worked ivory exported from a range country in violation of that country's laws or applicable CITES programs; the import of worked ivory, other than certain personal effects, unless the exporting country has determined that the ivory was legally acquired; and the export of all raw (but not worked) African elephant ivory. While the AfECA comprehensively addresses the import of ivory into the United States, it does not address other uses of ivory or African elephant specimens other than ivory and sport-hunted trophies. The AfECA does not regulate the use of ivory within the United States and,

other than the prohibition on the export of raw ivory, does not regulate export of ivory from the United States. The AfECA also does not regulate the import or export of live African elephants.

Regulatory Background

Ghana first listed the African elephant in CITES Appendix III on February 26, 1976. Later that year, the CITES Parties agreed to add African elephants to Appendix II, effective February 4, 1977. In October 1989, all populations of African elephants were transferred from CITES Appendix II to Appendix I (effective in January 1990), which ended much of the legal commercial trade in African elephant ivory.

In 1997, based on proposals submitted by Botswana, Namibia, and Zimbabwe and the report of a Panel of Experts (which concluded, among other things, that populations in these countries were stable or increasing and that poaching pressure was low), the CITES Parties agreed to transfer the African elephant populations in these three countries to CITES Appendix II. The Appendix-II listing included an annotation that allowed noncommercial export of hunting trophies, export of live animals to appropriate and acceptable destinations, export of hides from Zimbabwe, and noncommercial export of leather goods and some ivory carvings from Zimbabwe. It also allowed for a one-time export of raw ivory to Japan (which took place in 1999), once certain conditions had been met. All other African elephant specimens from these three countries were deemed to be specimens of a species listed in Appendix I and regulated accordingly.

The African elephant population of South Africa was transferred from CITES Appendix I to Appendix II in 2000, with an annotation that allowed trade in hunting trophies for noncommercial purposes, trade in live animals for reintroduction purposes, and trade in hides and leather goods. At that time, the Panel of Experts reviewing South Africa's proposal concluded, among other things, that South Africa's elephant population was increasing, that there were no apparent threats to the status of the population, and that the country's anti-poaching measures were ''extremely effective.'' Since then, the CITES Parties have revised the Appendix-II listing annotation three times. The current annotation, in place since 2007, covers the Appendix-II populations of Botswana, Namibia, South Africa, and Zimbabwe and allows export of: Sport-hunted trophies for noncommercial purposes; live animals to appropriate and acceptable destinations; hides; hair; certain ivory carvings from Namibia and Zimbabwe for noncommercial purposes; and a one-time export of specific quantities of raw ivory, once certain conditions had been met (this export, to China and Japan, took place in 2009). As in previous versions of the annotation, all other African elephant specimens from these four populations are deemed to be specimens of species included in Appendix I and the trade in them is regulated accordingly.

The African elephant was listed as threatened under the ESA, effective June 11, 1978 (43 FR 20499, May 12, 1978). A review of the status of the species at that time showed that the African elephant was declining in many parts of its range and that habitat loss, illegal killing of elephants for their ivory, and inadequacy of existing regulatory mechanisms were factors contributing to the decline. At the same time the African elephant was designated as a threatened species, the Service promulgated a 4(d) rule to regulate import and certain interstate commerce of the species in the United States (43 FR 20499, May 12, 1978).

The 1978 4(d) rule for the African elephant stated that the prohibitions at 50 CFR 17.31 applied to any African elephant, alive or dead, and to any part, product, or offspring thereof, with certain exceptions. Specifically, under the 1978 rule, the prohibition at 50 CFR 17.31 against importation did not apply to African elephant specimens that had originated in the wild in a country that was a Party to CITES if the specimens had been exported or re-exported in accordance with Article IV of the Convention, and had remained in customs control in any country not party to the Convention that they transited *en route* to the United States. (At that time, the only African elephant range States that were Parties to CITES were Botswana, Ghana, Niger, Nigeria, Senegal, South Africa, and Zaire [now the Democratic Republic of the Congo].) The 1978 rule allowed for a special purpose permit to be issued in accordance with the provisions of 50 CFR 17.32 to authorize any activity otherwise prohibited with regard to the African elephant, upon submission of proof that the specimens were already in the United States on June 11, 1978, or that the specimens were imported under the exception described above.

The 4(d) rule has been amended twice in response to changes in the status of African elephants and the illegal trade in elephant ivory, and to more closely align U.S. requirements with actions taken by the CITES Parties. On July 20, 1982, the Service amended the 4(d) rule for the African elephant (47 FR 31384) to ease restrictions on domestic activities and to more closely align its requirements with provisions in CITES Resolution Conf. 3.12, *Trade in African elephant ivory,* adopted by the CITES Parties at the third meeting of the Conference of the Parties (CoP3, 1981). The 1982 rule applied only to import and export of ivory (and not other elephant specimens) and eliminated the prohibitions under the ESA against taking, possession of unlawfully taken specimens, and certain activities for the purpose of engaging in interstate and foreign commerce, including the sale and offer for sale in interstate commerce of African elephant specimens. At that time, the Service concluded that the restrictions on interstate commerce contained in the 1978 rule were unnecessary and that the most effective means of utilizing limited resources to control ivory trade was through enforcement efforts focused on imports.

Following enactment of the AfECA (in October 1988), the Service established, on December 27, 1988, a moratorium on the import into the United States of African elephant ivory from countries that were not parties to CITES (53 FR 52242). On February 24, 1989, the Service established a second moratorium on all ivory imports into the United States from Somalia (54 FR 8008). On June 9, 1989, the Service put in place the current moratorium, which bans the import of ivory other than sport-hunted trophies from both range and intermediary countries (54 FR 24758).

The 4(d) rule was revised on August 10, 1992 (57 FR 35473), following establishment of the 1989 moratorium under the AfECA on the import of African elephant ivory into the United States, and again on June 26, 2014 (79 FR 30400, May 27, 2014), associated with the update of U.S. CITES implementing regulations. In the 2014 revision of the 4(d) rule, we removed the CITES marking requirements for African elephant sport-hunted trophies. At the same time, these marking requirements were updated and incorporated into our CITES regulations at 50 CFR 23.74. The purpose of this change was to make clear what is required under CITES (at 50 CFR part 23) for trade in sport-hunted trophies and what is required under the ESA (at 50 CFR part 17).

Proposed rule and comments received. On July 29, 2015, we published a proposed rule (80 FR 45154) to revise the rule for the African elephant promulgated under section 4(d) of the ESA. We accepted public comments on the proposed rule for 60 days, until September 28, 2015.

We received more than 1,349,000 comments in response to the proposed rule, including eight petitions with more than 1,342,000 signatures (one petition also included drawings by children). All eight petitions were in strong support of strengthening elephant ivory regulatory controls. Counting each of the petitions as one substantive comment, about 500 of the comments received were substantive. We received comments from individuals, organizations, and one State natural resource agency, including substantive comments from: Musicians, musical instrument manufacturers, and music organizations; antiques dealers (including auction houses) and collectors; museums and museum groups; hunting groups and knife and gun rights organizations; scrimshanders and other artisans working with ivory; a State natural resource agency; conservation/environmental nongovernmental organizations; organizations dedicated to promoting trade in ivory; and concerned citizens.

Requests for extension of the comment period. Some commenters requested that we extend the comment period for the proposed rule beyond 60 days. Since we signaled our intent to revise the 4(d) rule in 2014, the Service has been transparent about what we expected to propose. We met with a number of individuals and groups representing a range of interests, including musicians, orchestras, instrument manufacturers, antique dealers and collectors, auction houses, museums, small businesses, and conservation, hunting, and shooting interests. We also participated in listening sessions on this proposal, hosted by the Office of Management and Budget. Because of the extensive consultation and public outreach that had already occurred, we decided not to extend the 60-day comment period.

General comments. It is clear from the comments we received that there are strongly held views in the United States on the conservation of elephants and trade in elephant ivory. Regardless of perspectives and positions on trade in ivory, there is overwhelming concern for elephant populations and a belief that the U.S. Government should take steps to protect elephants in Africa. Many commenters urged us to adopt strong regulations and to ''shut down'' the ivory trade to protect elephants; others argued that the U.S. ivory market is not the problem and that we should focus our efforts on combating poaching and illegal trade in Africa and Asia. Some commenters provided information in support of their positions, some offered specific suggestions and amendments to the proposed regulatory text, and others simply urged us to ''do the right thing'' to protect elephants. Some commenters commended the Service and the Obama Administration for taking steps to more strictly regulate trade in elephant ivory and for showing leadership in the fight against elephant poaching and wildlife trafficking; others asserted that the revisions proposed are unduly burdensome, that we have exceeded our statutory authority, and that there is no evidence that these restrictions will have any substantial effect on elephant poaching. In developing this final rule, we evaluated the comments and information received. We appreciate the careful consideration given to this proposal by so many groups and individuals. A summary and analysis of specific comments follows:

Comments on other types of ivory. We received a number of comments from individuals, including scrimshanders, who were concerned about the impact of this rule on trade in ivory other than African elephant ivory, including mammoth ivory. This final rule will regulate only African elephants and African elephant ivory. Asian elephants and parts or products from Asian elephants, including ivory, are regulated separately under the ESA. Ivory from marine species, such as walrus, is regulated separately under the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*). Ivory from extinct species, such as mammoth, is not regulated under statutes implemented by the Service. The only type of ivory regulated under this final rule is African elephant ivory.

Comments on legal possession of ivory. Some commenters seemed to think that this final rule would make it illegal to own ivory and would make the ivory that they currently legally own or possess subject to seizure or forfeiture. This is simply not true. Nothing in this final rule impacts a person's ability to own or possess legally acquired African elephant ivory.

Comments on the listing status of the African elephant. A number of commenters stated their belief that the African elephant should be reclassified under the ESA from a threatened species to an endangered species. Some also urged us to recognize savanna and forest elephants as two different species of African elephant. We consider these comments to be beyond the scope of this final rule. The Service has been petitioned to reclassify the African elephant as endangered and to recognize two species of African elephants and classify them both as endangered. Review of those petitions, through a process separate from this rulemaking, is ongoing.

Comments on trade in African elephant parts and products other than ivory and sport-hunted trophies. Under the final rule, African elephant parts and products other than ivory and sport-hunted trophies may be imported into or exported from the United States, and sold or offered for sale in interstate and foreign commerce, without an ESA threatened species permit, provided our CITES and general permitting and import/export requirements in 50 CFR parts 13, 14, and 23 are met. When establishing regulations for threatened species under the ESA, the Service has generally adopted restrictions on the import and export of live as well as dead animals and their parts and products, either through a 4(d) rule or through the provisions of 50 CFR 17.31. In this case, we elected not to extend the relevant section 9(a)(1) prohibitions to these activities involving live elephants and elephant parts and products other than ivory and sport-hunted trophies, and thus no separate ESA threatened species permit is required. Requiring individuals to obtain an ESA threatened species permit in addition to the required CITES documents prior to import or export of live animals and parts or products other than ivory and sport-hunted trophies would add no meaningful protection for the species and would be an unnecessary overlay of authorization on top of existing documentation that already ensures that the import or export is legal and is not detrimental to the species.

(1) *Comment:* Some commenters objected to the provisions in the proposed rule for trade in parts and products other than ivory. They argued for a ban on commercial sale of all elephant items, including non-ivory parts and products, asserting that allowing any elephant parts to remain in the market creates confusion.

Response: We disagree. The poaching crisis is driven by demand for elephant ivory. As we indicated in the preamble to the proposed rule, there is no information to indicate that commercial use of elephant parts and products other than ivory has had any effect on the rates or patterns of illegal killing of elephants and the illegal trade in ivory. Thus, we determined it is not necessary and advisable to propose additional restrictions on commercial activities related to African elephant parts and products other than ivory and sport-hunted trophies. We will continue to monitor such activities and may reevaluate these provisions in the future if needed.

Comments on import of ivory into the United States. Under the final rule, import of African elephant ivory will be

limited to sport-hunted trophies (no more than two per hunter per year), ivory for law enforcement or genuine scientific purposes, and certain worked ivory that meets specific conditions and is contained in a musical instrument, is part of a traveling exhibition, or is part of a household move or inheritance.

(2) *Comment:* Many commenters believe that the provisions in the proposed rule are not strict enough and that all import of ivory should be prohibited, including sport-hunted trophies.

Response: We are strictly regulating import of African elephant ivory. However, there are circumstances under which import of African elephant ivory into the United States may benefit conservation of African elephants, including import for law enforcement purposes and for genuine scientific purposes, or have no conservation effect. We have elected to establish exceptions for those activities that we do not believe have an impact on conservation. The final rule allows the import of ivory for law enforcement and genuine scientific purposes that would benefit the conservation of elephants, as well as import of sport-hunted trophies (when the proper determinations have been made) and import of ivory that meets specific conditions and is contained in a musical instrument, is part of a museum or other exhibition, or is part of a household move or inheritance. This rule allows us to strictly limit import of ivory in the vast majority of scenarios that may be contributing to the illegal killing of elephants and the illegal trade in ivory, while allowing import in only certain narrow circumstances or purposes that have no conservation effect or that may benefit conservation. These exceptions remain prohibited under the AfECA import moratorium. However, under Director's Order 210, as amended on May 15, 2014, as a matter of law enforcement discretion, the Service will not enforce the AfECA moratorium with respect to these limited exceptions. (For further discussion on sport-hunted trophies, see *Comments on import of sport-hunted trophies,* below.)

(3) *Comment:* Commenters stated their support of the Service's proposal to ban the import of antique ivory under its AfECA authority, noting the import of these items is already banned pursuant to the AfECA. The Service proposes to allow noncommercial import of certain items, including law enforcement and scientific items, musical instruments, items as part of a household move or inheritance, and exhibition items, where it can be demonstrated that the ivory was removed from the wild prior to 1976. Technically, the import of these items is already banned pursuant to the AfECA. Understanding the Service's desire to make narrow exceptions, particularly for scientific and law enforcement purposes, if these import exemptions are maintained in the final rule, the Service should also maintain all other proposed limitations on imports (including the ban on post-1989 antique imports under AfECA and the ban on sale of antiques imported before 1982) ''to constrain import and sale and much as possible.''

Response: We wish to clarify that we are not invoking authority under AfECA to ban the import of antique ivory. Rather, as commenters note, this activity is already banned pursuant to AfECA. The AfECA moratorium on import of ivory other than sport-hunted trophies remains in place. Thus, noncommercial import of certain items, including law enforcement and scientific items, musical instruments, items as part of a household move or inheritance, and exhibition items, where it can be demonstrated for each such item that the ivory was removed from the wild prior to 1976, remains prohibited under the AfECA import moratorium. However, under Director's Order 210, as amended on May 15, 2014, as a matter of law enforcement discretion, the Service will not enforce the AfECA moratorium with respect to these limited exceptions.

Additionally, we have clarified in § 17.40(e)(9) that ESA antiques are exempt from the provisions of this 4(d) rule. In that same paragraph, we have also pointed to the provisions and prohibitions of the AfECA, which apply regardless of the age of the item. So, although we cannot and have not in this 4(d) rule prohibited import of African elephant ivory that qualifies as an antique under the ESA, the import of antique ivory is prohibited under the AfECA moratorium as established in our notice issued on June 9, 1989 (54 FR 24758). With regard to sale of antique ivory within the United States, Appendix 1 to Director's Order 210 clarifies how the Service implements the ESA antiques exception. Appendix 1 reminds the reader that the ESA allows the import and other activities without an ESA permit of an item that: (a) Is not less than 100 years of age; (b) is composed in whole or in part of any endangered species or threatened species listed under section 1533 of the Act; (c) has not been repaired or modified with any part of any such species on or after December 28, 1973; and (d) is entered at a port designated for the import of ESA antiques. The Appendix further clarifies that the Service will not take enforcement action against items that meet the first three elements (a, b, and c) above and were imported prior to September 22, 1982 (when the ESA antique ports were designated) or were created in the United States and never imported. Appendix 1 also reminds the reader that anyone claiming the benefit of an exemption from ESA prohibitions has the burden of proving that the exemption is applicable.

(4) *Comment:* Import of antiques should be allowed. The Service has exceeded its statutory authority by banning all ivory imports. Congress never intended to prevent legitimate antiques from entering or exiting the country, which is why it established an antique exception as part of the 1978 amendments to the ESA.

Response: See the response to (3) above.

(5) *Comment:* Import of ivory by U.S. museums should be allowed.

Response: The final rule allows the import by museums of African elephant ivory as part of a traveling exhibition when certain requirements are met (See § 17.40(e)(5)(ii).). This activity remains prohibited under the AfECA import moratorium. However, under Director's Order 210, as amended on May 15, 2014, as a matter of law enforcement discretion, the Service will not enforce the AfECA moratorium where the criteria contained in Director's Order 210 are met. See also *Comments on treatment of museums,* below.

Comments on import of sport-hunted trophies. Although some who commented on the provisions for import of sport-hunted trophies were opposed to the proposed limit on the number that can be imported by a hunter in a given year and the requirement for an ESA import permit for trophies from Appendix-II populations, most who commented on this issue expressed strong opposition to allowing import into the United States of any African elephant sport-hunted trophies.

(6) *Comment:* Many commenters stated that, while limiting import of sport-hunted African elephant trophies to two per hunter per year is an improvement over the current situation, import of sport-hunted trophies should be eliminated entirely. Others asserted that sport hunting is barbaric and that the time has come to eliminate the taking of African elephants by Americans for sport. Some commenters argued that we need to provide further explanation for our proposal to allow a hunter to import two African elephant trophies per year and that one trophy would and should suffice. Some

asserted that allowing import of two sport-hunted African elephant trophies per hunter per year is unsustainable for a species on the brink of extinction.

Response: The ESA does not prohibit U.S. hunters from traveling to other countries and taking threatened species (although authorization may be required under the ESA to import the sport-hunted trophy into the United States). AfECA specifically allows for import of sport-hunted trophies of elephants legally taken in a country that has submitted an ivory quota, and CITES provides guidance (in Resolution Conf. 10.10 (Rev. CoP16), *Trade in elephant specimens*) for trade in sport-hunted African elephant trophies, including on the establishment by range countries of an annual export quota, as part of the management of the population. Well-regulated trophy hunting is not a significant factor in the decline of elephant populations. We continue to believe that sport hunting, as part of a sound management program, can provide benefits to the conservation of the species. Before allowing import of African elephant sport-hunted trophies, we decide whether we can make the determinations necessary for import under CITES and the ESA by evaluating information provided by range countries. The Service determined in April 2014 that, based on the information available to us, import of sport-hunted trophies from Tanzania and Zimbabwe could not be allowed because the killing of African elephants for trophies in those countries does not meet the enhancement standard under the 4(d) rule. We reached the same determination based on the information available in 2015. We continue to evaluate requests for import of sport-hunted trophies carefully under CITES requirements and the ESA enhancement finding required under this and the previous 4(d) rule.

As we indicated in the preamble to the proposed rule, we are limiting the number of sport-hunted African elephant trophies that may be imported into the United States to address a small number of circumstances in which U.S. hunters have participated in elephant culling operations and imported, as sport-hunted trophies, a large number of elephant tusks from animals taken as part of the cull. This practice has resulted, in some cases, in the import of commercial quantities of ivory as sport-hunted trophies. Sport hunting is meant to be a personal, noncommercial activity, and engaging in hunting that results in acquiring quantities of ivory that exceed what would reasonably be expected for personal use and enjoyment is inconsistent with sport hunting as a noncommercial activity. In evaluating an appropriate limit for personal use, we considered actions taken by the CITES Parties in recognition of the need to ensure that imports of certain other hunting trophies are for personal use only. In three different resolutions, the CITES Parties have agreed to limit annual imports of hunting trophies of leopards (no more than two), markhor (no more than one), and black rhinoceros (no more than one). All three of the resolutions containing these annual import limits (Resolution Conf. 10.14 (Rev. CoP16), *Quotas for trade in leopard hunting trophies and skins for personal use,* Resolution Conf. 10.15 (Rev. CoP14), *Establishment of quotas for markhor hunting trophies,* and Resolution Conf. 13.5 (Rev. CoP14), *Establishment of export quotas for black rhinoceros hunting trophies*), recommend (among other things) that the Management Authority of the State of import be satisfied that the trophies are not to be used for primarily commercial purposes if they are being imported as personal items that will not be sold in the country of import and the owner imports no more than one or two (depending on the species) trophies in any calendar year. Based on past practice under CITES and the number of elephant trophies imported each year by the vast majority of U.S. hunters who engage in elephant hunts, we consider two trophies per hunter per year to be an appropriate upper limit for the personal use of the hunter and we believe that this limit addresses our concern. We do not have information to indicate that allowing the import of two trophies per hunter per year would result in import of commercial quantities of ivory or would not be appropriate for personal use. Although some commenters asserted that one trophy should be enough, they did not provide further information in support of this position (aside from the general comments that hunting is not conservation). We anticipate this change will impact fewer than 10 hunters per year. We believe it is necessary to use our authority under section 4(d) of the ESA to ensure that ivory imported into the United States as sport-hunted trophies is consistent with sport hunting as a personal, noncommercial activity and that commercial quantities of ivory are not imported under the guise of sport hunting.

(7) *Comment:* Some commenters stated that allowing continued import of ivory when it is a trophy, instead of ''raw or worked'' ivory, makes little sense. Some asserted that trophies consisting entirely or partially of tusks are one of the few legal methods still available for bringing ivory into the United States and that limiting the number of trophy imports does not adequately address the problem as there is nothing to stop multiple hunters from colluding to bring in just as much ivory by working in concert. One commenter stated that, with the proposed prohibitions, the value of ivory imported as part of a sport-hunted trophy will significantly increase, which could lead to an increase in trophy hunting with the intent to illegally sell the trophy after import. Setting a zero import quota on African elephant trophies is the most efficient and effective way to ensure that the system is not gamed as a cover for the illegal ivory trade.

Response: Please see the response to (6) above. Although the scenario described by these commenters is possible, we have seen no evidence that this practice is occurring and consider the risk of such collusion to be low. In addition, as the commenters correctly state, selling the trophy ivory after import into the United States would be illegal under both our CITES regulations (50 CFR 23.55) and this final rule. We believe the limitations imposed on the import of sport-hunted trophies in this rule and other laws and regulations are sufficient to ensure that the commenters' concerns are not realized. As we continue to monitor the import of sport-hunted trophies, we may reevaluate these provisions in the future, if necessary.

(8) *Comment:* The world is a different place than it was when Congress passed the AfECA, including its exemption for import of sport-hunted trophies. Political turmoil, war, terrorism, and corruption all contribute to the ability of buyers to acquire raw ivory in the form of trophies. While section 4222(e) of AfECA includes an exemption for legally taken sport-hunted trophies, section 4241 of AfECA expressly states that the Service's authority is in addition to and does not affect its legal authority under the ESA. The U.S. Fish and Wildlife Service has broad authority to regulate trophy imports.

Response: We agree that the Service has broad authority to regulate import of sport-hunted trophies of listed species, and we do regulate such imports, including through the provisions in this final rule. We believe that the restrictions on import of sport-hunted elephant trophies in this final rule are those that are necessary and advisable for the conservation of the African elephant.

(9) *Comment:* The U.S. Fish and Wildlife Service has banned the sale of sport-hunted trophy ivory for many years, but it is still available at auction, indicating that the ban is neither respected nor enforced.

Response: There is not, in fact, currently a ban on the sale of all sport-hunted African elephant ivory. The current 4(d) rule for the African elephant prohibits sale or offer for sale of ''any sport-hunted trophy imported into the United States *in violation of permit conditions*'' [emphasis added], and our CITES regulations (at 50 CFR 23.55) prohibit sale of sport-hunted African elephant trophies imported after January 18, 1990 (when the African elephant was listed in CITES Appendix I). With this final rule, we are prohibiting any sale of African elephant trophies in interstate or foreign commerce, with the exception of those that qualify as ESA antiques (see paragraphs (e)(6) and (e)(9) of the final rule).

(10) *Comment:* Appreciate that the Service is finally requiring an ESA import permit to import any African elephant sport-hunted trophy. It is imperative that the Service undertake an ESA enhancement analysis for sport-hunted trophies and that the public notice and comment requirements in section 10 of the ESA and the requirement that the Service make application information available to the public be retained in any 4(d) rule for African elephants.

Response: The commenter is correct that, under this final rule, an ESA import permit will be required for import of any African elephant sport-hunted trophy and that we will not issue such a permit unless we have made a positive enhancement finding. While section 10(c) of the ESA requires that we publish notice in the **Federal Register** of each application involving an exemption or permit made under section 10, this is not the case for applications involving threatened species, which are not subject to the section 9 prohibitions and thus, the notice and comment requirements in section 10(c). Nothing in this final rule changes those requirements.

(11) *Comment:* The requirements for ''enhancement findings'' are not the same as the requirements for CITES ''non-detriment findings.''

Response: We agree. The current 4(d) rule for the African elephant, at 50 CFR 17.40(e)(3)(iii), allows the import of sport-hunted trophies provided that, among other things, ''a determination is made that the killing of the animal whose trophy is intended for import would enhance survival of the species.'' This provision has been in place since 1992 and will remain in place with this final rule. It requires that we make an ESA enhancement determination for import of any African elephant sport-hunted trophy, including those from CITES Appendix-II populations. Information on factors considered in making an ESA enhancement finding is found in 50 CFR 17.32(a). In addition to this ESA finding, for trophies from CITES Appendix-I populations we must also issue a CITES import permit. Before we can issue a CITES import permit we must be able to determine that the import is for purposes that are not detrimental to the survival of the species and that the specimen is not to be used for primarily commercial purposes. Information on factors considered in making a CITES non-detriment finding is contained in 50 CFR 23.61. Information on factors considered in determining whether a specimen is to be used for primarily commercial purposes is found in 50 CFR 23.62. The commenter is correct that the determinations needed for issuance of a CITES import permit are different from, and in addition to, the ESA enhancement finding.

(12) *Comment:* The Service has previously asserted that trophy hunting of imperiled species can have a positive overall impact on species conservation. There is minimal data showing this to be the case, particularly for elephants. Proponents of sport hunting as a conservation tool often cite two interrelated documents as alleged ''proof'' that sport-hunting can be a useful tool for conservation—the IUCN SSC Guiding Principles on Trophy Hunting as a Tool for Creating Conservation Incentives and CITES Resolution Conf. 2.11, regarding trade in hunting trophies of Appendix-I species. The primary theory behind these documents is that hunting can directly raise funding for conservation efforts in countries with otherwise limited resources; however, this possible outcome does not overcome the long-term negative effect of hunting—allowing legalized killing of these animals continues to decrease their overall chance of survivability as a species in the wild.

Response: We continue to believe that well-managed trophy hunting can benefit conservation and disagree that there is little basis for this assertion. Trophy hunting can generate funds to be used for conservation, including for habitat protection, population monitoring, wildlife management programs, and law enforcement efforts. The IUCN Guiding Principles on Trophy Hunting as a Tool for Creating Conservation Incentives (Ver.1.0, August 2012) state that well-managed trophy hunting can ''assist in furthering conservation objectives by creating the revenue and economic incentives for the management and conservation of the target species and its habitat, as well as supporting local livelihoods'' and, further, that well-managed trophy hunting is ''often a higher value, lower impact land use than alternatives such as agriculture or tourism.'' When a trophy hunting program incorporates the following Guiding Principles, IUCN considers that trophy hunting can serve as a conservation tool: Biological sustainability; net conservation benefit; socio-economic-cultural benefit; adaptive management—planning, monitoring, and reporting; and accountable and effective governance. We support this approach.

Lindsey et al. (2007), in their paper on the economic and conservation significance of the trophy hunting industry in sub-Saharan Africa, state their belief that, from a conservation perspective, ''the provision of incentives which promote wildlife as a land use is the single most important contribution of the trophy hunting industry.'' In addition, they note that trophy hunting generates revenues in areas where alternatives, such as ecotourism, may not be viable. More recently, Di Minin et al. (2016) assert that trophy hunting ''strongly contributes'' to conservation in sub-Saharan Africa, where large areas currently allocated to use for trophy hunting support important biodiversity. They also note that, if revenue cannot be generated from trophy hunting, these natural habitats will be converted to other forms of land use. While recognizing that the degree to which trophy hunting contributes to conservation is a subject of debate, Mallon (2013), in his report on trophy hunting of CITES-listed species in Central Asia, states that ''well-run hunting concessions have an economic interest in maintaining the resource (*i.e.,* conserving the species) so will also aim to manage the area to conserve high-quality habitat that supports high numbers of the hunting species, and also to prevent unregulated use by others (poaching, overgrazing).'' Naidoo et al. (2015) describe the complementary benefits of tourism and hunting to communal conservancies in Namibia.

We are, of course, aware that not all trophy hunting is part of a well-managed, well-run program, and we evaluate import of sport-hunted trophies carefully to ensure that all CITES and ESA requirements are met. As noted previously, the Service currently does not allow import of sport-hunted

African elephant trophies from Tanzania and Zimbabwe because, based on the information available, we were unable to make the necessary determinations under CITES and the ESA in 2014 and 2015. Under this final rule, we will continue to require an ESA enhancement finding for import of all African elephant sport-hunted trophies and will require issuance of a threatened species permit for all such trophies, which will allow us to carefully evaluate trophy imports in accordance with legal standards and the conservation needs of the species.

(13) *Comment:* Trophy hunting is a very big industry, and trophy imports are unquestionably commercial. Trophy hunters pay tens of thousands of dollars for hunting licenses, lodges, guides, etc., yet trophy hunting continues to be categorized as noncommercial.

Response: We recognize that trophy hunters spend money on licenses, guides, travel, lodging, etc., and agree that sport hunts are a source of income for guides, outfitters, governments, and others in many range countries (and that a portion of the money generated by these hunts is often directed to elephant conservation efforts). However, the import of sport-hunted trophies for the personal use of the hunter is, and has long been, considered a noncommercial activity both under the ESA and by the CITES Parties. With this final rule, we are prohibiting any sale of African elephant trophies in interstate or foreign commerce, with the exception of those that qualify as ESA antiques, which will ensure that these imports are not commercialized.

(14) *Comment:* Some commenters were opposed to the restriction on import of sport-hunted trophies and to the requirement for ESA import permits for African elephant sport-hunted trophies from Appendix-II populations. One commenter asserted that those populations were expressly transferred from Appendix I to Appendix II to reduce import permitting costs, burden, and delays. The same commenter expressed particular opposition to limiting the number of trophies that could be imported from Appendix-I populations, as Appendix-I import permit conditions state that the ivory may not be sold. Some commenters stated that we had not indicated that U.S. sport hunters are a source of the poaching or trafficking problems so there is no reasonable justification for our assertion that individual permit requirements will help reduce poaching and trafficking of elephants.

Response: The African elephant populations in Botswana, Namibia, South Africa, and Zimbabwe were moved from Appendix I to Appendix II because they met the criteria for downlisting to Appendix II. These criteria do not include or contemplate reduction of permitting costs or burdens. The decisions to downlist these populations occurred at a time (1997 for Botswana, Namibia, and Zimbabwe; 2000 for South Africa) when the African elephant populations in these countries were increasing and poaching was generally not a concern. As stated previously, we are imposing limits on annual imports of sport-hunted trophies to ensure that U.S. hunters are not importing commercial quantities of ivory, as has happened in the recent past. We are aware of circumstances under which U.S. hunters have participated in elephant culling operations and imported the ivory from those culls as sport-hunted trophies. We consider this practice to be inconsistent with sport hunting, which is meant to be a personal, noncommercial activity. While the commenters are correct that we do not believe that U.S. sport hunters are involved in poaching and trafficking of ivory, we are concerned about commercial quantities of ivory imported through sport-hunting contributing to the problem, particularly in light of our concerns about the status of African elephant populations and the inadequacies of conservation management programs in place in many African elephant range countries. Authorizing import of all sport-hunted trophies through threatened species enhancement permits will allow us to more carefully evaluate trophy imports in accordance with legal standards and the conservation needs of the species.

(15) *Comment:* The permit requirement will not benefit hunters, contrary to what the Service has suggested. The ability to import will become subject to the discretion of U.S. officials responsible for reviewing the paperwork involved in the permit process, and any minor, nonsubstantive inaccuracy or error could result in delays, confiscation of the trophy, bureaucratic and legal obstacles, and penalties.

Response: We disagree. See the response to (14) above. Although we are changing the process for obtaining authorization for import, we are not changing the standards for the decision or the enhancement finding. In addition, under current regulations, the import of elephant sport-hunted trophies requires the Service to make a determination regarding whether the killing of the elephant whose trophy is intended for import would enhance the survival of the species, the trophy must be declared to the Service at the time of import, and the trophy must be made available for inspection. Issuance of a permit confirming that an enhancement determination has been made is unlikely to result in any fundamental change in how trophies are treated upon import.

(16) *Comment:* The current enhancement requirement is not lawful. It is wholly based on a perceived enhancement requirement under CITES Resolution Conf. 2.11 for Appendix I sport-hunted trophies, not Appendix II as is proposed.

Response: The requirement that we make a determination regarding whether the killing of the elephant whose trophy is intended for import would enhance the survival of the species is based on our ESA implementing regulations (50 CFR 17.32), and is in addition to CITES requirements. It is not based on the recommendations in Resolution Conf. 2.11, which addresses the making of CITES non-detriment findings for trade in hunting trophies of Appendix-I species. (See the response to (11) above.)

(17) *Comment:* Sufficient reason has not been given for overriding the purpose and intent of section 9(c)(2) of the ESA, which exempts hunting trophies of threatened Appendix-II species from import permit requirements, and the provisions of the AfECA confirming specifically the favored treatment of elephant hunting trophies.

Response: We disagree. Section 9(c)(2) (16 U.S.C. 1538(c)(2)) of the ESA and our ESA implementing regulations at 50 CFR 17.8 provide a limited exemption for the import of some threatened species, which can be used by hunters to import sport-hunted trophies. Import of threatened species that are also listed under CITES Appendix II is presumed not to be in violation of the ESA if the import is not made in the course of a commercial activity, all CITES requirements have been met, and all general wildlife import requirements under 50 CFR part 14 have been met. This presumption can be rebutted, however, when information shows that the species' conservation and survival would benefit from the granting of ESA authorization prior to import.

In 1997 and 2000, when the four populations of African elephants were transferred from CITES Appendix I to CITES Appendix II, we retained the requirement for ESA enhancement findings prior to the import of sport-hunted trophies. We amended the African elephant 4(d) rule in June of 2014, again maintaining the requirement for an ESA enhancement finding prior to allowing the import of African

elephant sport-hunted trophies. Requiring issuance of threatened species enhancement permits under 50 CFR 17.32 for the import of any African elephant hunting trophy is a change to the procedure for issuing ESA authorization but not a change to the requirement that an enhancement finding be made prior to import into the United States, as this finding was also required under the previous 4(d) rule.

The overall conservation status of African elephants has deteriorated in the years following the transfer of the four populations of African elephants to CITES Appendix II. The Service made a similar determination regarding the need for import permits for sport-hunted trophies of Appendix-II argali (*Ovis ammon*). In the final rule announcing the listing of the argali under the ESA (57 FR 28014, June 23, 1992), the Service determined the need for threatened species permits for import of sport-hunted trophies, noting that the ''history of excessive exploitation of the argali'' and ''the uncertainty concerning its management'' rebut the presumption that an export permit issued by the exporting country is all that is necessary to provide for the conservation of the argali in those countries. The district court upheld the Service's determination, finding no provision of the ESA indicates that ''the Secretary's duty and authority to issue protective regulations is preempted, circumscribed, or modified by section 9(c)(2).'' *Safari Club Int'l* v. *Babbitt,* 1993 U.S. Dist. LEXIS 21795 (W.D. Tex. Aug. 12, 1993).

As stated previously, authorizing import of all sport-hunted trophies through threatened species enhancement permits will allow us to more carefully evaluate trophy imports in accordance with legal standards and the conservation needs of the species. For example, as we noted in the preamble to the proposed rule, the issuance of threatened species enhancement permits under 50 CFR 17.32 would mean that the standards under 50 CFR part 13 would also be in effect, such as the requirement that an applicant submit complete and accurate information during the application process and the ability of the Service to deny permits in situations where the applicant has been assessed a civil or criminal penalty under certain circumstances, failed to disclose material information, or made false statements. Therefore, we have determined that the additional safeguard of requiring the issuance of threatened species enhancement permits under 50 CFR 17.32 prior to the import of sport-hunted African elephant trophies is warranted, and we are consciously supplanting the provisions of section 9(c)(2) of the ESA that would otherwise apply.

(18) *Comment:* The proposed rule violates the ESA. The Service proposes to restrict the number of sport-hunted trophies to two per hunter per year. In addition, the proposed rule requires issuance of a threatened species permit for all African elephant sport-hunted trophies, whereas now such permits are required only for trophies from CITES Appendix-I populations. The positive impact of sport hunting on wildlife management and economic development in Africa has been well documented, and the proposed rule does not detail the negative consequences the proposed revisions could have on sport hunting in Africa, nor does it offer evidence of how these negative consequences may impact conservation of elephants throughout their range. Because of this failing, the public has not been provided an opportunity to comment meaningfully, and, if finalized in its current form, this rule would constitute an arbitrary and capricious abuse of discretion.

Response: We disagree. While we have consistently acknowledged the positive impact sport hunting can have on wildlife management and economic development, we also articulated our concerns in the proposed rule with respect to the potential for commercial quantities of ivory to be imported as a result of sport hunting and provided opportunity for public comment. This rule does not limit the opportunity to hunt, only the number of trophies that an individual could import in a given year. Based on the small number (fewer than 10) of U.S. hunters who have imported more than two trophies per year over the last several years, we do not expect this to be a significant change for the vast majority of hunters. Range countries that allow sport hunting of African elephants establish annual quotas for export. Unless otherwise proscribed, a quota for 50 elephants could be filled by one hunter or 50 hunters. We do not believe, based on the information we have, that there is a shortage of hunters or that placing limits on the number of trophies that U.S. hunters can import in a given year would impact the overall number of elephants hunted. We are placing a limit on the number of trophies that can be imported to increase control of the U.S. domestic ivory market and to ensure that we are not allowing the import of commercial quantities of ivory as sport-hunted trophies. (See also the response to (12), above.)

Requiring issuance of a threatened species permit for import of all African elephant sport-hunted trophies (instead of only those from Appendix-I populations) will help us to more carefully evaluate trophy imports in accordance with legal standards and the conservation needs of the species and to ensure a conservation benefit. (See the response to (17), above.)

Comments on interstate and foreign commerce in ivory: The de minimis exception. The final rule will prohibit sale and offer for sale of ivory in interstate and foreign commerce except for antiques and certain manufactured items that contain a small (*de minimis*) amount of ivory and meet specific criteria. We received many comments on this proposed *de minimis* exception, including on the seven criteria set forth in paragraph (e)(3) to qualify for the exception. In the preamble to the proposed rule, we included a specific request for comment on the criteria proposed in paragraph (e)(3), particularly the criteria set forth in subparagraphs (iii) (the ivory is a fixed component or components of a larger manufactured item and is not in its current form the primary source of the value of the item) and (v) (the manufactured item is not made wholly or primarily of ivory), including the impact of not including these criteria and whether these criteria are clearly understandable.

Some, including some conservation organizations, expressed their preference for a complete ban on domestic commerce, but recognized our rationale for this proposed exception and asserted that the requirements to qualify should not be weakened in any way. Many others appreciated a *de minimis* exception but suggested a variety of changes to meet their particular needs, *e.g.,* bagpipers and organists believe the 200-gram weight limit should be increased to cover all types of bagpipes and keyboard instruments with multiple keyboards; others believe the weight limit should be different for different types of objects (furniture, musical instruments, etc.); some urged us to adopt a volume limit, instead of a weight limit; some suggested that the text in criterion (iii) be amended to include ivory parts that are ''integral'' to a manufactured item, not just ''fixed components'' of the item. We also received a request to amend criterion (iii) to include handcrafted items in addition to manufactured items. Some commenters urged us to extend the *de minimis* exception to commercial import and export.

(19) *Comment:* It is critical that, in the final rule, this provision remains truly

an exception only for items with minimal amounts of ivory. The criteria required for meeting the *de minimis* exception are well thought out and when taken as a whole will ensure that only a narrow category of ivory product that does not contribute to illegal trade will be permitted. Strongly discourage the removal or rollback of any of the seven criteria.

Response: We agree with the commenters.

(20) *Comment:* The broad *de minimis* exemption should be removed or significantly tightened (*i.e.,* limited to musical instruments only).

Response: While we appreciate the concern expressed, we decline to accept this suggestion. We have given considerable thought to the *de minimis* exception and the development of the criteria that must be met to qualify for the exception. It is our intent only to allow continued interstate and foreign commercial trade in products that contain a small amount of old ivory; items that we do not believe are contributing to elephant poaching or the illegal ivory trade. That group of products includes certain musical instruments but also includes, for example, household items such as baskets with ivory trim and teapots with ivory insulators, knives and guns with ivory grips, and some canes, walking sticks, and measuring tools with ivory trim or decoration, etc.

Our law enforcement experience over the last 25 years has shown that the vast majority of items in the illegal ivory trade are either raw ivory (tusks and pieces of tusks) or manufactured pieces (mostly carvings) that are composed entirely or primarily of ivory. In the preamble to the proposed rule, we described the November 2013 ''ivory crush'' during which the Service destroyed six tons of seized ivory that represented over 25 years of law enforcement efforts to control illegal ivory trade in the United States. The six tons of contraband ivory that was destroyed did not include any items that would be covered by this exception. Ivory traffickers are not manufacturing items with small amounts of pre-Convention ivory or dealing in such items. Rather, because the incentive to deal in illegal ivory is economic, the trade focuses on raw ivory and large pieces of carved ivory from which the highest profits can be made. We also described, in the preamble to the proposed rule, the case involving a Philadelphia-based African art dealer, which included the seizure of approximately one ton of ivory. All of the seized ivory (which was subsequently destroyed in our 2015 ivory crush in Times Square) was in the form of whole ivory carvings and did not include any items that would qualify under the *de minimis* exception in the final rule. Thus, we believe the criteria necessary to meet the *de minimis* exception will ensure that only a narrow category of ivory product that does not contribute to illegal trade will be permitted.

(21) *Comment:* Replace the word ''fixed'' with the phrase ''fixed or integral'' in criterion (iii) to cover items that have small ivory pieces that can be easily removed (like nuts or pegs on some wooden tools or musical instruments). ''Integral'' connotes an item that is ''essential to the completeness'' of a larger structure (Merriam-Webster online dictionary) and should satisfy the purpose of the criterion without artificially distinguishing between components based on how easily they can be detached.

Response: We believe this is a reasonable and useful suggestion and have revised the final rule accordingly.

(22) *Comment:* The *de minimis* exception provides an important avenue to allow sale and offer for sale of ivory objects in interstate or foreign commerce that would not contribute to illegal wildlife trade. However, the requirements as written may not exempt many objects considered works of art by U.S. art museums. The commenters suggest adding ''handcrafted'' to ''manufactured'' in the *de minimis* exception. Handcrafted would cover works that are unique and made primarily by hand that might not be considered ''manufactured.''

Response: We would have considered ''handcrafted'' items to fall under ''manufactured'' items, but we understand the distinction made by the commenters and have added handcrafted items to the criteria in paragraphs (e)(3)(iii), (v), and (vii) for clarity.

(23) *Comment:* Allow handcrafted objects created before February 26, 1976, to meet the *de minimis* exception, even if the ivory is a major component, so long as the ivory is not the primary source of value (*e.g.,* portrait miniatures).

Response: We appreciate that there are some items that meet most, but not all, of the criteria in the *de minimis* exception, and that some of these items may not be among those contributing to the poaching of elephants and illegal ivory trade. However, it is the criteria as a whole that we believe will minimize the possibility of the ivory contributing to either global or U.S. illegal ivory markets or that the *de minimis* exception could be exploited as a cover for illegal trade. We have crafted the *de minimis* exception to allow continued commercial trade in items that contain only a small amount of older ivory and that are not valued primarily because of the ivory they contain. We consider an item to be made wholly or primarily of ivory if the ivory component or components account for more than 50 percent of the volume of the item. Likewise, if more than 50 percent of the value of an item is attributed to the ivory component or components, we consider the ivory to be the primary source of the value of that item. Any person claiming the benefit of this exception has the burden of proving that the exception is applicable and showing that an item meets all of the criteria under the exception. Allowing interstate and foreign commerce of items for which ivory is a major component is contrary to the intent of the *de minimis* exception and would complicate implementation and enforcement of the exception. Therefore, we have not included this suggestion in the final rule. However, we note that many (possibly most) portrait miniatures, the example provided by the commenter, would likely qualify as ESA antiques and, therefore, would not need to meet the *de minimis* exception to be sold in interstate or foreign commerce.

(24) *Comment:* Allow a corresponding exception for import by U.S. art museums of works of art satisfying the stringent *de minimis* criteria.

Response: See *Comments on treatment of museums,* below.

(25) *Comment:* The Service should further restrict the date of import requirement in paragraph (e)(3)(i) so that it is consistent with the date in paragraph (e)(3)(ii), *i.e.,* February 26, 1976.

Response: The first two criteria paragraph (e)(3) to qualify for the *de minimis* exception set limits on when the ivory was either imported into the United States (if it is located in the United States) or when it was removed from the wild (if it is located outside the United States). We have chosen a different date for ivory that has been imported into the United States than for ivory located outside the United States to be consistent with our CITES regulations and standard CITES practices regarding pre-Convention specimens. Criterion (i) provides that, for items located in the United States, the ivory must either have been imported prior to January 18, 1990 (the date the African elephant was listed in CITES Appendix I), or imported under a CITES pre-Convention certificate (certifying that the ivory was removed

from the wild prior to the date the African elephant was first listed under CITES, which is February 26, 1976). This requirement is consistent with our CITES regulations at 50 CFR 23.55, which provide that CITES Appendix-I specimens may be used only for noncommercial purposes after import into the United States unless it can be demonstrated that they were imported prior to the Appendix-I listing or they were imported under a CITES pre-Convention certificate, which is issued to certify that the CITES specimen was taken from the wild prior to the date that the species was listed under CITES.

Criterion (ii) states that, for items located outside the United States, the ivory must have been removed from the wild prior to February 26, 1976. In this situation, our CITES use-after-import provisions in 50 CFR 23.55 would not apply (since the ivory has not been imported into the United States). Any African elephant specimen removed from the wild prior to February 26, 1976, is considered to be ''pre-Convention'' as it was acquired before it was subject to the provisions of CITES. The concept of pre-Convention CITES specimens and the process for authorizing international trade of CITES pre-Convention specimens is familiar to and widely understood by the 182 Parties to CITES. Therefore, we consider that use of the pre-Convention date as a qualifying factor for items located outside the United States is appropriate.

(26) *Comment:* Some commenters urged us to maintain the language in paragraph (e)(3) in criterion (v) that ensures that a qualifying item is not made wholly or primarily of ivory and the language in criterion (iii) stating that ivory is not the primary source of the value of the item. They also asserted that the other criteria are all reasonable elements that, if enforced, would be an improvement on the regulatory status quo. Some commenters urged us to strengthen and clarify the *de minimis* requirements, specifically criterion (v). They expressed their belief that ''wholly or primarily'' is subject to interpretation and could be construed to allow the sale of items made of up to 50 percent ivory. They urged us to consider a more stringent standard and noted that the State of New York requires antiques to be less than 20 percent ivory and California requires antiques to be less than 5 percent ivory and musical instruments to be less than 20 percent ivory to qualify for legal sale. These commenters encouraged the use of an equally well-defined numeric standard and low threshold amount of ivory to meet the requirements of criterion (v) of the *de minimis* exception. Some commenters suggested that, for some items, particularly furniture, we should consider a volume limit, as it allows for large antiques that use a proportionally small amount of ivory to be legally traded. Other commenters expressed uncertainty over how the primary source of value would be determined.

Response: We agree that it is important to maintain all seven of the criteria for meeting the *de minimis* exemption and that all of these criteria taken together ensure that only items containing truly small quantities of ivory will qualify for the exemption. We disagree with the assertion that using only a percentage of the total volume or weight of an item instead of a total allowable weight for the ivory contained in an item will necessarily result in a more stringent or more easily enforceable standard. Less than 20 percent, by weight or volume, of a very large or heavy piece could equal far more than 200 grams of ivory. Because all of the criteria must be met to qualify for the *de minimis* exception, both criterion (v) and criterion (vi), the two criteria that address quantity, must be met. This means that a qualifying item may not be made wholly or primarily of ivory *and* the total weight of the ivory component or components in the item must be less than 200 grams. We consider an item to be made wholly or primarily of ivory if the ivory component or components account for more than 50 percent of the volume of the item. Likewise, if more than 50 percent of the value of an item is attributed to the ivory component or components, we consider the ivory to be the primary source of the value of that item. We believe that these criteria taken together appropriately limit the amount of ivory an item may contain and still qualify for the *de minimis* exception. We will provide additional guidance on the implementation of these criteria via our Web site, including how we will estimate the weight of the ivory contained in a manufactured or handcrafted item, prior to the effective date of this rule. However, as stated above, any person claiming the benefit of this exception has the burden of proving that the exception is applicable and showing that an item meets all of the criteria under the exception. See *Comments on documentation requirements* (below).

(27) *Comment:* The 200-gram limit on the amount of ivory contained in antique objects seems unnecessarily stringent, driven by the weight of the ivory veneers on piano keys rather than a close review of the wide spectrum of antique objects that contain ivory. It is unclear how the Service would attempt to enforce the 200-gram limit (if the ivory is an integral part of the antique object, how could it be weighed separately?). If a *de minimis* limit is adopted, some commenters proposed that it be done by category of object; while 200 grams may be appropriate for musical instruments, with respect to other antique objects, particularly furniture, the Service should consider a volume limit, such as the 20 percent rule adopted in New York.

Response: To be clear, the proposed *de minimis* exemption does not apply to antiques. Items made of ivory or containing ivory that qualify as ESA antiques may be sold or offered for sale in interstate or foreign commerce regardless of the quantity of ivory they contain. The *de minimis* provision applies to activities in interstate and foreign commerce involving handcrafted or manufactured items containing small amounts of pre-Convention ivory or ivory that was imported into the United States prior to 1990 that does not qualify as antique under the ESA. The intent of the *de minimis* provision is only to allow the sale of certain older items, containing small amounts of ivory, which we do not believe are contributing to the poaching of elephants in Africa.

The commenters are correct that we chose the 200-gram limit because we believed it was large enough to accommodate most pianos and other musical instruments, as well as many other household and utilitarian items (such as baskets with ivory trim, teapots with ivory insulators, knives and guns with ivory grips, some canes and walking sticks with ivory inlay or other decoration, and measuring tools with ivory trim or decoration), but also because it was small enough to ensure that we were not allowing commercialization of substantial volumes of ivory. Because we proposed the 200-gram limit with a particular suite of existing items in mind, including certain musical instruments, we already have a good understanding of the types of items that qualify for the *de minimis* exception. We will provide additional guidance on the implementation and enforcement of the 200-gram limit. See also *Comments on documentation requirements* (below).

(28) *Comment:* For the *de minimis* exemption to function as intended, it is important that the 4(d) rule apply documentation requirements that are flexible enough to be realistic and achievable. The Service has already articulated such requirements in the ''use after import'' rule, and this same standard should be used for items

subject to the *de minimis* exemption; specificity can only lead to confusion.

Response: See *Comments on documentation requirements* (below).

(29) *Comment:* The New York State Department of Environmental Conservation (DEC) commends the U.S. Fish and Wildlife Service for its efforts to combat illegal wildlife trade and states that it has been proud to work alongside the Service to eliminate the illegal trade in wildlife. New York State has recently passed robust legislation banning the sale of elephant and mammoth ivory and rhinoceros horn, with limited exceptions for products such as antiques containing only a small amount of ivory. This legislation significantly curtailed the amount of elephant ivory that can be legally sold, traded, or distributed in New York State. The *de minimis* exemption in the Service's proposed rule is a significant flaw that would weaken New York State's ivory prohibitions on interstate sale. Current New York State law generally prohibits interstate sale of elephant ivory unless a person can demonstrate that the item is an antique greater than 100 years old and the person secures a permit from DEC to sell the ivory. The ESA generally preempts a State law that applies to import or export, or interstate or foreign sale of endangered or threatened species, where the State law prohibits what is authorized pursuant to an ESA exemption, permit, or implementing regulation. If the *de minimis* exemption is adopted, the State of New York must permit interstate sale of manufactured items containing *de minimis* amounts of ivory even if they are not antiques. The Service should reconsider this exemption.

Response: We agree that the revised 4(d) rule for the African elephant would likely require that the State of New York allow sale and offer for sale of ivory in interstate or foreign commerce along with delivery, receipt, carrying, transport, or shipment in interstate or foreign commerce without a threatened species permit for manufactured items containing *de minimis* amounts of ivory, provided they meet specific criteria. While the commenters have expressed their concern that this portion of their rule may be preempted, they have not attempted to show why allowing interstate commerce of *de minimis* amounts of ivory would not adequately curtail the sale of elephant ivory or why a more restrictive approach may be necessary and advisable for the species. It is always a goal of the Service to balance the burden of regulation with conservation. Based on our more than 25 years of law enforcement efforts and input from the public, this rule strives to strike that balance. We will, of course, continue to monitor the situation, and if the balance tips, may revisit the rule as necessary.

Additional comments on interstate and foreign commerce in ivory. As noted above, the final rule will prohibit sale and offer for sale of ivory in interstate and foreign commerce except for antiques and certain manufactured items that contain a small (*de minimis*) amount of ivory and meet specific criteria. In addition to the comments on the *de minimis* exception, we received comments on other aspects of the provisions for interstate and foreign commerce.

(30) *Comment:* Some commenters, including the New York Department of Environmental Conservation, assert that the Service should require a permit for the sale, offer for sale, purchase, trade, barter, or distribution of articles containing African elephant ivory and products and parts from other endangered and threatened species in interstate or foreign commerce.

Response: This comment, as it relates to other endangered and threatened species in interstate or foreign commerce, is beyond the scope of this rulemaking. However, the Service's goal here, and in its approach to regulating wildlife trade more broadly, is to balance the burden of regulation with the impact on conservation. Where our experience indicates that this activity is not contributing to the poaching of elephants and the risk of illegal trade is low, we do not wish to impose unnecessary regulatory burden on the public or additional workload on the Service, particularly in an area where the workload is already substantial.

(31) *Comment:* The U.S. Fish and Wildlife Service should create a registry and license all ivory dealers as recommended in CITES Resolution Conf. 10.10 (Rev. CoP16). Section 9(d) of the ESA creates a mandate for the Service to track the disposition of ivory products once they enter the United States.

Response: We disagree that section 9(d) of the ESA creates a mandate for the Service to track the disposition of ivory products once they enter the United States. Section 9(d) of the ESA requires people engaged in business as importers or exporters of wildlife, including any amount of African elephant ivory, to first obtain permission from the Service. These importers and exporters are also required to keep records of their imports and exports and any subsequent disposition by them of the wildlife and to allow the Service to examine those records. Those provisions remain firmly in place. The Service requires that anyone engaged in commercial import or export of wildlife obtain an Import/Export License from our Office of Law Enforcement and provide an opportunity for us to examine inventories and required records ''at all reasonable times upon notice by a duly authorized representative.'' We believe that the prohibitions and exceptions laid out in this rule are adequate to effectively regulate ivory trade in the United States and to ensure that the U.S. market for ivory is not contributing to elephant poaching and illegal ivory trade. A registry and licensing scheme would be unduly burdensome on both the regulated public and the Service, with little, if any, added conservation benefit beyond the restrictions already in place and those added here.

(32) *Comment:* Some commenters stated that the economic impact of the proposed rule on American craftsmen and artisans will be significant. One commenter estimated that there are about seven individuals in the United States who purchase tusks (from individuals who imported them prior to 1989) and cut them into a variety of forms, or ''blanks,'' for U.S. craftsmen to finish. These craftsmen work the ivory pieces into finished products, including pool cues, knife handles, and piano keys. He estimated that there are about 15 individuals making pool cues with ivory ferrules and that there are a total of about 300 people in the United States creating finished products using ivory. The commenter stated that under the proposed rule all of these people would lose their livelihoods. We also received comments from craftsmen who restore ivory pieces (see (48), below).

Response: We agree that this rule will impact craftsmen working with ivory in the United States. We note, however, that the final rule does not impact intrastate (within a State) commerce so those buying and selling within the State in which they reside will be able to continue to do so (where such activity is allowed under State law). In addition, we note that these craftsmen can make use of alternative materials, including mammoth ivory or deer antlers, for example. Martin and Stiles noted in their 2008 report that the exact number of ivory craftsmen in the United States is unknown but they estimated that there were 120 to 200 craftsmen at that time, with the number decreasing over time. The authors also noted that most craftsmen work part-time with ivory and use other materials as well. The impact on individual craftsmen will depend on the diversity of materials they use (wood, bone, mammoth tusks,

etc.) and may range from minimal revenue decrease to closure.

(33) *Comment:* The U.S. Fish and Wildlife Service definition of ''commercial activity'' is substantially narrower than the statutory definition and is, therefore, unlawful and should be amended. Section 3 of the ESA broadly defines ''commercial activity'' to mean ''all activities of industry or trade, including, but not limited to, the buying or selling of commodities.'' The Service's regulations at 50 CFR 17.3 further define ''industry or trade'' to mean only ''the actual or intended transfer of wildlife from one person to another person in the pursuit of gain or profit.'' The Service's definition essentially restricts covered ''commercial activities'' to the buying and selling of items. This definition contravenes the statutory definition, which covers both buying and selling items, as well as other commercial activities. The Service should rethink and broaden its regulatory definition [of commercial activity] and its application in the 4(d) rule.

Response: The regulatory definition of ''industry or trade'' with regard to commercial activity has been in place for many years and was promulgated through rulemaking conducted in accordance with the Administrative Procedure Act (APA), where the public received opportunity for notice and comment. As we know the commenter is aware, this definition has broader application than this 4(d) rule. We do not consider it appropriate to amend the definition for this specific rulemaking. In addition, as explained in the preamble to the proposed rule, we believe that taking an article across State lines for repair, for example, rightfully falls outside what is considered ''commercial activity.'' We may revisit this issue in the future if the existing definition appears to allow activities that may be contrary to the spirit or plain language of the ESA.

Comments on documentation requirements. We received a number of comments requesting that we provide clearly understandable guidance on how to determine whether an item qualifies for the antiques or *de minimis* exemptions and what type of documentation can be used to demonstrate that an item qualifies for one of these exemptions. Many musicians asked that we clarify the documentation needed to show the provenance of ivory contained in instruments. Some commenters asked for a rigorous and clearly defined method for documenting the age and provenance of an item so that both buyers and sellers understand their duties under the law. Others asked that we clarify how to determine the weight of ivory in a manufactured or handcrafted piece (where it cannot be removed and weighed) or how to determine whether the ivory is the primary source of value of an item. Some commenters noted that, for the *de minimis* exemption to function as intended, it is important that the Service apply documentation requirements that are flexible enough to be realistic and achievable. They pointed to the requirements articulated in the ''use after import'' provisions of our CITES regulations at 50 CFR 23.55 as a good example and argued that the same standard should be used for items subject to the *de minimis* exemption. We appreciate this input and understand the concerns. We are developing clear guidance for the public that we will make available before the effective date of this final rule.

One commenter asked whether the Service intends to require scientific testing of all ivory. Another commenter stated that many types of forensic testing are expensive, often destructive to the object, and sometimes unavailable due to an object's small size. They noted, however, that an object whose ivory cannot be identified forensically may be identified through expert analysis of trade patterns for objects of that type, the maker of the object, and geomapping of the object. They urged us to make clear that both of these types of evidence (forensic and other expert analysis) are acceptable. Another commenter asked us to clarify that, with respect to manufactured items, contemporary evidence contained in catalogs, price lists, and similar materials showing that a particular item was not offered for sale after a given date would constitute evidence that the item was manufactured prior to that date. Some commenters provided information on nondestructive methods for determining age and species of ivory objects, including both scientific methods and methodologies employed by art historians.

Response: We agree that forensic testing is not necessarily required. Provenance may be determined through a detailed history of the item, including but not limited to, family photos, ethnographic fieldwork, art history publications, or other information that authenticates the article and assigns the work to a known period of time or, where possible, to a known artist or craftsman. A qualified appraisal or another method, including using information in catalogs, price lists, and other similar materials that document the age by establishing the origin of the item, can also be used.

With regard to the criteria for meeting the *de minimis* exception, we consider an item to be made wholly or primarily of ivory if the ivory component or components account for more than 50 percent of the volume of the item. Likewise, if more than 50 percent of the value of an item is attributed to the ivory component or components, we consider the ivory to be the primary source of the value of that item. Value can be ascertained by comparing a similar item that does not contain ivory to one that does (for example, comparing the price of a basket with ivory trim/decoration to the price of a similar basket without ivory components). Though not required, a qualified appraisal or another method of documenting the value of the item and the relative value of the ivory component, including, as noted above, information in catalogs, price lists, and other similar materials, can also be used.

We will not require ivory components to be removed from an item to be weighed. Because we proposed the 200-gram limit with a particular suite of existing items in mind, including certain musical instruments, knife and gun grips, and certain household and decorative items, we already have a good understanding of the types of items that qualify for the *de minimis* exception. Examples of items that we do not expect would qualify for the *de minimis* exception include chess sets with ivory chess pieces (both because we would not consider the pieces to be fixed or integral components of a larger manufactured item and because the ivory would likely be the primary source of value of the chess set), an ivory carving on a wooden base (both because it would likely be primarily made of ivory and the ivory would likely be the primary source of its value), and ivory earrings or a pendant with metal fittings (again both because they would likely be primarily made of ivory and the ivory would likely be the primary source of its value).

We realize that determining whether an object containing ivory complies with these requirements may sometimes be difficult for persons who are not ordinarily engaged in commercial trade of such articles. Our law enforcement focus under this rule will be to help eliminate elephant poaching by targeting persons engaged in or facilitating illegal ivory trade. While it is the responsibility of each citizen to understand and comply with the law, and that is our expectation with regard to this regulation, we do not foresee

taking enforcement action against a person who has exercised due care and reasonably determined, in good faith, that an article complies with the *de minimis* requirements.

We will provide additional guidance on the implementation of these criteria via our Web site, including how we will estimate the weight of the ivory contained in a manufactured or handcrafted item and how we will determine that an item is made ''wholly or primarily'' of ivory, prior to the effective date of this rule.

We have already provided guidance, in the appendix to Director's Order 210, regarding documentation to demonstrate that an item meets the definition of ''antique'' under the ESA. We will provide additional guidance to the regulated public regarding documentation and other evidence that may be used to demonstrate that an item meets the specific exceptions to the prohibitions in this rule. We will make that information available on our Web site in advance of the effective date of this rule.

(34) *Comment:* Some commenters noted that the Internal Revenue Service has established an Art Advisory Panel that determines age and value for all sorts of art and antiques. They suggested that the Service may want to set up a similar panel of experts who can make declarations that objects are in compliance with the ESA antiques exemption.

Response: We do not believe that a third party panel or body is necessary for the effective implementation of this rule, although we encourage the regulated public to utilize available experts to provide technical advice regarding the qualifications of an item that may qualify for an exception to this rule. We will provide additional guidance to the regulated public regarding documentation and other evidence that may be used to demonstrate that an item meets the specific exceptions to the prohibitions in this rule. We will make that information available on our Web site in advance of the effective date of this rule.

(35) *Comment:* The Service must provide a safe harbor, whereby an affidavit from a qualified art, antiques, or ivory expert that the item satisfies the ESA antiques exemption is deemed sufficient. The Service could itself certify experts or require that such experts be certified by a third party.

Response: We disagree. Anyone claiming the benefit of an exemption from ESA prohibitions has the burden of proving that the exemption is applicable. There are a variety of methods and forms of documentation that can be used to demonstrate that the exemption applies. The Service has a long history of implementing and enforcing the ESA, including the antiques exemption. We do not believe that a safe harbor, as described by the commenters, is appropriate for the effective implementation of this rule. We do, however, encourage the public to utilize available experts to provide technical advice regarding the qualifications of an item that may qualify for an exception to this rule. See the other responses under *Comments on documentation requirements,* including to (34) above.

(36) *Comment:* The American Society of Appraisers asked whether and to what extent the Service plans to pursue legal or administrative recourse against appraisers who perform ''best efforts'' appraisals only to discover after some time that key assumptions or determinations that underpinned the appraisal are determined to be inaccurate.

Response: In Appendix 1 to Director's Order 210, we have provided explicit information on what the Service will accept as a qualified appraisal and facts we examine in determining the reliability of the appraisal. An appraisal using appropriate professional expertise based on the best available information at that time that is later determined to be incorrect would not subject that appraiser to legal action under this rule. We expect an appraiser or other individual to be able to act in good faith in his or her professional capacity.

Comments on the U.S. role in the illegal ivory market. We received a number of comments on the U.S. role in the illegal ivory market and steps the Service should take to address ivory trafficking.

(37) Many commenters asserted that ivory trafficking is primarily a problem in Asia and Africa, not here in the United States, and that the best way to protect African elephants is to step up enforcement and conservation efforts in Africa and in China. Some commenters cited analyses of CITES Elephant Trade Information System (ETIS) data as evidence that the United States is not part of the problem.

Response: Based on all available information, we believe that ivory trafficking is a global problem, and that the United States has a duty and responsibility to work with other countries around the world to combat illegal trade in ivory and other wildlife parts and products. To that end, we are actively engaged in combating poaching in African elephant range states and wildlife trafficking in transit and consumer states. We are supporting anti-poaching efforts in parks and other protected areas, providing training to rangers, working collaboratively on international investigations, supporting demand-reduction campaigns in consumer countries, and pushing other countries to strengthen their ivory trade controls. We disagree with the assertion that the United States does not play a role in the market for illegal ivory and that we do not have a duty and responsibility to take steps to control our own domestic ivory market. Trafficking of ivory is a complex, global problem, and it will take coordinated, focused efforts by all countries involved as source, transit, or destination countries to bring it to an end. Although the primary markets are in Asia, particularly in China and Thailand, the United States continues to play a role as a destination and transit country for illegally traded elephant ivory. We made this point in the proposed rule, and it is apparent in the ETIS reports cited by some commenters. We gave an overview in the proposed rule of the seizures by Service wildlife inspectors of unlawfully imported and exported elephant specimens over the years, and we described multiple smuggling operations, investigated by Service special agents, involving the trafficking of elephant ivory for U.S. markets. We reported that, since 1990, the annual number of seizure cases involving elephant specimens at U.S. ports has ranged from over 450 (in 1990) to 60 (in 2008); in most other years the number falls between 75 and 250 cases. In 2012, the most recent year for which we have complete data, there were about 225 seizure cases involving elephant specimens, which resulted in seizure of more than 1,500 items that contained or consisted of elephant parts or products. Nearly 1,000 of those items contained or consisted of elephant ivory. In his 2013 articles ''It's Not Just China, New York is Gateway for Illegal Ivory'' and ''The Big Ivory Apple,'' Daniel Stiles described a 2013 visit to New York City during which he saw what appeared to be a ''massive decline'' in the ivory market, compared to his visit a little more than 5 years earlier, with a 60 percent decrease in the number of outlets selling ivory and an approximately 50 percent decrease in the number of ivory items for sale. However, the author still found cause for concern and concluded that ''New York and San Francisco appear to be gateway cities for illegal ivory import in the U.S. . . . China is not the only culprit promoting elephant poaching through its illegal ivory markets. The U.S. is right up there with them.'' In a very

recent (March 9, 2016) case, the senior auction administrator of a gallery and auction house in Beverly Hills, California, pled guilty in Federal court to conspiring to smuggle wildlife products made from rhinoceros horn, elephant ivory, and coral with a market value of approximately $1 million. He personally falsified customs forms by stating that rhinoceros horn and elephant ivory items were made of bone, wood, or plastic. We are revising the 4(d) rule for the African elephant to more strictly regulate trade in African elephant ivory and help to ensure that the U.S. ivory market is not contributing to the poaching of elephants in Africa.

(38) *Comment:* The relative importance of the United States as a destination for illegal ivory has been greatly exaggerated. This misconception is attributed to the misreading of a table in Martin and Stiles 2008 report, Ivory Markets in the USA, which identifies the United States as having the second largest retail market for ivory in the world.

Response: The United States has among the largest economies in the world and has a large market for wildlife products, including ivory. Some commenters provided information estimating the size of the legal market for ivory in the United States. Although, by their nature, illegal markets are difficult to quantify, we agree that it is not accurate to characterize the United States as having the second-largest *illegal* ivory market in the world, and to be clear, we have not done so. We are aware, as the commenter notes, that others have made this assertion. (See also the response to (56), below.)

(39) *Comment:* In describing the U.S. market in the preamble to the proposed rule, the Service cited surveys done by Daniel Stiles and stated that ''Stiles estimated, in his 2014 follow-up study, that as much as one half of the ivory for sale in two California cities during his survey had been imported illegally.'' In his comments on the proposed rule, Mr. Stiles objected to that characterization and noted that the report in question said nothing about ''imported illegally''; it only stated that there is a much higher incidence of what appears to be ivory of recent manufacture in California, roughly doubling from about 25 percent in 2006 to about half in 2014, and that no conclusions should be drawn about what percentage of ivory in the United States is legal or illegal based on visual examination.

Response: It was certainly not our intention to mischaracterize Mr. Stiles' work. In an effort to avoid any mischaracterization, we will instead present excerpts from his surveys describing the U.S. role in the illegal ivory trade. The report referred to here is titled ''Elephant Ivory Trafficking in California, USA'' (Stiles, 2015), and the stated purpose (on p. 1) of the study was to ''ascertain the current ivory trade in California and estimate what proportion might be illegal.'' The author describes his methodology for determining the date of manufacture and/or import of an item and notes that it is fraught with difficulty and that it is subjective, based on the investigator's experience, knowledge of worked ivory from different regions, and clues gathered in conversations with informants or descriptions and photographs on tear sheets on Web sites. He states that the results should be considered a ''rough estimate.''

A summary of his results, in the abstract section, includes the following: ''In Los Angeles, between 77% and 90% of the ivory seen was likely illegal under California law (*i.e.,* post-1977), and between 47% and 60% could have been illegal under federal law. There is a much higher incidence of what appears to be ivory of recent manufacture in California, roughly doubling from approximately 25% in 2006 to about half in 2014. In addition, many of the ivory items seen for sale in California advertised as antiques (*i.e.,* more than 100 years old) appear to be more likely from recently killed elephants. Most of the ivory products surveyed appear to have originated in East Asia.'' He also states, on p. 15, that ''Based on the style of the possibly illegal worked ivory, the investigator concluded that it originated, in order of proportion, from East Asia, Africa, and Europe . . . most of it was probably smuggled in sea or air shipments mixed in with mammoth ivory, carved bone and resin pieces; shipped concealed and mislabeled with other products (*e.g.,* crafts, furniture); or carried in personal luggage. The fact that the majority of illegal ivory in the United States is coming from China makes sense, as a great deal of raw ivory is transported from Africa to China where it is carved mainly in factories in the Guangdong and Fujian provinces and then smuggled to the United States.''

We recognize Mr. Stiles' experience and expertise in investigating ivory markets around the world, and we recognize the difficulties associated with estimating the age or date of manufacture or import based on visual inspection. We do, in fact, recognize his conclusions to be rough estimates. That said, his studies provide additional evidence of the role of the United States in the illegal ivory trade.

(40) *Comment:* The Service must do more than focus on large-scale smuggling of ivory and must address the rampant interstate trade in ivory, which has a substantial negative cumulative impact on elephant conservation.

Response: We agree that more holistic regulation of ivory trade is necessary to address the U.S. role in this trade. The previous 4(d) rule did not regulate sale or offer for sale in interstate commerce of African elephant ivory, unless it was illegally imported into the United States or unless it was a sport-hunted trophy imported in violation of a permit condition. This rule goes further to prohibit sale or offer for sale of ivory in interstate or foreign commerce and delivery, receipt, carrying, transport, or shipment of ivory in interstate or foreign commerce in the course of a commercial activity with some limited exceptions. The final rule will improve controls on the domestic market, which will make it more difficult to launder illegal elephant ivory through the U.S. marketplace. Our target in this action is illegal ivory trade that is contributing to pushing African elephants toward extinction. Our goal is to thwart those engaged in trafficking of African elephant ivory. We will focus our enforcement efforts on people engaged in illegal activities that contribute to the poaching of elephants in Africa. We will not focus our enforcement efforts on people who legally possess and want to sell African elephant ivory under the exceptions provided and who, in the exercise of due care, have reasonably determined in good faith that an article complies with one of the available exceptions.

We believe that the restrictions and exceptions in this rule are necessary and advisable for the conservation of the African elephant while not unnecessarily regulating or prohibiting certain activities that do not contribute to elephant poaching and illegal ivory trade.

(41) *Comment:* The domestic ivory trade is not supplied by tusks taken from elephants dying in Africa today; it runs entirely on ivory that was legally imported before 1989. There is no demand for new raw ivory in the United States. There is a ''glut of estate raw tusks in the U.S.'' that sell for about 10–15 percent of the cost of those that can be obtained in China. No informed trafficker would try to smuggle tusks into the United States.

Response: We disagree. We cited numerous examples in the proposed rule of ongoing illegal trade in ivory to the United States. Additional examples have been documented since publication of the proposed rule. Our

wildlife inspectors consistently interdict and seize illegal elephant ivory. As recently as February 17, 2016, a New York antique dealer pleaded guilty to trafficking in prohibited wildlife that included raw and carved elephant ivory. He pleaded guilty to a felony Lacey Act charge for the unlawful import of a pair of elephant tusks and subsequent sale of those and four other elephant tusks to a Massachusetts collector. He purchased the ivory in Canada and smuggled it into the United States. The total value of the seized items is in the thousands of dollars. Thus, recent law enforcement efforts demonstrate that the United States plays a role in the illegal trade and associated illegal killing of African elephants.

(42) *Comment:* U.S. demand can be adequately addressed by pre-2014 law, as the successful prosecutions demonstrate.

Response: Although we have successfully investigated and prosecuted some cases in the last several years, our law enforcement personnel have indicated that the current regulatory regime makes it extremely difficult to effectively control illegal ivory trade in the United States. See response to (39) above regarding the apparent availability of illegal ivory in U.S. markets.

(43) *Comment:* The U.S. Fish and Wildlife Service should not be fighting this battle with mostly law-abiding American citizens when Chinese speculators are buying tons of poached ivory every year. Those who wish to prohibit legal ivory trade are creating the conditions for speculators to cash in; they are cutting off supply and creating artificial scarcity. Strongly urge the Service to devote its energies to solving the real problem—speculator demand for raw ivory in eastern Asia.

Response: We agree that solving this problem requires a suite of actions both domestically and internationally. This is a global challenge requiring global solutions. The United States is working with foreign governments, international organizations, nongovernmental organizations, and the private sector to maximize impacts together. These efforts aim to strengthen enforcement, reduce demand, and increase cooperation to address these challenges. See the response to (59) on other activities and initiatives in which we are engaged to help stop the poaching of elephants and end the illegal trade in ivory.

Comments on trade in antique ivory. In the final rule, we define antique (in paragraph (e)(1)) to mean any item that meets all four criteria under section 10(h) of the ESA, and we clarify (in paragraph (e)(9)) that antiques meeting this definition are not subject to the provisions of this rule. In that same paragraph, we point to the AfECA and remind readers that the provisions and prohibitions under AfECA also apply to trade in African elephant ivory, regardless of the age of the item.

(44) *Comment:* One commenter suggested adding the word ''nevertheless'' into the antiques paragraph, (e)(9), at the beginning of the sentence on the African Elephant Conservation Act to clarify that, while the ESA antiques exception does allow import of antiques, the AfECA does not.

Response: We believe this is a useful suggestion and have amended paragraph (e)(9) of the final rule accordingly. Additional text has been added to make clear that nothing in this rule interprets or changes any provisions or prohibitions that may apply under AfECA.

(45) *Comment:* Close the antiques loophole. By allowing sale of antiques made largely or entirely of ivory you will leave open one of the major loopholes used by smugglers today.

Response: The ESA antiques exception is statutory language enacted by Congress. We do not have the authority to eliminate this exception.

(46) *Comment:* Some recent ivory carvings are artificially aged to make them appear to be antiques. This practice underscores the need for a greater burden of proof for genuine antiques.

Response: We believe that the prohibitions and exceptions in this final rule are appropriate and necessary for the conservation of the African elephant. With regard to elephant ivory, we agree that there have been attempts to disguise the age of elephant ivory. However, we have not, to date, had a comprehensive regulatory regime in place for African elephant ivory. We believe that the prohibitions on interstate commerce, the specific criteria to meet the exception for ESA antiques, including clarification that the person claiming the benefit of the antiques exception has the burden of demonstrating that it applies, along with specific guidance such as that contained in Director's Order 210, are adequate to ensure that the antique exception is not exploited to engage in illegal trade in non-antique ivory items.

(47) *Comment:* The Service is taking the approach that it cannot distinguish legitimate antiques from new ivory. The legislative history of the ESA demonstrates that Congress agreed that legitimate antiques were distinguishable from newly harvested items.

Response: We fully agree that antiques can be distinguished from non-antiques, and our experience in implementing the ESA has demonstrated that fact. See *Comments on documentation requirements,* above. What we are making clear in this final rule is that the burden of demonstrating that an item qualifies for the ESA antiques exemption is firmly on the person claiming the benefit of that exemption.

(48) *Comment:* One ivory restorer commented that, under this rule, ivory that has been repaired after 1973 cannot be considered an antique and, therefore, cannot be sold. He noted that he has rarely seen any quality antique ivory that has not already been repaired and that he considers this provision to be an intentional roadblock to commerce. He added that much of his repair work requires no new ivory, just rebuilding and removal of old glue and dirt.

Response: To qualify as an antique, an item must meet all four criteria under section 10(h) of the ESA, including that it has not been repaired or modified with any part of an ESA-listed species on or after the date of enactment of the ESA (December 28, 1973). This provision is contained in the statute and applies to all ESA-listed species; it is not unique to this final rule or to African elephant ivory. We note, however, that removing old glue and dirt, as described by the commenter, would not be considered a repair or modification under the ESA unless it involved the use of additional ivory or other material from other ESA-listed species.

(49) *Comment:* Some commenters provided estimates of the value of antique ivory in personal household collections in the United States and the number of Americans who own antique ivory. One study, based on information from public sources, including auction sales reports, and interviews with ''over 30 important dealers, auction houses, individual collectors and antique experts'' evaluated the value of ''high-end, antique ivory objects'' in private collections. The author stated that 8.1 percent of U.S. households (9.5 million households) have a net worth of $1 million or more, excluding their home, and that if 5 percent of these households own ivory, there are 475,000 households ''likely to possess antique ivory objects.'' The author assigned an average value of $25,000 to the ivory in each of these households and arrived at an estimated value of $11.9 billion for the antique ivory in private collections in the United States.

Another paper on the scope of the antique ivory market in the United

States stated that ''5–10% of all antique decorative arts objects are made of or contain ivory or other endangered species materials.'' The author provided ''a very rough estimate'' of 400 million or more objects in the United States that contain or are made entirely of ivory. (While he stated that the majority of these objects were made ''prior to World War II'' it is not clear how many of these items may be antiques.) He also estimated that the total number of high-value items worth more than $10,000 each is relatively small (probably hundreds of thousands) whereas the number of more common decorative items is huge (400 million). The author also estimated that between 1.5 million and 2.5 million items made from ivory enter into commerce annually. Some commenters provided the results of a survey. The author of the survey asserted that ''(i)f 13 million people own 2.4 objects that have an average real value in today's market of $240 each, then we can say that it is probable that incidental ivory possessions—excluding pianos and major ivory collections—have an aggregate value of $7.488 billion.'' Not all of these items would qualify as antiques, however, as the average age of these objects was estimated to be 76 years (see also the response to (57), below).

One commenter asserted that ''the vast majority of ivory antiques transactions are relatively small in value (less than $500)'' and argued that requiring ''onerous and prohibitively expensive documentation'' would effectively prevent people from taking part in such transactions. These commenters, and others, asserted that the proposed rule would impose extremely onerous and unnecessary requirements on owners of ivory to demonstrate that an object satisfies the antiques exemption, which would largely destroy the exemption and render the vast majority of legitimate ivory antiques in the United States worthless.

Response: We disagree. This rule does not impose any requirements to demonstrate the antiques exemption that do not already exist for other ESA-listed species. We regularly issue permits for ESA antiques, and there remains an active trade in antiques that contain ESA-listed species in the United States. The ESA states explicitly (in section 10(g)) that an individual seeking the benefit of an exception bears the burden of demonstrating that an item meets that exception. We note that a number of commenters provided information on nondestructive methods for determining age and species of ivory objects, including both scientific methods and methodologies employed by art historians. They stated that the arts and antiques market is grounded in the ability to determine the authenticity of items, and experts in the field are capable of distinguishing legitimate antiques from forgeries. As noted above, we encourage the regulated public to utilize available experts to provide technical advice regarding the qualifications of an item that may qualify for an exception to this rule. Appendix 1 to Director's Order 210 provides guidance on the antique exception under the ESA, including guidance on documentation that may be used to demonstrate that an item meets the exception. We will develop and communicate additional guidance on documentation and other information that may be used to demonstrate how to meet the exception for ESA antiques. See *Comments on documentation requirements,* above.

While some commenters estimated the value and age of ivory in private household collections, this rule has no impact on private household collections unless and until they are sold. We agree that the majority of ivory antiques are small in value as stated by some commenters (less than $500 per item or $240 per item).

For the purposes of estimating the impacts of the rule, we assume that ivory (antique and non-antique) will continue to enter the legal market at the same rate as prior to this rule. Therefore, we disagree that between 1.5 million and 2.5 million ivory items enter commerce annually, as estimated by one commenter. Based on our review of data sources, the number of ivory items that are sold annually in the United States is closer to 89,000 items (see economic analysis for more information).

In our economic analysis, we estimate that sales in the domestic market average $88.8 million to $1.2 billion annually. For a conservative estimate of the domestic market analysis, we employ a lower bound of $992 per item (consistent with the online auction market average value) and an upper bound of $18,000 per item (which was the highest lot sold price in live auctions).

Based on the assumption that the proportion of the value of antique ivory items in domestic commerce resembles the export market (two percent), we estimate the rule to impact from $1.8 million to $23.4 million in interstate commerce of non-antiques. Therefore, this rule will not have an impact of billions of dollars, as some commenters have asserted.

Comments on treatment of museums. After announcing our intention to revise the 4(d) rule for the African elephant and prohibit sale and offer for sale of African elephant ivory in interstate commerce, we received input from representatives of the U.S. museum community. They expressed their concern that prohibitions on interstate commerce will impact their ability to acquire items for museum collections. In the preamble to the proposed rule, we recognized that museums can play a unique role in society by curating objects that are of historical and cultural significance and sought input from the public regarding whether we should incorporate an exception to the prohibitions on interstate commerce for museums, either through this rulemaking process or through a separate rulemaking process under the ESA. Additionally, we sought comment on how best to define museums in this regard, given the diverse interests that they serve.

We received a number of suggestions for the definition of ''museum,'' including the definition developed by the Institute of Museum and Library Services (found at 2 CFR 3187.3), the Institute of Museum and Library Services definition with some added provisions, and the definition used by the International Council of Museums, with an additional requirement that a museum must have been established for at least 10 years prior to its first attempt at interstate procurement of ivory. Some commenters urged us to defer this issue to a separate rulemaking and comment period; others believe such an exception should be included in this final rule.

(50) *Comments:* One commenter asked how museums, if there is an exception made for them, would be able to engage in interstate commerce when the proposed rule contains no such exception for other market participants. The commenter urged the Service to consider expanding the museum exception to include other reputable members of the arts and antiquities community to facilitate this commerce and ensure that pieces of cultural and historical significance are preserved for future generations.

Some commenters supported an exception for museums and urged us to consider such an exception to be expanded to include any entity that holds a Federal income tax exception under section 501(c)(3) of the Internal Revenue Code, as amended, which would allow museums to acquire culturally significant items, churches to purchase used pipe organs from other churches, and orchestras to obtain instruments for their musicians.

Some commenters urged us to allow an exception not only for interstate

commerce but also for import by U.S. art museums of works of art satisfying the *de minimis* criteria.

Other commenters expressed concern about a possible exemption for museums and noted that the range of entities considered to be ''museums'' is quite broad and includes a wide range of interests and purposes. Other commenters were strongly opposed to an exception to the prohibition on interstate commerce for museums. They stated their belief that it is unnecessary, given the antiques exception contained in the ESA and the *de minimis* exception included in the proposed rule. Some asserted that entities purporting to be museums could abuse a museum exception to perpetuate the trade in elephant ivory in a manner that undermines elephant conservation.

Response: We believe that this is an important issue that warrants further consideration. We received a range of ideas and opinions on how to define a ''museum'' and whether or not entities so defined should be treated differently than other groups under the ESA. This is a complex issue that warrants careful consideration as any such decision will have ramifications beyond trade in African elephant ivory and the scope of this rulemaking. Therefore, we will explore the treatment of museums under the ESA in a separate rulemaking process and seek comment from a broader constituency regarding the potential benefits and risks of an exemption from certain ESA prohibitions for museums. Until such time, our regulations do not contain an exception to the prohibitions on interstate and foreign commerce for museums.

Comments regarding import or export of ivory as part of a traveling exhibition. Some commenters sought clarification regarding the exception for items containing ivory that are part of a traveling exhibition. Requirements for import or export of worked ivory as part of a traveling exhibition are found in 50 CFR 17.40(e)(5)(ii).

(51) *Comment:* One commenter pointed to the requirement that items that are part of a traveling exhibition must be marked or uniquely identified and noted that marking of objects is not always practical. The commenter stated that some museums and other lenders are unlikely to permit their objects to be marked and requested that we clarify that photographs may be used, as an alternative to marking, to uniquely identify an item imported or exported as part of a traveling exhibition.

Response: As the commenter noted, the requirement is that an item be marked *or uniquely identified* (emphasis added). We agree that a photograph may be used to identify an item, in place of a mark, as long as the photograph allows a border official to verify that the certificate and the item correspond.

(52) *Comment:* Some museum directors stated that, although the CITES traveling exhibition certificate can, theoretically, work for an exhibition organized by a foreign museum, not all countries issue traveling exhibition certificates. While noting that the Service has been helpful in trying to obtain traveling exhibition certificates from these countries, the commenters identified the need for a more permanent solution. In addition, some museum directors stated that the traveling exhibition certificate is problematic for long-term loans, as the maximum duration of a traveling exhibition certificate is 3 years, which is often not sufficient. They acknowledged that this is not the sole purview of the Service, but asked that we consider ways to extend the maximum duration, remove the time limit, or allow certificates to be extended without the necessity of bringing the object back to the issuing country. It was suggested that, as an alternative, a pre-Convention certificate could be used, conditioned to state that the item is on loan from or to a U.S. museum, that it will be used for exhibition only and will not be sold or otherwise transferred while traveling internationally, and will be returned to the country that issued the certificate.

Response: It is true that not all countries issue CITES traveling exhibition certificates. As the commenters noted, we work with these countries, as the need arises, to encourage them to issue such a certificate or to find a suitable alternative. Alternatives may include the use of a CITES pre-Convention certificate with conditions specifying that international trade of the item must be under similar conditions as those for trade under a traveling exhibition certificate. We continue to work with other CITES Parties to promote the use of traveling exhibition certificates and to streamline exchanges between museums to the extent possible.

Comments on regulatory process. Some commenters expressed concern about the process the Service has undertaken to revise the 4(d) rule.

(53) *Comment:* Some commenters asserted that the proposed rule violates the APA notice-and-comment provisions because the Service failed to provide evidence supporting its rationale for the revisions and failed to estimate negative consequences to the domestic ivory market; therefore, the public is not afforded a meaningful opportunity to comment. They further assert that we have failed to establish a linkage between the U.S. market and illegal ivory trade or poaching of African elephants in the wild and have admitted that it is not possible to predict how many elephants will be saved by revising the 4(d) rule. Without being provided such evidence, they do not believe the public has the opportunity to meaningfully comment. If finalized in its current form, they believe this would also be a violation of the APA's arbitrary and capricious standards.

Response: We disagree. An agency need not justify the rules it selects in every detail, but it is required to explain the general bases for the rules chosen. See *Connecticut Light and Power* v. *NRC,* 673 F. 2d 525 (D.C. Cir. 1982). We have thoroughly explained the bases for the actions we proposed to take. In the preamble to the proposed rule, we described the unprecedented increase in the illegal killing of elephants, the alarming growth in illegal trade of elephant ivory, and U.S. involvement in the illegal ivory trade. (See *Comments on the U.S. role in the illegal ivory market,* above.)

It seems these commenters would require the Service to predict exactly how many African elephants would be conserved before they believe they can meaningfully comment pursuant to the APA. A quantitative estimate of benefits is not necessary to satisfy the purposes of the ESA. The Service finds that provisions in this 4(d) rule are necessary and advisable to provide for the conservation of the African elephant and has also included appropriate prohibitions from section 9(a)(1) of the ESA. Thus, the final rule meets the standards under section 4(d). Moreover, E.O. 12866 recognizes that some costs and benefits are difficult to quantify and instructs agencies to adopt regulations based on a reasoned determination that the benefits of the intended regulation justify the costs. We have made a reasoned determination based on a qualitative assessment of the rule's benefits.

(54) *Comment:* Some commenters asserted that Director's Order 210 (DO 210) establishes binding agency rules for enforcement of the AfECA and the ESA and is thus a legislative rule, which requires notice and comment under the APA.

Response: Although we have reflected certain provisions of DO 210 in the 4(d) rule, this final rule does not interpret or implement DO 210 or the AfECA, and we note that this rulemaking *is* being promulgated in accordance with the APA.

DO 210 is a policy statement and not subject to the notice-and-comment procedures of the APA. Notice-and-comment procedures are required only under the APA (5 U.S.C. 553) for legislative rules with the force and effect of law; ''interpretive rules, general statements of policy, or rules of agency organization procedure, or practice'' are exempted. 5 U.S.C. 553(b)(A) ; *see also Nat'l Ass'n of Broadcasters* v. *FCC,* 569 F.3d 416, 425–26, 386 U.S. App. DC 259 (D.C. Cir. 2009). The *Attorney General's Manual on the Administrative Procedure Act* (1947) offers ''the following working definitions'':

Substantive rules—rules, other than organizational or procedural rules under section 3(a)(1) and (2), issued by an agency pursuant to statutory authority and which implement the statute, as, for example, the proxy rules issued by the Securities and Exchange Commission pursuant to section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n). Such rules have the force and effect of law.

Interpretative rules—rules or statements issued by an agency to advise the public of the agency's construction of the statutes and rules which it administers.

General statements of policy—statements issued by an agency to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power.

DO 210 ''establishes policy and procedure for [Service] employees to implement the National Strategy as it relates to the trade in elephant ivory . . .'' and, thus, falls squarely within the ''General statements of policy'' as defined in the *Attorney General's Manual on the Administrative Procedure Act.* DO 210 is a general statement of policy, informing employees and the public as to how the Service will enforce the moratorium. Language in the DO 210 emphasizing employees' discretionary power with regard to implementation supports this position.

Further, under the Supreme Court's holding in *Heckler* v. *Chaney,* DO 210 is a statement of the Service's decision not to enforce the moratorium to the fullest extent possible. See Daniel T. Shedd & Todd Garvey, *A Primer on the Reviewability of Agency Delay and Enforcement Discretion,* CRS REPORT, 4 (Sept. 4, 2014) (quoting *Heckler,* 470 U.S. at 832) (arguing that this statement is applicable to the Director's Order). In *Heckler,* an agency's ''decision not to prosecute or enforce . . . is a decision generally committed to an agency's absolute discretion.'' DO 210 is not a final agency action subject to judicial review.

(55) *Comment:* The proposed rule would prohibit interstate and foreign sale of currently legal ivory products, unless the item falls under the antiques exemption or the *de minimis* exception. Meeting these standards will prove burdensome and difficult. If the proposal is finalized in its present form, it would violate the dictates of justice and fairness and would result in an unconstitutional taking of legally imported ivory under the 5th Amendment.

Response: Under E.O. 12630, ''significant [Constitutional] takings implications should . . . be identified and discussed'' in notices of proposed rulemakings. The Service has concluded that the proposed rule does not have significant takings implications.

This 4(d) rule applies to all African elephants and their parts, including live and dead elephants, parts other than ivory, and products made from elephant parts other than ivory. Compared to the restrictions provided by statute and regulation for other ESA threatened species, this rule places relatively few restrictions on live elephants and parts and products other than ivory.

While the rule does restrict certain activities with elephant ivory, people who lawfully possesses African elephant ivory can continue to engage in many activities with their ivory. They can continue to possess their ivory. They can gift it or bequeath it to another person. They can sell it and engage in other commercial activities with the ivory within their State provided the commercial activity is allowed under other law. They can also import or export ivory, sell or offer for sale ivory in interstate or foreign commerce, and engage in other commercial activities in interstate or foreign commerce provided they meet the requirements of the rule, in most cases without first obtaining an ESA threatened species permit. The many unregulated activities that may continue under the rule with elephants and their parts and products, including ivory, as well as activities that would be allowed, provided that regulatory requirements are met, indicate that the rule proposes no significant takings implications.

Overall, this rule is comparable to provisions applicable to other commercially valuable threatened species. For nearly all other endangered and threatened species, practically all import, export, sale or offer for sale in interstate or foreign commerce, and certain activities in interstate or foreign commerce in the course of a commercial activity are prohibited, unless the activity qualifies as a particular purpose and the person obtains an ESA permit. These standard, more stringent prohibitions under the ESA have never been successfully challenged as a Constitutional taking.

For example, in *Andrus* v. *Allard,* 444 U.S. 51 (1979), an analogous scenario challenging the prohibition of commercial transaction in parts of birds legally killed before they came under the protection of the Eagle Protection Act and the Migratory Bird Treaty Act, the Supreme Court held the simple prohibition of the sale of lawfully acquired property does not effect a taking in violation of the Fifth Amendment. It noted the challenged regulations do not compel the surrender of the artifacts in question, and there is no physical invasion or restraint upon them. It found the denial of one traditional property right does not always amount to a taking, nor is the fact that the regulations prevent the most profitable use of appellees' property dispositive, since a reduction in the value of property is not necessarily equated with a taking.

(56) *Comment:* Mischaracterization by the Service of the Stiles data not only violates the APA but also the Data Quality Act (DQA). One commenter stated that ''Although the FWS characterized the U.S. as the world's second largest market for illegal ivory, it bases this claim largely on a report that Stiles compiled with Esmond Martin in 2008 . . . [which] is likely due to the misreading of a table in his report. . . .'' The commenter goes on to assert that, because this ''evidence'' is utilized by the Service in the proposed rule, the public has not been provided a true picture of the U.S. ivory market or its relation to the illegal ivory trade.

Response: Nowhere in the proposed rule did we claim that the United States is the second largest market for illegal ivory (or for legal ivory) in the world. We quoted (on p. 45159) a 2004 report by Douglas Williamson of TRAFFIC who stated that ''as one of the world's largest markets for wildlife products, the [United States] has long played a significant role in the international ivory trade.'' In his comments on the proposed rule, Mr. Stiles states that he ''would like to dispel the false claim that the U.S. is the second largest market for illegal ivory consumption in the world—repeated in NGO campaigns and media stories constantly.'' He attributes this misconception to an incorrect interpretation of a table in the 2008 Martin and Stiles report. The executive summary of that 2008 report states that ''The USA appeared to have the second largest ivory retail market in

the world after China/Hong Kong, as determined by numbers of items seen for sale.'' Although we did not refer to Mr. Stiles' characterization of the size of the U.S. market (which he repeated in his 2015 report), others who commented on the proposed rule did. The commenter has incorrectly conflated the comments of others on this subject with the text of the proposed rule. See our response to Mr. Stiles' comments under (39), above.

(57) *Comment:* The Regulatory Flexibility Act (RFA) requires an agency either to certify that a proposed rule will not have a significant economic impact on a substantial number of small entities or to conduct a full analysis that describes the effect of the rule on small entities. The Service has certified that the proposed rule will not have a significant impact on a substantial number of small entities, but there is nothing in the record that supports this certification. The Service estimates a two percent decrease in domestic sales by assuming that the domestic market operates in much the same way as the export market. There is no evidence to support this assumption. The Service also states that they are proposing to take this action to increase protection for African elephants and that increased control of the domestic ivory market would benefit the conservation of the African elephant. Both of these claims cannot be true. If the proposed rule reduces domestic and export markets by two percent, the revision cannot possibly have a measureable impact on the illegal trade of African elephant ivory. Either the Service is grossly underestimating the impact of the proposed rule or is grossly overestimating the impact of the U.S. ivory market on illegal trade.

Response: We disagree. The provisions in the final rule, including the clarification that anyone claiming the benefit of an exemption under the ESA has the burden of proving that the exemption applies, allow us to more strictly regulate the U.S. ivory market, which will benefit the conservation of the African elephant by prohibiting those activities that we believe are contributing to the poaching of elephants and for which we believe the risk of illegal trade may be high. We believe the major impact will be to ongoing illegal trade, of which there remains ample evidence in the United States. As we noted in the proposed rule, there are limited data available on the domestic ivory market.

Some commenters provided estimates of the value of antique ivory in personal collections (nearly $12 billion according to one document) and the number of Americans who own antique ivory (hundreds of thousands of households). (See *Comments on trade in antique ivory,* above). Some commenters provided a study, based on an email survey sent to 167 individuals, which estimated the number of Americans who possess objects containing ivory. The author of the study states that the results of the survey indicate that there are 13 million Americans who own an average of 2.4 objects that they believe to be made from or with ivory. Most were considered family heirlooms. The average age of those objects was estimated to be 76 years, and the average value was estimated to be $240 each. These estimates were extrapolated to arrive at an aggregate value of over $7 billion for ''incidental ivory possessions'' (excluding pianos). We understand that there are many Americans who own ivory, including African elephant ivory. These rough estimates of the quantity, age, and value of ivory in the United States help to provide a general picture of private household collections in the United States, but this rule has no impact on private household collections unless and until they are sold. Furthermore, because most of the objects are considered family heirlooms, we expect that these items would most likely be passed from one generation to another. We assume for the purposes of our analysis that ivory (both antique and non-antique) will continue to enter the legal market at the same rate as prior to this rule. In our economic analysis, we estimate that domestic ivory sales average $88.8 million to $1.2 billion annually, with non-antique sales representing about $1.8 million to $23.4 million annually.

Some commenters provided information on the economic impact of the proposed rule on American craftsmen and artisans (See (32) above). We have used this information in the Regulatory Flexibility Analysis to describe the types of establishments that will be impacted by this rule. We used the data available to us, including the export data from our Office of Law Enforcement, to make reasonable assumptions to approximate the potential economic impact of the proposed rule, including impacts on interstate commerce. We evaluated the declared value of worked ivory exports during a recent 5-year period, which varied from $32.1 million to $175.7 million. The declared value of items containing African elephant ivory that were less than 100 years old (and, therefore, could not qualify as ESA antiques) ranged from $607,000 to $3.7 million annually during the same time period. As this rule will no longer allow the commercial export of non-antique ivory, we expect, based on the information available, that, on average, commercial export of worked ivory will decrease by about two percent.

With regard to the domestic market, while the final rule will result in prohibitions on certain activities in interstate and foreign commerce, it will have no impact on commercial activities within a State (intrastate commerce). Businesses will not be prohibited by the final rule from selling raw or worked ivory within the State in which they are located, unless prohibited under State law.

Under the final rule, certain commercial activities, such as sale in interstate or foreign commerce of raw ivory and non-antique worked ivory, with the exception of those items that qualify for the *de minimis* exception, will no longer be permitted. In our economic analysis, we estimate that domestic ivory sales range from $88.8 million to $1.2 billion annually. Using the best data available, the percentage of non-antiques in the export market (two percent) is extrapolated to the domestic market, as an upper-bound estimate of impacts, based on the assumption that the domestic market would be similar to the export market. Thus, the decrease in sales of non-antique ivory in the domestic market ranges from $1.8 million to $23.4 million annually. If those items that do not qualify as antiques constitute a greater proportion of commercial activities, the impacts could be greater. However, because we are allowing commercial activities in interstate and foreign commerce with certain items containing *de minimis* amounts of ivory, and many of these items would be precluded from export, we believe that an even smaller percentage of the legal domestic market would be impacted compared to the export market.

Contrary to the commenter's claim that it cannot be true that we are taking this action to increase protection for African elephants, but that these actions will not have a significant impact on current legal trade, we believe that these actions will substantially impact our ability to effectively control trade and that will contribute to a reduction in illegal killing of elephants. As we described in the proposed rule, there is ample evidence that the United States continues to be a market for illegal trade and that a substantial amount of ivory currently available in the United States was illegally imported. These increased controls will lead to conservation benefits for African elephants by making

it more difficult for unscrupulous actors to launder illegal ivory through the legal market.

(58) *Comment:* One commenter asserted that certification of this rule under the RFA was inappropriate and that the Service should conduct an Initial Regulatory Flexibility Analysis. They stated that the Service proposes to prohibit all commercial sale of ivory in interstate or foreign commerce with the exception of those items that could meet the *de minimis* exemption and that ''there are 24,730 businesses that are either art dealers or used merchandise dealers that could be affected by the rule. These commercial vendors comprise 70% of the potentially affected businesses and over 84% of these businesses are small entities.'' They went on to conclude that ''over 84% of small businesses in the affected industries will be impacted.''

Response: The commenter's concerns are based on an incorrect assessment of what the rule would do and an unrealistic estimate of the number of small businesses that would be impacted. Under the provisions of the final rule, in addition to the exception for manufactured items that contain a small (*de minimis)* amount of ivory, interstate and foreign commerce in antiques will also still be allowed (see paragraphs (e)(3) and (e)(9) in the final rule). Table 2 in the preamble to the proposed rule (expanded and reprinted below, as Table 3, in this document) provides the number of businesses within affected industries and the percentage of those businesses that are considered small businesses, based on the North American Industry Classification System (NAICS). The table includes 7 industries and a total of 35,350 businesses within those industries. Eighty-four percent of those businesses are considered small businesses. However, it is very misleading to suggest that most of these businesses, small or otherwise, would be impacted by this rule.

The commenter has pointed to the 24,730 businesses classified under the NAICS as either used merchandise stores or art dealers. This total number includes 19,793 used merchandise stores (NAICS code 453310), 74 percent of which are considered small businesses, and 4,937 art dealers (NAICS code 453920), 95 percent of which are considered small businesses. The NAICS defines these categories as follows:

453310 Used Merchandise Stores: *This industry comprises establishments primarily engaged in retailing used merchandise, antiques, and secondhand goods (except motor vehicles, such as automobiles, RVs, motorcycles, and boats; motor vehicle parts; tires; and mobile homes). Examples include: Antique shops; Used household-type appliance stores; Used book stores; Used merchandise thrift shops; Used clothing stores; and Used sporting goods stores.* This category obviously contains a wide range of businesses selling a wide range of products.

453920 Art Dealers: *This industry comprises establishments primarily engaged in retailing original and limited edition art works. Included in this industry are establishments primarily engaged in displaying works of art for retail sale in art galleries. This category also includes art auctions.*

Extrapolating data from market surveys conducted by Martin and Stiles in 2006 and Stiles in 2014, we estimate that this rule would impact 3,200 retail outlets selling ivory products nationwide (see economic analysis) and represent 12 percent of all used merchandise stores and art dealers. Under this rule, these retail outlets would incur costs of one percent or less of total sales (see Regulatory Flexibility Act section for more detail). The other five categories of businesses in Table 2 in the preamble to the proposed rule are: Musical instrument manufacturing; sporting and recreational goods and supplies merchant wholesalers; metal kitchen cookware, utensil, cutlery, and flatware (except precious) manufacturing; jewelry and silverware manufacturing; and all other miscellaneous wood product manufacturing. Another commenter estimated that there are about 300 people in the United States creating finished products using ivory components. Of these, the commenter estimated that about 15 individuals make 10 pool cues per year with ivory ferrules. This would translate to less than one percent of the industry ''All other miscellaneous wood product manufacturing'' (NAICS 321999). While the commenter did not provide data regarding the industries under which the remainder of the 300 establishments would be categorized, we can estimate that the potential number of establishments represents two percent of establishments in the affected industries (excluding Used Merchandise Stores) or three percent of establishments in the affected industries (excluding Used Merchandise Stores and Sporting and Recreational Goods Stores). The 2008 Martin and Stiles report estimated that there were 120 to 200 ivory craftsmen in the United States, which would represent one to two percent of establishments in the affected industries.

We recognize that we are unable to conclusively quantify the number of small businesses within the individual industries that would be affected by the rule. The final rule prohibits sale or offer for sale of ivory in interstate or foreign commerce and delivery, receipt, carrying, transport, or shipment of ivory in interstate or foreign commerce in the course of a commercial activity, except for qualifying antiques and manufactured items that contain a small (*de minimis*) amount of ivory and meet certain criteria. Our evaluation of the current market, particularly our estimate of the proportion of the trade that will continue to be allowed as antiques, indicates only about a two percent decrease in commercial exports of African elephant ivory ($2.1 million annually) and a similar two percent decrease in interstate commerce ($1.8 million to $23.4 million).

(59) *Comment:* The Service has ignored obvious alternatives to a domestic ivory ban that would be much more effective at saving elephants without depriving Americans of property rights. Among the alternatives to a ban on ivory trade that the Service failed to evaluate or consider: Increasing support for conservation and local community programs in Africa; increasing support for local African law enforcement; enforcing Pelly sanctions against China and other Asian and African countries for illegal ivory trade; bolstering embassy support in African range countries and destination countries for poached ivory to increase diplomatic pressure on governments; and rewarding African countries with effective conservation programs by allowing an international trade of ivory from those countries.

Response: The Service is actively engaged in the types of activities described by the commenter. We are supporting anti-poaching efforts in parks and other protected areas, providing training to rangers, working collaboratively on international investigations, supporting demand-reduction campaigns in consumer countries, and pushing other countries to strengthen their ivory trade controls. This final rule is in addition to other actions taken by the Service and other U.S. Government agencies to combat illegal trade in elephant ivory and other protected wildlife.

As noted in the proposed rule, on July 1, 2013, President Obama signed Executive Order 13648 on Combating Wildlife Trafficking. The Executive Order calls on executive departments and agencies to take all appropriate actions within their authority to ''enhance domestic efforts to combat

wildlife trafficking, to assist foreign nations in building capacity to combat wildlife trafficking, and to assist in combating transnational organized crime.'' On February 11, 2014, President Obama issued the National Strategy for Combating Wildlife Trafficking, which identifies three strategic priorities for a whole-of-government approach to tackling wildlife trafficking: Strengthening enforcement; reducing demand for illegally traded wildlife; and expanding international cooperation and commitment. On February 11, 2015, the U.S. Departments of the Interior, Justice, and State, as co-chairs of the President's Task Force on Wildlife Trafficking, released the implementation plan for the National Strategy. Building upon the Strategy's three strategic priorities, the plan lays out next steps, identifies lead and participating agencies for each objective, and defines how progress will be measured. The implementation plan reaffirms our Nation's commitment to work in partnership with governments, local communities, nongovernmental organizations, and the private sector to stem the illegal trade in wildlife.

Multiple U.S. Government agencies are involved in the fight against wildlife trafficking and are engaged in activities under all three of the strategic priorities identified in the National Strategy. U.S. Government grants and initiatives in support of efforts to combat poaching of elephants and trafficking of elephant ivory include projects that provide for: Training, operating expenses, and equipment for anti-poaching patrols; purchase and maintenance of vehicles and other equipment for rangers; expenses for aerial surveillance; and training of dogs for detection and investigation of wildlife crime and protection of rangers and wildlife. U.S. Government law enforcement professionals provide training and expertise to foreign partners in Africa through the International Law Enforcement Academy (ILEA) in Botswana (created through a bilateral agreement between the governments of Botswana and the United States to provide training for representatives from countries in sub-Saharan Africa). The U.S. Government also promotes and supports the development and operation of regional Wildlife Enforcement Networks and provides training to develop capacities to investigate, prosecute, and adjudicate wildlife crimes. The U.S. Fish and Wildlife Service Office of Law Enforcement has placed special agents in U.S. embassies in key regions (including in China, Botswana, Tanzania, and Thailand) to build wildlife law enforcement capacity, coordinate investigations, and facilitate information sharing and training. The Service and other U.S. Government agencies also support research, monitoring and assessment of elephant populations, landscape and community conservation efforts, and projects to mitigate human-elephant conflict and to reduce demand for elephant ivory. All of these U.S. Government initiatives contribute to the conservation of the African elephant.

Eliminating poaching of elephants and trafficking of ivory can be achieved only through a concerted, multifaceted international effort. In issuing the National Strategy for Combating Wildlife Trafficking, President Obama recognized that ''this is a global challenge requiring global solutions'' and stated that we will work with foreign governments, international organizations, nongovernmental organizations, and the private sector to maximize our impacts in addressing this challenge. In addition, the National Strategy asserts that ''the United States must curtail its own role in the illegal trade in wildlife and must lead in addressing this issue on the global stage.'' The United States is committed to doing its part to fight wildlife trafficking and to ensure the conservation of African elephants in the wild. This final rule is one component of this multifaceted effort.

Changes From the Proposed Rule to the Final Rule

All changes from the proposed rule of July 29, 2015 (80 FR 45154), to this final rule were discussed above in the responses to comments received. In summary, the provisions of this final rule are largely unchanged from those of the proposed rule, with the exception of words that have been added in response to requests in the comments:

- We added a sentence in paragraph (e) to remind readers that the provisions under AfECA also apply.
- We added the words ''or handcrafted'' following the word ''manufactured'' in paragraphs (e)(3), (5), (6), (7), and (8) to cover works that are unique and made primarily by hand that might not be considered ''manufactured.'' We added the words ''or integral'' to the criterion in paragraph (e)(3) that describes the ivory being a fixed component of a larger manufactured or handcrafted item to cover items that have small ivory pieces that can be easily removed (like nuts or pegs on some wooden tools or instruments).
- We added text to the criteria in paragraphs (e)(3)(iii) and (v) to clarify that when we say ''primary'' or ''primarily'' we mean more than 50 percent.
- We added text to paragraph (e)(5)(ii)(B) to clarify that, for items that are part of a traveling exhibition, either a CITES traveling exhibition certificate or an equivalent CITES document may be used.
- We rephrased our reference to the African Elephant Conservation Act in paragraph (e)(9) where we clarify that, while the ESA antiques exception allows import of antiques, the moratorium under the AfECA does not.

The effects of this final rule on trade are set forth below in Table 1. This table is only for guidance on the revisions to the existing ESA 4(d) rule for the African elephant; see the rule text for details. All imports and exports must be accompanied by appropriate CITES documents and meet other FWS import/export requirements.

TABLE 1—HOW WILL CHANGES TO THE AFRICAN ELEPHANT 4(d) RULE AFFECT TRADE IN AFRICAN ELEPHANT IVORY?

	What activities are currently allowed/prohibited under statute, regulation, or law enforcement discretion?	What will change when the final rule goes into effect?
	In 2014, the Service revised Director's Order No. 210 (effective May 15, 2014) and U.S. CITES implementing regulations [50 CFR part 23] (effective June 26, 2014). These actions created new rules and guidance for trade in elephant ivory.	This column describes the contents of the final rule in general terms. Please refer to the final rule text for details. These provisions will go into effect 30 days after the final rule is published in the **Federal Register**.

TABLE 1—HOW WILL CHANGES TO THE AFRICAN ELEPHANT 4(d) RULE AFFECT TRADE IN AFRICAN ELEPHANT IVORY?—Continued

	What activities are currently allowed/prohibited under statute, regulation, or law enforcement discretion?	What will change when the final rule goes into effect?
Import	*Commercial* What's allowed: • No commercial imports allowed. *Noncommercial* What's allowed: • Sport-hunted trophies (no limit). • Requires issuance of a threatened species permit under 50 CFR 17.32 for import of African elephant sport-hunted trophies from Appendix-I populations. • Law enforcement and bona fide scientific specimens. • Worked elephant ivory that was legally acquired and removed from the wild prior to February 26, 1976, and has not been sold since February 25, 2014, and is either: ○ Part of a household move or inheritance (see Director's Order No. 210 for details); ○ Part of a musical instrument (see Director's Order No. 210 for details); or ○ Part of a traveling exhibition (see Director's Order No. 210 for details). What's prohibited: • Worked ivory that does not meet the conditions described above. • Raw ivory (except for sport-hunted trophies).	*Commercial* The final rule does not include any changes for commercial imports. *Noncommercial* The final rule includes the following changes for noncommercial imports: • Limits import of sport-hunted trophies to two per hunter per year. • Requires issuance of a threatened species permit under 50 CFR 17.32 for import of all African elephant sport-hunted trophies. • Removes the requirement that worked elephant ivory has not been sold since February 25, 2014. All other requirements for worked elephant ivory (listed in the previous column) must be met.
Export	*Commercial* What's allowed: • CITES pre-Convention worked ivory, including antiques. What's prohibited: • Raw ivory. *Noncommercial* What's allowed: • Worked ivory. What's prohibited: • Raw ivory.	*Commercial* The final rule further restricts commercial exports to only those items that meet the criteria of the ESA antiques exemption.* Raw ivory remains prohibited regardless of age. *Noncommercial* The final rule further restricts noncommercial exports to the following categories: • Only those items that meet the criteria of the ESA antiques exemption.* • Worked elephant ivory that was legally acquired and removed from the wild prior to February 26, 1976, and is either: ○ Part of a household move or inheritance; ○ Part of a musical instrument; or ○ Part of a traveling exhibition. • Worked ivory that qualifies as pre-Act. • Law enforcement and *bona fide* scientific specimens. Raw ivory remains prohibited regardless of age.
Foreign commerce	There are no restrictions on foreign commerce	The final rule includes the following changes for foreign commerce: • Restricts foreign commerce to: ○ items that meet the criteria of the ESA antiques exemption,* and ○ certain manufactured or handcrafted items that contain a small (*de minimis*) amount of ivory. • Prohibits foreign commerce in: ○ sport-hunted trophies, and ○ ivory imported/exported as part of a household move or inheritance.
Sales across State lines (interstate commerce).	What's allowed: • Ivory lawfully imported prior to the date the African elephant was listed in CITES Appendix I (January 18, 1990) [seller must demonstrate]. • Ivory imported under a CITES pre-Convention certificate [seller must demonstrate].	The final rule includes the following changes for interstate commerce: • Further restricts interstate commerce to only: ○ items that meet the criteria of the ESA antiques exemption,* and ○ certain manufactured or handcrafted items that contain a small (*de minimis*) amount of ivory.** • Prohibits interstate commerce in: ○ ivory imported under the exceptions for a household move or inheritance, or for law enforcement or genuine scientific purposes, and ○ sport-hunted trophies.

TABLE 1—HOW WILL CHANGES TO THE AFRICAN ELEPHANT 4(d) RULE AFFECT TRADE IN AFRICAN ELEPHANT IVORY?—Continued

	What activities are currently allowed/prohibited under statute, regulation, or law enforcement discretion?	What will change when the final rule goes into effect?
Sales within a State (intrastate commerce).	What's allowed: • Ivory lawfully imported prior to the date the African elephant was listed in CITES Appendix I (January 18, 1990)—[seller must demonstrate]. • Ivory imported under a CITES pre-Convention certificate—[seller must demonstrate].	The final rule does not include any changes for intrastate commerce.
Noncommercial movement within the United States.	Noncommercial use, including interstate and intrastate movement within the United States, of legally acquired ivory is allowed.	The final rule does not include any changes for noncommercial movement within the United States.
Personal possession	Possession and noncommercial use of legally acquired ivory is allowed.	The final rule does not include any changes for personal possession.

* To qualify for the ESA antiques exemption, an item must meet all of the following criteria [seller/importer/exporter must demonstrate]:
A. It is 100 years or older.
B. It is composed in whole or in part of an ESA-listed species;
C. It has not been repaired or modified with any such species after December 27, 1973; and
D. It is being or was imported through an endangered species ''antique port.''
Under Director's Order No. 210, as a matter of enforcement discretion, items imported prior to September 22, 1982, and items created in the United States and never imported must comply with elements A, B, and C above, but not element D.
** To qualify for the *de minimis* exception, manufactured or handcrafted items must meet all of the following criteria:
(i) If the item is located within the United States, the ivory was imported into the United States prior to January 18, 1990, or was imported into the United States under a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) pre-Convention certificate with no limitation on its commercial use;
(ii) If the item is located outside the United States, the ivory was removed from the wild prior to February 26, 1976;
(iii) The ivory is a fixed or integral component or components of a larger manufactured or handcrafted item and is not in its current form the primary source of the value of the item, that is, the ivory does not account for more than 50% of the value of the item;
(iv) The ivory is not raw;
(v) The manufactured or handcrafted item is not made wholly or primarily of ivory, that is, the ivory component or components do not account for more than 50% of the item by volume;
(vi) The total weight of the ivory component or components is less than 200 grams; and
(vii) The item was manufactured or handcrafted before the effective date of this rule.

Required Determinations

Regulatory Planning and Review: Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant because it may raise novel legal or policy issues.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. 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 rule in a manner consistent with these requirements.

A brief assessment to identify the economic costs and benefits associated with this rule follows. The Service has prepared an economic analysis, as part of our review under the National Environmental Policy Act (NEPA), which we made available for review and comment (see the paragraph in this Required Determinations section on the *National Environmental Policy Act*). This final rule revises the 4(d) rule, which regulates trade of African elephants *(Loxodonta africana),* including African elephant parts and products. We are revising the 4(d) rule to more strictly control U.S. trade in African elephant ivory. Revision of the 4(d) rule means that African elephants are subject to some of the standard provisions for species classified as threatened under the ESA. This means that the taking of live elephants and (with certain exceptions) import, export, and commercial activities in interstate or foreign commerce of African elephant parts and products containing ivory will generally be prohibited without a permit issued under 50 CFR 17.32 for ''Scientific purposes, or the enhancement of propagation or survival, or economic hardship, or zoological exhibition, or educational purposes, or incidental taking, or special purposes consistent with the purposes of the [ESA].'' The final rule contains specific exceptions for certain activities with specimens containing *de minimis* quantities of ivory; ivory contained in musical instruments, traveling exhibitions, inherited items, and items that are part of a household move that meet specific conditions; ivory imported or exported for scientific or law enforcement purposes; certain live elephants; and ivory items that qualify as ''pre-Act'' or as antiques under the ESA. Some of these exceptions remain prohibited under the AfECA import moratorium. However, under Director's Order 210, as amended on May 15, 2014, as a matter of law enforcement discretion, the Service will not enforce the AfECA moratorium with respect to these limited exceptions meeting specific criteria.

This rule regulates only African elephants and African elephant ivory. Asian elephants and parts or products from Asian elephants, including ivory, are regulated separately under the ESA. Ivory from marine species such as walrus is also regulated separately under the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*). Ivory from extinct species such as mammoths is not regulated under statutes implemented by the Service.

Impacted markets include those involving U.S. citizens or other persons subject to the jurisdiction of the United

States that buy, sell, or otherwise commercialize African elephant ivory products across State lines and those that buy, sell, or otherwise commercialize such specimens in international trade. Examples of products in trade containing African elephant ivory include cue sticks, pool balls, knife handles, gun grips, furniture inlay, jewelry, artwork, and musical instruments.

The market for African elephant products, including ivory, is not large enough to have major data collections or reporting requirements, which results in a limited amount of available data for economic analysis. Some import and export data are available from the Service's Office of Law Enforcement and Division of Management Authority, and from reports produced by other organizations. On the whole, the available data provide a general overview of the African elephant ivory market. Using this information, we can make reasonable assumptions to approximate the potential economic impact of revision of the 4(d) rule for the African elephant. In our proposed rule, we solicited public input on impacts to sales, percentage of revenue impacted, and the number of businesses affected, particularly with regard to interstate and foreign commerce, for which we had the least amount of information, to help quantify these costs and benefits.

Imports. A moratorium on the import of African elephant ivory other than sport-hunted trophies was established under the AfECA and has been in place since 1989. In recent years, the Service has allowed, as a matter of law enforcement discretion, the import of certain antique African elephant ivory. Director's Order No. 210, issued in February 2014, clarified that Service employees must strictly implement and enforce the AfECA moratorium on the importation of raw and worked African elephant ivory, regardless of age, while, as a matter of law enforcement discretion, allowing noncommercial import of certain items, including law enforcement and scientific items, musical instruments, items as part of a household move or inheritance, and exhibition items, where it can be demonstrated that the ivory was removed from the wild prior to 1976. We are reflecting this provision of Director's Order No. 210 in the 4(d) rule (except for antiques, which are exempt from this 4(d) rule, but remain subject to the AfECA moratorium). Import of live African elephants and non-ivory African elephant parts and products will continue to be allowed under the revisions, provided the requirements at 50 CFR parts 13, 14, and 23 are met. Import of African elephant sport-hunted trophies will be limited to two trophies per hunter per year. This may impact about seven hunters, representing about three percent to four percent of hunters importing African elephant trophies, annually.

Exports. Under the current 4(d) rule, raw ivory may not be exported from the United States for commercial purposes under any circumstances. In addition, export of raw ivory from the United States is prohibited under the AfECA. Therefore, the revisions to the 4(d) rule will have no impact on exports of raw ivory. Revision of the 4(d) rule means that export of worked African elephant ivory will be prohibited without an ESA permit issued under 50 CFR 17.32, except for specimens that qualify as ''pre-Act'' or as ESA antiques and certain musical instruments; items in a traveling exhibition; items that are part of a household move or inheritance; items exported for scientific purposes; and items exported for law enforcement purposes that meet specific conditions and, therefore, may be exported without an ESA permit. Export of live African elephants and non-ivory products made from African elephants will continue to be allowed, provided the requirements at 50 CFR parts 13, 14, and 23 are met.

From 2007 to 2011, the total declared value of worked African elephant ivory exported from the United States varied widely from $32.1 million to $175.7 million. The declared value of items containing African elephant ivory that were less than 100 years old (and, therefore, could not qualify as ESA antiques) ranged from $607,000 to $3.7 million annually during the same time period. As this rule will no longer permit the commercial export of non-antique ivory, we expect, based on the information currently available, that, on average, commercial export of worked ivory will decrease by about $2.1 million annually (two percent, by value, of worked ivory exports).

Domestic and Foreign Commerce. The final rule prohibits certain commercial activities such as sale in interstate or foreign commerce of African elephant ivory and delivery, receipt, carrying, transport, or shipment of ivory in interstate or foreign commerce in the course of a commercial activity (except for qualifying ESA antiques and certain handcrafted or manufactured items containing *de minimis* amounts of ivory) without an ESA permit issued under 50 CFR 17.32. As noted above, permits issued under 50 CFR 17.32 must be for ''Scientific purposes, or the enhancement of propagation or survival, or economic hardship, or zoological exhibition, or educational purposes, or incidental taking, or special purposes consistent with the purposes of the [ESA].'' Otherwise, commercial activities in interstate and foreign commerce with live African elephants and African elephant parts and products other than ivory will continue to be allowed under the revisions to the 4(d) rule. While revisions to the 4(d) rule will generally result in prohibitions on sale or offer for sale in interstate or foreign commerce as well as prohibitions on delivery, receipt, carrying, transport, or shipment in interstate or foreign commerce in the course of a commercial activity of both raw and worked African elephant ivory, the rule will not have an impact on intrastate commerce. Businesses will not be prohibited by the 4(d) rule from buying and selling raw or worked ivory within the State in which they are located. (There are, however, restrictions under our CITES regulations at 50 CFR 23.55 for intrastate sale of elephant ivory.)

As noted earlier, comprehensive data for the African elephant ivory market do not exist. Thus we estimate the value of the domestic market (including retail establishments, online auctions, and live auctions) using the best available data, which include reports that describe subsets of the domestic market along with public comments.

To extrapolate retail outlet data nationwide, assumptions are made using the best available data. Although the States of New York, New Jersey, California, and Washington have enacted stringent legislation prohibiting most ivory sales and Hawaii has new legislation ready to be signed by the governor, we have not excluded establishments in these states in order to estimate the largest potential impact. In 2006, Martin and Stiles surveyed 16 major cities across the United States to identify retail establishments trading in worked ivory (including ivory from African elephants). Using this information, along with more recent data, we have estimated that in 2016 there are 423 establishments in those 16 cities averaging 22 ivory items per outlet (see economic analysis). These establishments represent 11 percent of used merchandise stores and art dealers (423 ivory outlets of 3,996 establishments within the 16 cities). Applying this ratio (11 percent) to all used merchandise and art dealer establishments nationwide yields approximately 2,700 establishments selling 60,000 ivory items.

For online auctions, the International Fund for Animal Welfare (IFAW) reported that there are two major online

auction aggregators (*LiveAuctioneers.com* and *AuctionZip.com*) but reported sales data for only *LiveAuctioneers.com*. By extrapolating data from a 9-week period, the authors estimated that *LiveAuctioneers.com* sell about 13,200 ivory lots that average $992 per lot and are worth $13.0 million annually. To extrapolate online auction data nationwide, we considered the annual revenue of *LiveAuctioneers.com* ($2.5 million to $5 million) and *AuctionZip.com* ($500,000 to $1 million) (Manta 2016). Since *AuctionZip.com* is about 80 percent smaller than *LiveAuctioneers.com*, we assume that *AuctionZip.com* may have about 80 percent less of the ivory sales as well ($2.6 million). To determine the national annual online ivory sales and account for ivory sales on *AuctionZip.com* and any other smaller online auctions, the estimate is doubled to $26.1 million, of which non-antiques represent $574,000.

For live auctions, IFAW investigated 14 auctions and found 833 ivory lots were sold over a 3-month period. Extrapolating to an annual estimate would result in 14 auction houses selling 3,332 ivory lots annually and averaging 238 ivory lots per auction house. The highest sold lot price ranged from $1,220 to $18,000. IFAW only investigated auctions that were identified as selling ivory during the scoping process and did not tabulate how many ivory lots were ultimately sold. Therefore, the percentage of live auctions selling ivory items and the number of ivory items sold is unknown. While we recognize that the impact on non-antique ivory sales in live auctions may be greater than the range of $72,600 to $1.3 million, we do not have information regarding the underlying distribution of potentially impacted auctions. However, based on publicly available information, we can estimate that there are as many as 8,097 auction houses in the United States that may sell ivory. Therefore, we expect that more than 14 auction houses sell ivory lots in a given year, but we have no basis to estimate the number of auction houses actually selling ivory or the quantity of ivory offered for sale. Due to the data limitations for live auctions and the methodology used in the 2014 IFAW report noted above, we are unable to extrapolate the 2014 IFAW report to a national estimate.

Table 2 summarizes the estimated domestic ivory sales from online auctions, live auctions, retail stores, and exports. IFAW reported that online auction sales and live auction sales should not be summed due to potential double counting because 50 percent of the live auctions also sold items online. However, for the purpose of this analysis, because live auctions were not extrapolated nationwide, data from both online and live auctions are summed. For live auction sales, the lower bound was estimated using the average price per lot in online auction sales ($992), while the upper bound was estimated using the highest lot sold price in live auction sales ($18,000). For retail stores, the lower bound was estimated using the average price per lot in online auction sales ($992), while the upper bound was estimated using the highest lot sold price in live auctions ($18,000). By extrapolating data from a variety of sources, we estimate that domestic ivory sales are between $88.8 million and $1.2 billion annually.

Assuming that the domestic market is similar to the export market, we estimate non-antique worked ivory domestic sales will decrease by about $1.8 million to $23.4 million annually (two percent of domestic sales) under this rule. We are not aware of any other data (in published reports or public comments) that estimate a larger percentage by value of non-antiques in the marketplace. Without data for a plausible range of impacts, we cannot improve the robustness of the analysis with a sensitivity analysis (Economists Incorporated 2016). Thus, non-antique sales in the domestic market would decrease by $1.8 million and $23.4 million annually.

Because we will allow intrastate sales and domestic and foreign commercial activities with certain items containing *de minimis* amounts of ivory, and many of these items will be precluded from export, it is possible that an even smaller percentage of the domestic market will be impacted compared to the export market. Our proposed rule requested information from the public about the potential impact to the domestic market. One commenter estimated the antique ivory in private American collections is worth $11.9 billion; however, trade in items that qualify as ESA antiques will not be affected by this rule.

The total annual decrease in non-antique ivory sales from exports, U.S. auctions, and retail stores, will represent two percent of all ivory sales. Thus, we expect that total ivory sales, including exports and sales in the domestic market, will decrease by $3.9 million to $25.5 million annually under this rule (see Table 2).

TABLE 2—POTENTIAL TOTAL IMPACT TO ANNUAL IVORY SALES

Type of seller	Number of ivory items: 2016 estimate	Lower bound estimate			Upper bound estimate		
		Average price per item	Total sales ($,000)	Non-antique sales ($,000)	Average price per item	Total sales ($,000)	Non-antique sales ($,000)
Online Auctions	26,312	$992	$26,097.0	$574.1	$992	$26,097.0	$574.1
Live Auctions	3,332	992	3,302.0	72.6	18,000	59,976.0	1,319.5
Retail Stores	59,847	992	59,367.8	1,187.4	18,000	1,077,238.8	21,544.8
Total Domestic Sales	89,491	*992*	88,766.9	1,834.1	15,069	1,163,311.8	23,438.4
Total Export Sales	1,040	79,000	92,963.5	2,062.0	79,000	92,963.5	2,062.0
Total	90,531	.....	181,730.4	3,896.1	.....	1,256,275.3	25,500.4

Revising the 4(d) rule for the African elephant will improve domestic regulation of the U.S. market, as well as foreign markets where commercial activities involving elephant ivory are conducted by U.S. citizens, and facilitate enforcement efforts within the United States. We are taking this action to increase protection for African elephants in response to the alarming rise in poaching of African elephants, which is fueling the rapidly expanding illegal trade in ivory. As noted in the preamble to this final rule, the United States continues to play a role as a destination and transit country for illegally traded elephant ivory. Increased control of the U.S. domestic

market and foreign markets where commercial activities involving elephant ivory are conducted by U.S. citizens will benefit the conservation of the African elephant.

Regulatory Flexibility Act: Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 *et seq.*). However, no regulatory flexibility analysis is required if the head of an agency certifies 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). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

The U.S. Small Business Administration (SBA) defines a small business as one with annual revenue or employment that meets or is below an established size standard. To assess the effects of the rule on small entities, we focused on businesses that buy or sell elephant ivory. Businesses produce a variety of products from elephant ivory, including cue sticks, pool balls, knife handles, gun grips, furniture inlay, jewelry, and instrument parts. Depending on the type of product produced, these businesses could be included in a number of different industries, including (1) Musical Instrument Manufacturing (North American Industry Classification System (NAICS) 339992), where small businesses have less than $10.0 million in average annual receipts; (2) Sporting and Recreational Goods and Supplies Merchant Wholesalers (NAICS 423910), where small businesses have fewer than 100 employees; (3) All Other Miscellaneous Wood Product Manufacturing (NAICS 321999), where small businesses have fewer than 500 employees; (4) Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing (NAICS 332215), where small businesses have fewer than 500 employees; (5) Jewelry and Silverware Manufacturing, (NAICS 339910), where small businesses have fewer than 500 employees; (6) Used Merchandise Stores (NAICS 453310), where small businesses have less than $7.5 million in average annual receipts; (7) Art Dealers (NAICS 453920), where small businesses have less than $7.5 million in average annual receipts; (8) All other miscellaneous store retailers except tobacco (NAICS 453998), where small businesses have less than $7.5 million in average annual receipts; (9) All other support services, which includes independent auctioneers (NAICS 561990), where small businesses have less than $11.0 million in average annual receipts; and (10) Electronic Auctions (NAICS 454112), where small businesses have less than $35.5 million in average annual receipts. **Table 3** describes the number of businesses within each industry and the estimated percentage of small businesses. The U.S. Economic Census does not capture the detail necessary to determine the number of small businesses that are engaged in commerce with African elephant ivory products within these industries. Therefore, we utilized various sources and public comments to estimate the potential number of businesses impacted. Based on the distribution of small businesses with these industries as shown in Table 3, we expect that the majority of the entities involved with trade in African elephant ivory would be considered small as defined by the SBA.

TABLE 3—DISTRIBUTION OF BUSINESSES WITHIN AFFECTED INDUSTRIES

NAICS Code	Description	Total number of businesses	Percentage of small businesses	Percentage of businesses impacted
339992	Musical instrument manufacturing	597	73	<3
423910	Sporting and recreational goods and supplies merchant wholesalers	5,953	97	<3
321999	All other miscellaneous wood product manufacturing	1,763	100	<3
332215	Metal kitchen cookware, utensil, cutlery, and flatware (except precious) manufacturing.	188	99	<3
339910	Jewelry and silverware manufacturing	2,119	100	<3
453310	Used merchandise stores	19,793	74	10
453920	Art dealers	4,937	95	10
454112	Electronic Auctions	431	99	1
453998	All other miscellaneous store retailers except tobacco (includes auction houses).	15,475	83	.....
561990	All other support services (includes independent auctioneers)	12,940	84	.....

Source: U.S. Census Bureau, 2012 County Business Patterns.

The impact on individual businesses is dependent on the percentage of interstate and export sales that involve non-antique African elephant ivory that would not fall under the *de minimis* exception. That is, the impact depends on where businesses are located, where their customers are located, and the kinds of items containing ivory that they sell. Thus, we expect that individual businesses may face a range of impacts from closure to minimal revenue decrease. We do not have sufficient information on business profiles to determine with certainty the percent of revenues affected by the rule, but we do estimate the potential impacts using the best available data.

For auctions (NAICS 453998 and NAICS 561990), IFAW reported that ''In general, ivory constituted a small part of all the respondents' overall inventories—somewhere between 1 and 5 percent.'' Since sale of antique ivory will still be allowed under this rule, we expect that a smaller percentage of inventories will be impacted. Thus, this rule will not have a significant impact on auctions.

For electronic auctions (NAICS 454112), IFAW reported that about five online auction aggregator Web sites may sell ivory products while noting that

eBay and Etsy no longer permit the sale of ivory products. Five establishments out of 420 small electronic auctions does not constitute a significant number of small businesses.

Table 4 shows the distribution of impacted retail outlets by size category. We assume that the impacted retail outlets will have the same size category distribution as the population of establishments. Small businesses for these industries have annual receipts less than $7.5 million. For the purpose of this analysis, we include impacted businesses that earn less than $10 million or do not operate the entire year. Under these criteria, 2,354 businesses (10 percent) would be categorized as small.

TABLE 4—DISTRIBUTION OF IMPACTED RETAIL OUTLETS BY SIZE CATEGORY

[NAICS 453310 and NAICS 453920]

Size category by sales/receipts/revenue	Total establishments	Percentage of establishments	Percentage of sales by revenue category	Number of businesses impacted (2,720 nationwide)
Less than $250,000	7,304	30	4	804
$250,000 to $499,999	3,223	13	6	355
$500,000 to $999,999	2,459	10	8	271
$1,000,000 to $2,499,999	1,922	8	12	212
$2,500,000 to $4,999,999	926	4	9	102
$5,000,000 to $9,999,999	705	3	7	78
$10,000,000 to $24,999,999	1,443	6	15	159
$25,000,000 to $49,999,999	931	4	10	400
Firms not operated for the entire year	3,635	15	3	102
$50,000,000 to $99,999,999	459	2	(D)	51
$100,000,000 to $249,999,999	366	1	(D)	40
$250,000,000 or more	1,339	5	(D)	147

(D) Data withheld by U.S. Census Bureau to avoid disclosing data for individual companies.

Table 5 shows the potential impact to retail outlets. We assume that non-antique ivory sales are distributed at the same percentage of total sales within each size category. Thus, businesses with annual receipts less than $250,000 would be allocated four percent of non-antique ivory sales (**Table 4**). Under the lower bound estimate, small businesses would incur losses of 0.02 percent to 0.06 percent of sales. Under the upper bound estimate, small businesses would incur losses of 0.3 percent to 1.1 percent of sales. Therefore, this rule does not have a significant economic impact on retail outlets.

TABLE 5—POTENTIAL IMPACT TO RETAIL OUTLETS

[NAICS 453310 and 453920 ($,000)]

Size category by sales/receipts/revenue [1]	Number of businesses impacted (2,720 nationwide)	Lower bound			Upper bound		
		Total non-antique ivory sales	Ivory sales per business	Percent of sales per business	Total non-antique ivory sales	Ivory sales per business	Percent of sales per business
Less than $250,000	804	$52.0	$0.1	0.05	$943.2	$1.2	0.94
$250,000 to $499,999	355	68.2	0.2	0.06	1,237.0	3.5	1.07
$500,000 to $999,999	271	97.9	0.4	0.05	1,775.6	6.6	0.87
$1,000,000 to $2,499,999	212	145.0	0.7	0.04	2,631.1	12.4	0.71
$2,500,000 to $4,999,999	102	102.0	1.0	0.03	1,850.1	18.2	0.48
$5,000,000 to $9,999,999	78	88.4	1.1	0.02	1,604.8	20.7	0.28
$10,000,000 to $24,999,999	159	181.5	1.1	0.01	3.294.2	20.7	0.12
Firms not operated for the entire year	400	37.5	0.1	0.07	680.0	1.7	1.36
$25,000,000 to $49,999,999	102	116.8	1.1	<0.01	2,120.0	20.7	0.06
$50,000,000 to $99,999,999	51	(D)					
$100,000,000 to $249,999,999	40						
$250,000,000 or more	147						

(D) Data withheld by U.S. Census Bureau to avoid disclosing data for individual companies.
[1] Source: U.S. Census Bureau 2012.

One commenter estimated that there are about seven people in the United States who purchase tusks (from individuals who imported them prior to 1989) and cut them into a variety of forms for U.S. craftsmen to finish. These craftsmen work the ivory pieces into finished products, including pool cues, knife handles, and piano keys. He estimated that there are about 15 individuals making pool cues with ivory ferrules and that there are a total of about 300 people in the United States creating finished products using ivory components. This rule will impact craftsmen working with ivory in the United States. While the commenter does not provide data regarding the

industries under which these 300 establishments would be categorized, we can estimate that the potential number of establishments represents two percent of establishments in the affected industries (NAICS 339992, 423910, 321999, 332215, and 339910) or three percent of establishments in the affected industries (NAICS 339992, 321999, 332215, and 339910). Therefore, this rule does not impact a significant number in the affected industries. The final rule does not impact intrastate (within a State), commerce so those buying and selling within the State in which they reside will be able to continue to do so (where such activity is allowed under State law). In addition, there are alternative materials available to craftsmen, including mammoth ivory and ivory substitutes, which may decrease some impacts.

This rule has an economic impact on U.S. craftsmen working with elephant ivory because it prohibits the interstate sale of items containing African elephant ivory manufactured after the effective date. Martin and Stiles estimated in their 2008 report that there are ''a minimum of 120 craftsmen, including restorers, working in ivory at least several weeks a year'' and that the ''general feeling [at that time] was that the number has been decreasing over past years, with older people retiring and fewer young people replacing them.'' One commenter estimated that domestic ivory carvers sell $1.5 million per year in ivory blanks to other craftsmen. We did not receive from commenters, and we are not able to provide, an estimate of the total value of products produced by such craftsmen. One commenter estimated that yearly sales of cue sticks containing ivory amount to $1.7 million per year. To the extent that these craftsmen are unable to utilize alternate materials (including, for example, mammoth ivory, cow bone, or deer antler) and that their business is conducted across State lines, they will be impacted by this rule.

Overall, we estimate that worked ivory exports will decrease about $2.1 million annually, which represents about two percent of the total declared value of worked ivory exported from 2007 to 2011. This estimate is based on the total declared value of worked African elephant ivory exported from the United States. The declared value of items containing African elephant ivory that were less than 100 years old (and, therefore, could not qualify as antiques) ranged from $607,000 to $3.7 million annually. The best available information does not provide any indication that there are differences in the proportion, by value, of antiques in domestic and foreign commerce. Therefore, we also estimate that domestic sales will decrease by up to two percent annually. Based on our estimate of the domestic ivory market to be about $88.8 million to $1.2 billion, we estimate that domestic sales will decrease by $1.8 million to $23.4 million annually. This sales decrease of two percent will be incurred among the various businesses and industries, which would face a range of impacts from minimal revenue decrease to closure. Because we are allowing domestic commercial activities with certain items containing *de minimis* amounts of ivory, and many of these items will be precluded from export, it is possible that an even smaller percentage of the domestic market will be impacted compared to the export market.

Based on the available information, we do not expect these changes to have a substantial economic impact. Thus, we do not expect the rule to have a significant economic impact on a substantial number of small entities. We, therefore, certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

This rule creates no substantial fee or paperwork changes in the permitting process. The regulatory changes require issuance of ESA permits for import of all sport-hunted African elephant trophies. We estimate that we will issue 300 ESA permits per year for these sport-hunted trophies, with a fee of $100 per permit. These changes are not major in scope and would create only a modest financial or paperwork burden on the affected members of the general public. The authority to regulate activities involving ESA-listed species already exists under the ESA and is carried out through regulations contained in 50 CFR part 17.

Small Business Regulatory Enforcement Fairness Act: This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Will not have an annual effect on the economy of $100 million or more. This rule revises the 4(d) rule for African elephant, which makes the African elephant subject to the same provisions applied to other threatened species not covered by a 4(d) rule, with certain exceptions. It will allow us to effectively regulate ivory trade in the United States and to ensure that the U.S. market for ivory is not contributing to poaching of elephants in Africa and the illegal ivory trade, without unnecessarily restricting activities that have no conservation effect or are strictly regulated under other law. This rule will not have a negative effect on this part of the economy. It will affect all importers, exporters, re-exporters, and domestic and certain traders in foreign commerce of African elephant ivory equally, and the impacts will be evenly spread among all businesses, whether large or small.

b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, tribal, or local government agencies; or geographic regions.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act: Under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The final rule imposes no unfunded mandates. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings: This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. While certain activities that were previously unregulated will now be regulated, possession and other activities with African elephant ivory such as sale in intrastate commerce will remain unregulated under Federal law. A takings implication assessment is not required.

Federalism: Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These revisions to 50 CFR part 17 do not contain significant federalism implications. A federalism summary impact statement is not required.

Civil Justice Reform: This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian tribes: The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. Individual tribal members must meet the same regulatory requirements as other individuals who trade in African elephants, including African elephant parts and products.

Paperwork Reduction Act: This rule contains a new information collection requirement associated with applications for permits to import sport-hunted African elephant trophies (FWS Form 3–200–19). This new requirement requires approval of the Office of Management and Budget (OMB) under the PRA.

Under current regulations, permits are required for import of sport-hunted African elephant trophies only from certain countries. OMB has reviewed and approved the collection of information under the current regulations and assigned OMB Control Number 1018–0093, which expires May 31, 2017.

This final rule increases protection for and benefits the conservation of African elephants by more strictly controlling U.S. trade in ivory, without unnecessarily restricting activities that have no conservation effect or are strictly regulated under other law. We are taking this action in response to an unprecedented increase in poaching of elephants across Africa to supply an escalating illegal trade in ivory. This rule requires permits for import of all African elephant sport-hunted trophies; *i.e.,* from both Appendix-I and Appendix-II populations. We requested that OMB approve, on an emergency basis, our request to collect information associated with permits to import African elephant sport-hunted trophies from Appendix-II populations. We asked for emergency approval because of the potential negative effects of delaying publication of this final rule. OMB approved our request and assigned OMB Control No. 1018–0164, which expires November 30, 2016.

Title: Import of Sport-Hunted African Elephant Trophies, 50 CFR 17.

OMB Control Number: 1018–0164.

Service Form Number: 3–200–19.

Type of Request: Request for a new OMB control number.

Description of Respondents: Individuals.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Number of Respondents: 300.

Estimated Number of Annual Responses: 300.

Estimated Completion Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 100.

Estimated Total Nonhour Burden Cost: $30,000 associated with application fees.

We will publish a notice in the **Federal Register** announcing our intent to seek regular (3-year) approval for this information collection requirement and soliciting public comment for 60 days. At any time, interested members of the public and affected agencies may comment on the information collection requirements contained in this rule. Please send comments to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *hope_grey@fws.gov* (email).

National Environmental Policy Act (NEPA): This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because we conducted an environmental assessment and reached a Finding of No Significant Impact. This finding and the accompanying environmental assessment are available online at *http://www.regulations.gov* at Docket Number FWS–HQ–IA–2013–0091.

Energy Supply, Distribution, or Use: This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required. This final rule revises the current regulations in 50 CFR part 17 regarding trade in African elephants and African elephant parts and products. This final rule will not significantly affect energy supplies, distribution, or use.

References Cited

A list of references cited is available online at *http://www.regulations.gov* at Docket Number FWS–HQ–IA–2013–0091.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

For the reasons given in the preamble, we amend title 50, chapter I, subchapter B of the Code of Federal Regulations as follows:

PART 17—[AMENDED]

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

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

■ 2. Section 17.40 is amended by revising paragraph (e) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(e) African elephant (*Loxodonta africana*). This paragraph (e) applies to any specimen of the species *Loxodonta africana* whether live or dead, including any part or product thereof. The African Elephant Conservation Act (16 U.S.C. 4201 *et. seq.*), and any moratorium under that act, also applies. Except as provided in paragraphs (e)(2) through (9) of this section, all of the prohibitions and exceptions in §§ 17.31 and 17.32 apply to the African elephant. Persons seeking to benefit from the exceptions provided in this paragraph (e) must demonstrate that they meet the criteria to qualify for the exceptions.

(1) *Definitions.* In this paragraph (e), *antique* means any item that meets all four criteria under section 10(h) of the Endangered Species Act (16 U.S.C. 1539(h)). *Ivory* means any African elephant tusk and any piece of an African elephant tusk. *Raw ivory* means any African elephant tusk, and any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved. *Worked ivory* means any African elephant tusk, and any piece thereof, that is not raw ivory.

(2) *Live animals and parts and products other than ivory and sport-hunted trophies.* Live African elephants and African elephant parts and products other than ivory and sport-hunted trophies may be imported into or exported from the United States; sold or offered for sale in interstate or foreign commerce; and delivered, received, carried, transported, or shipped in interstate or foreign commerce in the course of a commercial activity without a threatened species permit issued under § 17.32, provided the requirements in 50 CFR parts 13, 14, and 23 have been met.

(3) *Interstate and foreign commerce of ivory.* Except for antiques and certain manufactured or handcrafted items containing *de minimis* quantities of ivory, sale or offer for sale of ivory in interstate or foreign commerce and delivery, receipt, carrying, transport, or shipment of ivory in interstate or foreign commerce in the course of a commercial activity is prohibited. Except as provided in paragraphs (e)(5)(iii) and (e)(6) through (8) of this section, manufactured or handcrafted items containing *de minimis* quantities of ivory may be sold or offered for sale in interstate or foreign commerce and delivered, received, carried, transported, or shipped in interstate or foreign commerce in the course of a commercial activity without a threatened species permit issued under § 17.32, provided they meet all of the following criteria:

(i) If the item is located within the United States, the ivory was imported into the United States prior to January 18, 1990, or was imported into the United States under a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) pre-Convention certificate with no limitation on its commercial use;

(ii) If the item is located outside the United States, the ivory was removed from the wild prior to February 26, 1976;

(iii) The ivory is a fixed or integral component or components of a larger manufactured or handcrafted item and is not in its current form the primary source of the value of the item, that is, the ivory does not account for more than 50 percent of the value of the item;

(iv) The ivory is not raw;

(v) The manufactured or handcrafted item is not made wholly or primarily of ivory, that is, the ivory component or components do not account for more than 50 percent of the item by volume;

(vi) The total weight of the ivory component or components is less than 200 grams; and

(vii) The item was manufactured or handcrafted before July 6, 2016.

(4) *Import/export of raw ivory.* Except as provided in paragraphs (e)(6) through (9) of this section, raw ivory may not be imported into or exported from the United States.

(5) *Import/export of worked ivory.* Except as provided in paragraphs (e)(6) through (9) of this section, worked ivory may not be imported into or exported from the United States unless it is contained in a musical instrument, or is part of a traveling exhibition, household move, or inheritance, and meets the following criteria:

(i) *Musical instrument.* Musical instruments that contain worked ivory may be imported into and exported from the United States without a threatened species permit issued under § 17.32 of this part provided:

(A) The ivory was legally acquired prior to February 26, 1976;

(B) The instrument containing worked ivory is accompanied by a valid CITES musical instrument certificate or equivalent CITES document;

(C) The instrument is securely marked or uniquely identified so that authorities can verify that the certificate corresponds to the musical instrument in question; and

(D) The instrument is not sold, traded, or otherwise disposed of while outside the certificate holder's country of usual residence.

(ii) *Traveling exhibition.* Worked ivory that is part of a traveling exhibition may be imported into and exported from the United States without a threatened species permit issued under § 17.32 provided:

(A) The ivory was legally acquired prior to February 26, 1976;

(B) The item containing worked ivory is accompanied by a valid CITES traveling exhibition certificate (see the requirements for traveling exhibition certificates at 50 CFR 23.49) or equivalent CITES document;

(C) The item containing ivory is securely marked or uniquely identified so that authorities can verify that the certificate corresponds to the item in question; and

(D) The item containing worked ivory is not sold, traded, or otherwise disposed of while outside the certificate holder's country of usual residence.

(iii) *Household move or inheritance.* Worked ivory may be imported into or exported from the United States without a threatened species permit issued under § 17.32 for personal use as part of a household move or as part of an inheritance if the ivory was legally acquired prior to February 26, 1976, and the item is accompanied by a valid CITES pre-Convention certificate. It is unlawful to sell or offer for sale in interstate or foreign commerce or to deliver, receive, carry, transport, or ship in interstate or foreign commerce and in the course of a commercial activity any African elephant ivory imported into the United States as part of a household move or inheritance. The exception in paragraph (e)(3) of this section regarding manufactured or handcrafted items containing *de minimis* quantities of ivory does not apply to items imported or exported under this paragraph (e)(5)(iii) as part of a household move or inheritance.

(6) *Sport-hunted trophies.* (i) African elephant sport-hunted trophies may be imported into the United States provided:

(A) The trophy was legally taken in an African elephant range country that declared an ivory export quota to the CITES Secretariat for the year in which the trophy animal was killed;

(B) A determination is made that the killing of the trophy animal will enhance the survival of the species and the trophy is accompanied by a threatened species permit issued under § 17.32;

(C) The trophy is legibly marked in accordance with 50 CFR part 23;

(D) The requirements in 50 CFR parts 13, 14, and 23 have been met; and

(E) No more than two African elephant sport-hunted trophies are imported by any hunter in a calendar year.

(ii) It is unlawful to sell or offer for sale in interstate or foreign commerce or to deliver, receive, carry, transport, or ship in interstate or foreign commerce and in the course of a commercial activity any sport-hunted African elephant trophy. The exception in paragraph (e)(3) of this section regarding manufactured or handcrafted items containing *de minimis* quantities of ivory does not apply to ivory imported or exported under this paragraph (e)(6) as part of a sport-hunted trophy.

(iii) Except as provided in paragraph (e)(9) of this section, raw ivory that was imported as part of a sport-hunted trophy may not be exported from the United States. Except as provided in paragraphs (e)(5), (e)(7), (e)(8), and (e)(9) of this section, worked ivory imported as a sport-hunted trophy may not be exported from the United States. Parts of a sport-hunted trophy other than ivory may be exported from the United States without a threatened species permit issued under § 17.32, provided the requirements of 50 CFR parts 13, 14, and 23 have been met.

(7) *Import/export of ivory for law enforcement purposes.* Raw or worked ivory may be imported into and worked ivory may be exported from the United States by an employee or agent of a Federal, State, or tribal government agency for law enforcement purposes, without a threatened species permit issued under § 17.32, provided the requirements of 50 CFR parts 13, 14, and 23 have been met. It is unlawful to sell or offer for sale in interstate or foreign commerce and to deliver, receive, carry, transport, or ship in interstate or foreign commerce and in the course of a commercial activity any African elephant ivory that was imported into or exported from the United States for law enforcement purposes. The exception in paragraph

(e)(3) of this section regarding manufactured or handcrafted items containing *de minimis* quantities of ivory does not apply to ivory imported or exported under this paragraph (e)(7) for law enforcement purposes.

(8) *Import/export of ivory for genuine scientific purposes.* (i) Raw or worked ivory may be imported into and worked ivory may be exported from the United States for genuine scientific purposes that will contribute to the conservation of the African elephant, provided:

(A) It is accompanied by a threatened species permit issued under § 17.32; and

(B) The requirements of 50 CFR parts 13, 14, and 23 have been met.

(ii) It is unlawful to sell or offer for sale in interstate or foreign commerce and to deliver, receive, carry, transport, or ship in interstate or foreign commerce and in the course of a commercial activity any African elephant ivory that was imported into or exported from the United States for genuine scientific purposes. The exception in paragraph (e)(3) of this section regarding manufactured or handcrafted items containing *de minimis* quantities of ivory does not apply to ivory imported or exported under this paragraph (e)(8) for genuine scientific purposes.

(9) *Antique ivory.* Antiques (as defined in paragraph (e)(1) of this section) are not subject to the provisions of this rule. Antiques containing or consisting of ivory may, therefore, be imported into or exported from the United States without a threatened species permit issued under § 17.32, provided the requirements of 50 CFR parts 13, 14, and 23 have been met. Nevertheless, nothing in this rule interprets or changes any provisions or prohibitions that may apply under the African Elephant Conservation Act (16 U.S.C. 4201 *et seq.*), regardless of the age of the item. Antiques that consist of or contain raw or worked ivory may similarly be sold or offered for sale in interstate or foreign commerce and delivered, received, carried, transported, or shipped in interstate or foreign commerce in the course of a commercial activity without a threatened species permit issued under § 17.32.

* * * * *

Dated: May 27, 2016.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2016–13173 Filed 6–3–16; 8:45 am]

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Part III

General Services Administration

48 CFR Part 501, 511, 515, et al.
General Services Administration Acquisition Regulations; Final Rules

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 517 and 552

[GSAR Change 71; GSAR Case 2007–G500; Docket No. 2008–0007; Sequence No. 3]

RIN 3090–AI51

General Services Administration Acquisition Regulation (GSAR); Rewrite of GSAR Part 517, Special Contracting Methods

AGENCIES: Office of Government-wide Policy, Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing a final rule, with editorial revisions to the second proposed rule, amending the General Services Administration Acquisition Regulation (GSAR) to update requirements for special contracting methods by eliminating out of date references and reorganizing the text to align with the Federal Acquisition Regulation (FAR).

DATES: *Effective:* July 6, 2016.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Janet Fry, General Services Acquisition Policy Division, GSA, by phone at 703–605–3167 or by email at *janet.fry@gsa.gov*. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite GSAR case 2007–G500.

SUPPLEMENTARY INFORMATION:

I. Background

The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to update outdated statutes and remove unnecessary or duplicative language from sections of GSAR part 517 that provide requirements for special contracting methods.

GSA published a proposed rule in the **Federal Register** at 73 FR 32274 on June 6, 2008 *http://www.gpo.gov/fdsys/pkg/FR-2008-06-06/pdf/E8-12613.pdf* as part of the General Services Administration Acquisition Manual (GSAM) Rewrite initiative undertaken by GSA to update the GSAM to maintain consistency with the Federal Acquisition Regulation (FAR). The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy. No comments were received in response to the **Federal Register** Notice for the proposed rule.

GSA published a second proposed rule in the **Federal Register** at 80 FR 34126 on June 15, 2015 *http://www.gpo.gov/fdsys/pkg/FR-2015-06-15/pdf/2015-14198.pdf* due to the additional edits made to GSAR part 517 and the length of time since the proposed rule was published in 2008. No comments were received in response to the **Federal Register** Notice for the second proposed rule.

II. Discussion and Analysis

To keep the GSAR current, GSA has updated statutes, removed unnecessary or duplicative language, aligned part 517 with the FAR and made editorial revisions as described below.

A. Summary of Significant Changes

The final rule:

- Replaces ''multiyear'' with ''multi-year'' through the 517.1 subpart.
- Updates the statutes cited in GSAR 517.109.
- Deletes GSAR 517.200(b), GSAR 517.202(a)(2)(iv), GSAR 517.202(a)(2)(v) and GSAR 517.207(a), and makes conforming changes.
- Removes and reserves section 517.203 because the introduction text and paragraphs are duplicative of FAR 17.207 and GSAR 517.207.
- Replaces the content of GSAR 517.207(b) with new text, clarifying the need for the Contracting Officer to document the determination.
- Updates the program reference in GSAR 517.208(a).
- Addresses other administrative and typographical updates.

Note: The following changes proposed in the second proposed rule were not retained in the final rule:

- The proposed new text in GSAR 517.203 cross referencing the requirements in FAR 22.407 when using option provisions was not retained in the final rule as the FAR adequately addresses the inclusion of option clauses.
- The proposed new text in GSAR 517.207 reminding Contracting Officers to seek new wage determinations when exercising options was not retained in the final rule since the requirement is adequately addressed in FAR 22.1007 for Service Contract Labor Standard and in FAR 22.404–12 for Wage Rate Requirements (Construction).

B. Analysis of Public Comments

No comments on the second proposed rule were received from the public by the August 14, 2015 closing date.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the revisions are administrative in nature. The changes merely update and reorganize existing GSAR coverage.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 517 and 552

Government procurement.

Dated: May 27, 2016.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, GSA amends 48 CFR parts 517 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 517 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 517—SPECIAL CONTRACTING METHODS

Subpart 517.1—Multi-year Contracting

■ 2. Revise the heading of subpart 517.1 to read as set forth above.

517.109 [Amended]

■ 3. Amend section 517.109 by removing from the introductory text ''multiyear'', ''40 U.S.C. 490(a)(14)'', and ''40 U.S.C. 481(a)(3)'' and adding ''multi-year'', ''40 U.S.C. 581(c)(6)'', and ''40 U.S.C. 501(b)(1)(B)'' in their places, respectively.

■ 4. Revise section 517.200 to read as follows:

517.200 Scope of subpart.

This subpart applies to all GSA contracts for supplies and services, including:

(a) Services involving construction, alteration, or repair (including dredging, excavating, and painting) of buildings, bridges, roads, or other kinds of real property.

(b) Architect-engineer services.

■ 5. Amend section 517.202 by—

■ a. Removing from the introductory text of paragraph (a)(1) ''You should use options'' and adding ''Options may be used'' in its place;

■ b. Removing from paragraph (a)(2)(i) ''You anticipate a'' and adding ''There is an anticipated'' in its place;

■ c. Revising paragraph (a)(2)(ii);

■ d. Removing paragraphs (a)(2)(iv) and (a)(2)(v); and

■ e. Removing from paragraph (a)(3) ''Do not use an option'' and adding ''An option shall not be used'' in its place.

The revision reads as follows:

517.202 Use of options.

(a) * * *

(2) * * *

(ii) When there is both a need for additional supplies or services beyond the basic contract period and the use of multi-year contracting authority is inappropriate.

* * * * *

517.203 [Removed and Reserved]

■ 6. Remove and reserve section 517.203.

■ 7. Revise section 517.207 to read as follows:

517.207 Exercise of options.

In addition to the requirements of FAR 17.207, the Contracting Officer must also:

(a) Document the contract file with the rationale for an extended contractual relationship if the contractor's performance rating under the contract is less than satisfactory.

(b) Determine that the option price is fair and reasonable.

517.208 [Amended]

■ 8. Amend section 517.208 by removing from paragraph (a) ''FSS's Stock or'' and adding ''the Federal Acquisition Service's'' in its place.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 9. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

■ 10. Amend section 552.217–70 by revising the date of the provision; and removing from paragraph (a), in the second sentence ''standard);'' and adding ''standard),'' in its place.

The revision reads as follows:

552.217–70 Evaluations of options.

* * * * *

EVALUATION OF OPTIONS (JUL 2016)

* * * * *

[FR Doc. 2016–13113 Filed 6–3–16; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 515, and 552

[Change 72; GSAR Case 2008–G506; Docket 2008–0007; Sequence 14]

RIN 3090–AI76

General Services Administration Acquisition Regulation (GSAR); Rewrite of GSAR Part 515, Contracting by Negotiation

AGENCY: Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing a final rule to amend the General Services Administration Acquisition Regulation (GSAR) to clarify and update the contracting by negotiation GSAR section. The rule updates GSAR part 515 by eliminating out of date references and reorganizes the text to align with the Federal Acquisition Regulation (FAR). The final rule incorporates many of the changes of the proposed rule and makes additional modifications to the text.

DATES: *Effective:* July 6, 2016.

FOR FURTHER INFORMATION CONTACT: For clarification about content, contact Ms. Dana Munson at 202–357–9652. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, (202) 501–4755. Please cite GSAR Case 2008–G506.

SUPPLEMENTARY INFORMATION:

I. Background

GSA published a proposed rule in the **Federal Register** at 73 FR 57580 on October 3, 2008 (*https://Federal Register.gov/a/E8–22745*) revising GSAR Part 515 as part of the General Services Administration Acquisition Manual (GSAM) Rewrite initiative undertaken by GSA to update the GSAM to maintain consistency with the Federal Acquisition Regulation (FAR).

The final rule updates the text addressing GSAR part 501, General Services Administration Acquisition Regulation System, part 515, Contracting by Negotiation, and corresponding provisions and clauses in GSAR part 552, Solicitation Provisions and Contract Clauses. Streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships are also implemented with this final rule.

The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy. Five comments were received in response to the **Federal Register** notice and were considered in crafting the final rule. Comments received in response to the 2008 **Federal Register** publication along with collaborative input from both Federal Acquisition Services (FAS) and Public Buildings Services (PBS) Offices of Acquisition Management were considered in drafting the final rule.

II. Discussion and Analysis

A. Summary of Significant Changes

The proposed rule published in October, 2008 moved clauses associated with GSA's Multiple Award Schedule (MAS) contracts to GSAR part 538, Federal Supply Schedule Contracting, as part of the Rewrite initiative. However, only GSAR 515.209–70(c) and (d) and its associated clause 552.215–71 have been moved to part 538 through GSAR Case 2013–G502, Administrative Changes. Therefore, the remaining MAS provisions and clauses will be retained in GSAM part 515 per the final rule until addressed in separate GSAR 538 cases.

The proposed rule also transferred requirements from the regulatory GSAR part 515 to the non-regulatory GSAM as the requirements apply internally to GSA and not the public. These changes are reflected in the final rule.

The final rule makes additional changes based upon the comments received in response to the proposed rule and further edits existing GSAR 515 text. The specific changes to GSAR part 515 are as follows:

- GSAR 501.106—Aligned Office of Management and Budget (OMB) Control Number 3090–0163 with GSAR Clause 552.215–73, Notice.
- GSAR 515.204—Moved the text from subsection 515.204–1 to section 515.204 to parallel FAR section 15.204, identifying in paragraph (a) that the uniform contract format is not required for leasing. Added paragraph (b)

identifying the Senior Procurement Executive (SPE) as the designee per FAR 15.204(e).

- GSAR 515.204–1—Deleted paragraphs (a) and (b) were moved to other sections of GSAR Part 515.
- GSAR 515.205—Deleted. When a contracting officer uses the government-wide point of entry, such as FedBizOpps, the contracting officer need not specifically send a solicitation to anyone, including the incumbent.
- GSAR 515.209—Added paragraphs (a) through (c) to align all GSAM part 515, Solicitation provisions and contract clauses, with FAR 15.209.
  - Paragraph (a) is the prescription for clause 552.215–70, Examination of Records by GSA. Edits made to the text include deleting the subtitle ''Clause for other than multiple award schedules.'' Replaced ''$100,000'' with ''simplified acquisition threshold'' and the word ''you'' with ''contracting officer''. Eliminated the dashes in the titles, ''Assistant Inspector General-Auditing'' and ''Regional Inspector General-Auditing, replacing each dash with ''for''.
  - Paragraph (b) is the prescription for clause 552.215–73, Notice, moved from GSAM 515.204–1(b)(1) and (2), notifying the public of the assignment of OMB Control Number 3090–0163 to the information collection requirements contained in the solicitation and contract, and of GSA's hours of operation for requests of pre- or post-award debriefings.
  - Paragraph (c) is the new prescription to use GSAR clause 552.215–74, Notice about Releasing Proposals, when using non-government evaluators.
  - Paragraph (d) Clause for Multiple Award Schedules changes ''Multiple Award Schedules (MAS)'' to ''Federal Supply Schedules (FSS);'' Clause should be used in all FSS solicitations and contracts.
- GSAR 515.305—Moved from the regulatory to the non-regulatory as it is only applicable internally to GSA.
- GSAR 515.305–70—Deleted paragraph (a) was made non-regulatory, the solicitation notice in paragraph (c) was moved to 515.209–70(c) and the ''Notice'' itself was converted into clause 552.215–74.
- GSAR 515.70—The subpart, ''Use of Bid Samples'', is deleted in its entirety as it is duplicative of FAR 14.202–4.
- GSAR 552.215–70—Replaced ''$100,000'' with ''simplified acquisition threshold''.
- GSAR 552.215–73—Added a new clause, notifying the public of OMB Control Number assigned to information collection requirements contained in the solicitation and contract, and GSA's hours of operations.
- GSAR 552–215–74—Added a new clause for inclusion in solicitations when non-government evaluators will be used.

B. Analysis of Public Comments

The public comment period for GSAR Part 515 closed on December 2, 2008, five comments were received from two respondents. A discussion of these comments is provided below:

Comment 1: The respondent recommended consideration be given to providing guidance on which section of the Uniform Contract Format (UCF) the mandated paragraphs should be incorporated. GSAR 515.210–70 provides guidance to include this on GSA Form 1602 if it is used, but what if it is not used?

Response: Guidance will be added to the GSAM to clarify that the information should be placed in Section L of the solicitation.

Comment 2: GSAR 515.205: The respondent strongly recommended deleting this entire section, which requires contracting officers to issue solicitations to potential sources. The respondent stated that there is little value added, especially since we no longer maintain mailing lists. Potential offerors download the solicitations from FedBizOpps, so there is rarely written interest expressed, positive or negative. The guidance provided doesn't appear to add any real value as any contracting officer should know to do this without having it spelled out. Even if the section is not deleted, paragraph (a) needs to be deleted. This paragraph causes a problem when the follow-on acquisition strategy differs from the current and historical.

Response: Concur. This section is deleted. The GSAR text of the final rule is amended as a result of this comment.

Comment 3: GSAR 515.209–70(c): The respondent stated that this section, which requires the contracting officer to insert the clause at 552.215–71 Examination of Records by GSA (Multiple Award Schedule) in solicitations and contracts for MAS contracts, does not appear to relate to the Examination of Records clauses. The respondent recommended clearly identifying when this notice should be included. Not all solicitations will be reviewed by nongovernment evaluators, yet as currently written it appears to state this notice should always be included. The following revision was recommended:

''(c) Solicitation notice. When nongovernment evaluators will be used, include in the solicitation a notice substantially as follows:''

Response: Concur. Clause 552.215–74, Notice about Releasing Proposals is amended to include nongovernment evaluators. The prescription at 515.209–70(c) is amended to clarify that the clause is only applicable when nongovernment evaluators are used. The GSAR text of the final rule is amended as a result of this comment.

Comment 4: GSAR 515.7002(b)(1): The respondent stated that the actual prescription for use of GSAR clause 515.70 Use of Bid Samples needs to be added. Currently it just states ''use the clause.''

Response: Non-concur. GSAR subpart 515.70, Use of Bid Samples, is deleted in the final rule of the GSAR text as it unnecessarily duplicates the FAR. No changes were made to the GSAR text of the final rule as a result of this comment.

Comment 5: The respondent stated, both the current GSAR 515.204–1 and the proposed revision indicate that the paragraph regarding debriefing requests does not apply to leasehold interests in real property. The respondent was curious as to why this is so: are there no debriefings under leasehold acquisitions? If so, then there could be a separate Part 570 clause addressing only the OMB and Nondisclosure/Conflict of Interest requirements.

Response: Non-concur. GSAR 570.309 addresses debriefings under leasehold acquisitions. No changes were made to the GSAR text of the final rule as a result of this comment.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the revisions are administrative in nature and only update and reorganize existing GSAR coverage.

V. Paperwork Reduction Act

The Paperwork Reduction Act applies; however, these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 3090–0163.

List of Subjects in 48 CFR Parts 501, 515, and 552

Government procurement.

Dated: May 26, 2016.

Jeffrey A. Koses,

Office of Acquisition Policy, Senior Procurement Executive, General Services Administration.

Therefore, GSA is amending 48 CFR parts 501, 515 and 552 as set forth below:

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

■ 1. The authority citation for 48 CFR part 501 continues to read as follows:

Authority: 40 U.S.C. 121(c).

501.106 [Amended]

■ 2. Amend section 501.106 by adding to the table, in numerical sequence, GSAR Reference ''552.215–73'' and its corresponding OMB control number ''3090–0163''.

PART 515—CONTRACTING BY NEGOTIATION

■ 3. The authority citation for 48 CFR part 515 is revised to read as follows:

Authority: 40 U.S.C. 121(c).

■ 4. Revise section 515.204 to read as follows:

515.204 Contract format.

(a) The uniform contract format is not required for leases of real property (See GSAM 570.116).

(b) The Senior Procurement Executive is the agency head's designee for the purposes of granting exemptions to the use of the Uniform Contract Format (see FAR 15.204(e)).

515.204–1 and 515.205 [Removed]

■ 5. Remove sections 515.204–1 and 515.205.

■ 6. Amend section 515.209–70 by—

■ a. Revising the introductory text of paragraph (a);

■ b. Redesignating paragraph (b) as paragraph (a)(9) and revising newly redesignated paragraph (a)(9); and

■ c. Adding new paragraph (b).

The revisions and addition read as follows:

515.209–70 Examination of records by GSA clause.

* * * * *

(a) *Examination of records by GSA clause for other than multiple award schedule (MAS) contracts.* Insert the clause at 552.215–70, Examination of Records by GSA, in all solicitations and contracts above the simplified acquisition threshold, including acquisitions of leasehold interests in real property, that meet any of the conditions listed below:

* * * * *

(9) The contracting officer may modify the clause at 552.215–70 to define the specific area of audit (*e.g.,* the use or disposition of Government-furnished property). Office of General Counsel or the Office of Regional Counsel and the Assistant Inspector General for Auditing or Regional Inspector General for Auditing, as appropriate, must concur in any modifications to the clause.

(b) Insert the clause at 552.215–73, Notice, in all solicitations for negotiated procurements above the simplified acquisition threshold in accordance with FAR part 15.

* * * * *

515.5 and 515.70 [Removed]

■ 7. Remove subparts 515.3 and 515.70.

PART 552—SOLICITATIONS AND PROVISIONS

■ 8. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

■ 9. Amend section 552.215–70 by revising the introductory text and the date of the clause, and removing ''exceeding $100,000'' and adding ''exceeding the simplified acquisition threshold'' in its place.

The revisions read as follows:

552.215–70 Examination of Records by GSA.

As prescribed in 515.209–70(a), insert the following clause:

Examination of Records by GSA ([JUN 2016])

* * * * *

■ 10. Add section 552.217–73 to read as follows:

552.215–73 Notice Regarding Information Collection Requirements.

As prescribed in 515.209–70(b), insert the following clause:

Notice (JUN 2016)

(a) The information collection requirements contained in this solicitation/contract are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090–0163.

(b) GSA's hours of operation are 8:00 a.m. to 4:30 p.m. EST. Requests for pre-award debriefings postmarked or otherwise submitted after 4:30 p.m. EST will be considered submitted the following business day. Requests for post-award debriefings delivered after 4:30 p.m. EST will be considered received and filed the following business day.

(End of clause)

[FR Doc. 2016–13114 Filed 6–3–16; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 511, 538, and 552

[GSAR Change 73; GSAR Case 2010–G511; Docket No. 2014–0008; Sequence No. 1]

RIN 3090–AJ43

General Services Administration Acquisition Regulation (GSAR); Purchasing by Non-Federal Entities

AGENCY: Office of Government-wide Policy, Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing a final rule amending the General Services Administration Acquisition Regulation (GSAR) regulation, Describing Agency Needs, to implement the Federal Supply Schedules Usage Act of 2010 (FSSUA), the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 (NAHASDA), the John Warner National Defense Authorization Act for Fiscal Year 2007 (NDAA), and the Local Preparedness Acquisition Act for Fiscal Year 2008 (LPAA). GSA is also amending the GSAR, Federal Supply Schedule Contracting, and Solicitation Provisions and Contract Clauses, in regard to this statutory implementation to clarify the application of these laws and access privileges of certain Non-Federal Entities purchasing off of Federal Supply Schedules (FSS). Additionally, prescriptions in the GSAR are amended to reflect the correct prescription numbers. This final rule

also updates the web address to correct an inoperable link.

DATES: *Effective:* July 6, 2016.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Dana Munson, General Services Acquisition Policy Division, GSA, by phone at 202–357–9652 or by email at *dana.munson@gsa.gov.* For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite GSAR case 2010–G511.

SUPPLEMENTARY INFORMATION:

I. Background

GSA published a proposed rule with a request for public comments in the **Federal Register** at 79 FR 21691 on April 17, 2014. This rule combined previous GSAR case 2006–G522; Federal Supply Schedule Contracts–Recovery Purchasing by State and Local Governments Through Federal Supply Schedules (Interim Rule), which published in the **Federal Register** at 72 FR 4649 on February 1, 2007 and GSAR Case 2008–G517; Cooperative Purchasing-Acquisition of Security and Law Enforcement Related Goods and Services (Schedule 84) by State and Local Governments Through Federal Supply Schedules (Interim Rule), which published in the **Federal Register** at 73 FR 54334 on September 9, 2008.

This final rule amends the GSAR to implement section 2 of the FSSUA (Pub. L. 111–263), which added subsection 40 U.S.C. 502(e), authorizing the use of the Schedules by the American National Red Cross and other qualified organizations, which includes National Voluntary Organizations Active in Disaster (NVOAD); section 3 of the FSSUA, which added subsection 40 U.S.C. 502(f), requiring all users of the Schedules, including non-Federal users, to use the contracts in accordance with ordering guidance provided by the Administrator of General Services; and section 4 of the FSSUA to include additional purchasing authority for state or local governments.

This final rule amends the GSAR to implement section 101 of NAHASDA (Pub. L. 110–411), codified at 25 U.S.C. 4111(j), which provides that ''each Indian tribe or tribally designated housing entity shall be considered to be an Executive agency in carrying out any program, service, or other activity under this Act; and (2) each Indian tribe or tribally designated housing entity and each employee of the Indian tribe or tribally designated housing entity shall have access to sources of supply on the same basis as employees of an Executive agency.'' As such, tribes or tribally designated housing entities expending funds from block grants pursuant to NAHASDA may access GSA's sources of supply, including the Schedules, at their discretion.

The final rule amends GSAR Parts 511, 538, and 552 to implement Section 833 of the NDAA, which amends 40 U.S.C. 502(d)(1) to authorize the Administrator of General Services to provide to state or local governments the use of GSA's Schedules for the purchase of goods or services to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, *et seq.*) or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.

This final rule amends the GSAR to further implement section 833, which also amends 40 U.S.C. 502(d)(2) to require the Secretary of Homeland Security to determine which goods and services qualify before the Administrator provides for the use of GSA's Schedules. House Report 109–452 of the Committee on Armed Services indicates that section 833 (referred to in the House Report as section 823), builds on the implementation of the Cooperative Purchasing Program authorized in Section 211 of the E-Government Act of 2002, which permitted state or local governments to access GSA's information technology schedule, known as Schedule 70.

This final rule amends the GSAR to implement the LPAA, which amended 40 U.S.C. 502(c), by authorizing the Administrator of General Services to provide to state or local governments the use of GSA's Schedules for the acquisition of law enforcement, security, and certain other related items.

The prescriptions at GSAR 552.211–85 through 89 are incorrectly numbered. This final rule reflects the correct prescriptions for GSAR clauses 552.211–85 through 89. This final rule also updates the web address in GSAR clause 552.211–89(d) to correct an inoperable link.

The authority granted under FSSUA is available for use on a voluntary (*i.e.,* non-mandatory) basis. In other words, businesses with Schedule contracts have the option of deciding whether they will accept orders placed by state or local governments, the American National Red Cross, or other qualified organizations.

All users of GSA's Schedules, including non-Federal users, shall use the Schedules in accordance with the ordering guidance provided by the Administrator of General Services. GSA encourages non-Federal users to follow the Schedule Ordering Procedures set forth in FAR subpart 8.4, but they may use different established competitive ordering procedures if such procedures are needed to satisfy their state and local acquisition regulations and/or organizational policies.

The non-Federal ordering activity is responsible for ensuring that only authorized representatives of its organization place orders and that goods or services ordered are used only for the purposes authorized. Existing Schedule contracts may be modified only by mutual agreement of the parties. After an existing contract has been modified, a Schedule contractor still retains the right to decline orders by non-Federal entities on a case-by-case basis. This applies to future Schedule contractors, as well. Schedule contractors may decline any order from entities outside the Executive Branch (see GSAR 552.238–78). Similarly, the rule places no obligation on non-Federal buyers to use Schedule contracts. They will have full discretion to decide if they wish to make a Schedule purchase, subject however, to any limitations that may be established under state and local laws or organizational policies.

The Federal Government will not be liable for the performance or nonperformance of orders established under the authority of this rule between Schedule contractors and eligible non-Federal entities. Disputes that cannot be resolved by the parties to the new contract can be litigated in any court of competent jurisdiction over the parties.

The prices of supplies and services available on Schedule contracts include an industrial funding fee (IFF). The fee covers the administrative costs incurred by GSA to operate the Schedules program. The fee may be periodically adjusted as necessary to recover the cost of operating the program.

Two respondents submitted comments in response to the proposed rule. These comments, along with comments received from the previously published interim rules, are addressed in the Discussion and Analysis Section.

II. Discussion and Analysis

The General Services Administration has reviewed the comments received in response to the proposed rule and the previously published interim rules in the development of the final rule. Comments are grouped into categories in order to provide clarification and to better respond to the issues raised. A discussion of all comments received and the changes made to the rule as a result

of those comments is provided as follows:

Comment: Asked GSA to ''clarify whether the changes in the rule apply to the Federal Supply Schedule functions the General Services Administration has delegated to the U.S. Department of Veterans Affairs?''

Response: Yes, the changes apply to all Federal Supply Schedules, including those managed by the Department of Veterans Affairs. Vendors may voluntarily sell to non-Federal entities under their Schedule, in accordance with clause 552.238–78 and acceptance of orders from non-Federal entities is not mandatory. No changes were made to the GSAR text as a result of this comment.

Comment: Was directed at United States Code definitions and FAR references.

The respondent suggested the following changes to the GSAR text that included changing definitions to match definitions and terms in various parts of the Federal Acquisition Regulation (FAR) and the United States Code:

- Delete the terms ''Preparedness, Recovery, Relief, and Response'' found under Subpart 538.7001 Definitions and permit the definitions and legal intentions set forth throughout the FAR, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, *et seq.*) to prevail.
- Replace references to Public Law with applicable ''40 U.S.C. 502'' authority;
- Remove the ''Disaster Recovery Purchasing'' program from eLibrary and advise contractors to register in System Award Management (SAM) for the ''Disaster Response Registry;'' and
- Mandate all non-federal entities use GSA Advantage! in order to track and monitor compliance with IFF and to ensure compliance with 40 U.S.C. 502 authority.

Response: The comments appear to erroneously conflate Federal acquisitions with the activities governed by this final rule. The parts of the FAR cited in the comments pertain to acquisitions by Federal agencies, and fall under a particular statutory authority, specifically the Defense Priorities and Allocations System (DPAS). That is separate from the changes in this rule, which pertains to the ability of non-Federal entities to access GSA sources of supply. These non-Federal access programs are outside of the scope of and not directly related to defense contracting under DPAS, nor are they related to Federal emergency contracting. The GSA non-Federal entity programs are all separate authorities, controlled by statute, that do not conflict or overlap with other Federal, disaster-related, programs. Under these authorities, non-Federal entities have optional access to GSA sources of supply, under the authorized scope. Therefore, purchases made by non-Federal entities are not subject to the statutes and FAR requirements cited in the comments. Thus, insofar as the comments appear to misinterpret the scope and effect of the rule, and the statutory authorities that underlie it, GSA does not concur with the recommendations contained in the comments. No change was made as a result of this comment.

Comment: Asked if the IFF paid by non-Federal entities is tracked separately from the IFF paid by Federal entities.

Response: The IFF paid by non-Federal entities is not tracked separately from the IFF paid by Federal entities. Sales are reported quarterly by the vendor and are tracked by Special Item Number (SIN) and Schedule.

The IFF is tracked separately for sales under the Disaster Purchasing and Cooperative Purchasing Programs. However, it is not tracked separately for other special programs. The Red Cross and other qualified organization sales are reported under Federal sales. GSA is able to track these sales, when made through GSA eTools.

GSA Industrial Operating Analysts and Administrative Contracting Officers work with the GSA vendor community to ensure that all GSA vendors, including authorized non-Federal Entities, are aware of the reporting requirements under the separate programs and that orders are properly tracked and reported on the quarterly 72A forms. No change was made as a result of this comment.

Comment: Raised a number of issues about GSA eTools and how orders under this rule are tracked via the eTools.

Response: GSA eTools web portal provides a one-stop resource where federal and non-federal customers learn about GSA products and services.

GSA eTools, GSA Advantage!® and eLibrary, provide a list of current contractors, products, and services available to eligible non-Federal entities. Schedule contractors that have opted to sell under these programs have agreed to do so at the contract level and their agreement is noted in the eTools with a ''COOPPURCH'' or ''DISASTRECOV'' icon.

When requested, buyers only see contractors that have agreed to participate in the program. This information displays into GSA Advantage!® and its component system eBuy, which facilitates the request for submission of quotations for commercial products and services.

Use of eTools is not mandatory for non-Federal entities and requiring mandatory use of eTools, as suggested in the comments, would be a barrier to use for some state and local government entities. Some entities require use of their own systems to process and execute orders and some entities do not support use of credit cards. Mandating the use of a system, like GSA Advantage!®, that requires credit cards, would prohibit some legally authorized users from accessing these contracts.

Comment: Suggested that ordering procedures require a FEMA disaster declaration number to place an order.

Response: Such a requirement would not take into account a non-Federal entity's ability to purchase for preparation of a disaster, which necessarily pre-dates the declaration of an emergency. However, all entities placing orders under the Disaster Purchasing Program must include the mandatory order language on the purchase order to confirm that the order is being placed under GSA's Disaster Purchasing Program and under the appropriate scope. No change was made as a result of this comment.

Comment: Included a number of statements and questions regarding the 1122 Program and Wildland Fire Program.

Response: These programs are outside the scope of the proposed rule because the laws being implemented do not cover these GSA Schedules. Therefore, these comments are not addressed. Information on these programs can be found here: *www.gsa.gov/1122program* and *www.gsa.gov/fireprogram.*

Comment: Suggested editorial updates to sections and subparts of the GSAR to address the deletion of GSAR 538.71.

Response: The GSAR text of the final rule is amended to reflect the deletion of GSAR 538.71, Submission and Distribution of Authorized FSS Schedule Pricelists by removing and reserving section 552.238–76, Definition (Federal Supply Schedules)—Recovery Purchasing.

Comment: Expressed concern in regards to the Recovery Purchasing program on topics such as advanced purchasing or qualified products.

Response: These questions are directed towards a component of the program that is no longer relevant since the Federal Supply Schedules Usage Act dictates that purchasing may be made in support of preparation for disasters in addition to disaster recovery.

Comment: Opposes the inclusion of the Veteran Administration pharmaceutical contracts because the contracts are the only ones that are set via statutorily mandated pricing system.

Response: The statutes implemented by this rule do not exclude the ability for certain non-federal entities to have access to VA pharmaceutical contracts. Vendors may voluntarily sell to non-Federal entities under their Schedule, in accordance with GSAR clause 552.238–78. Participation in the program and acceptance of orders from non-Federal entities is not mandatory.

Comment: The commenter is opposed to GSA allowing local and state governments to purchase directly off the schedules for competitive and economic reasons.

Response: The Statutes cited in this rule allow access to the Schedules. Schedules access is a direct relationship between the ordering entity and the Schedule vendor.

III. Applicability

This rule provides certain Non-Federal Entities with access to GSA Schedules under the following conditions and authorities:

1. Disaster Purchasing-Authorized under Section 833 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (NDAA) (Pub. L. 109–364) and the Federal Supply Schedules Usage Act of 2010 (FSSUA) (Pub. L. 111–263), provides State and local use of Federal Supply Schedules for the purchase of goods or services to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, *et seq.*) or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.

2. Cooperative Purchasing—Authorized previously under the eGovernment Act of 2002 (Pub. L. 107–347), expanded here under the Local Preparedness Acquisition Act of 2008 (Pub. L. 110–248), provides State and local government use of Federal Supply Schedules for the acquisition of law enforcement, security, and certain other related items by State and local governments. This expansion is limited to Schedule 84, Total Solutions for Law Enforcement, Security, facilities management, fire, rescue, marine craft, and Emergency/Disaster Response. Schedule 70 for Information Technology products and Services was previously authorized under this program.

3. American National Red Cross—Authorized under the Federal Supply Schedules Usage Act of 2010 (Pub. L. 111–263), provides the American National Red Cross access to Federal Supply Schedules, when purchasing in furtherance of the purposes of the American National Red Cross set forth in section 300102 of title 36, United States Code.

4. Other Qualified Organizations—Authorized under the Federal Supply Schedules Usage Act of 2010 (Pub. L. 111–263), provides access to Federal Supply Schedules for ''other qualified organizations'' when purchasing in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency (FEMA). GSA, in consultation with FEMA has determined that, at this time, the National Voluntary Organizations Active in Disaster (NVOAD), may utilize Federal Supply Schedules in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief.

5. Tribal Government Access to Schedules—authorized under Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 (NAHASDA) (Pub. L. 104–330), provides that ''each Indian tribe or tribally designated housing entity shall be considered to be an Executive agency in carrying out any program, service, or other activity under this Act; and (2) each Indian tribe or tribally designated housing entity and each employee of the Indian tribe or tribally designated housing entity shall have access to sources of supply on the same basis as employees of an Executive agency.'' As such, tribes or tribally designated housing entities expending funds from block grants pursuant to NAHASDA may access GSA's sources of supply, including the Schedules, at their discretion. This Final Rule does not grant any additional authority for non-Federal entities to use Federal Supply Schedules other than those listed above.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.,* because implementing the authorities enumerated herein will expand or add the ability for additional other qualified organizations to procure from GSA's Schedule contracts as identified in the relevant laws. For small businesses that hold a Schedule contract their sales may increase for orders placed, by authorized non-federal entities, in order to support disaster preparation and response.

GSA has prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The General Services Administration (GSA) is issuing a final rule amending the General Services Administration Acquisition Regulation (GSAR) Part 511, Describing Agency Needs, to implement the Federal Supply Schedules Usage Act of 2010 (FSSUA), the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 (NAHASDA), the John Warner National Defense Authorization Act for Fiscal Year 2007 (NDAA), and the Local Preparedness Acquisition Act for Fiscal Year 2008 (LPAA), to provide non-Federal entity access to GSA's Federal Supply Schedules (Schedules).

Prior to the Federal Supply Schedules Usage Act of 2010 (hereinafter, ''Act''), state and local governments and the American National Red Cross were authorized to procure from Schedules, but only for limited purposes and specific scopes. ''Other qualified organizations'' were not previously authorized to procure from Schedules contracts.

Under the Act, the scope of authorized users of FSS contracts is expanded to include ''other qualified organizations,'' which is in addition to the already authorized state and local governments and the American National Red Cross (ANRC). Access to Schedules for each of these entities varies. The ANRC may access Schedules in support of their Federal charter; state and local governments may use the Schedules to prepare, respond, and recover from major disasters; and ''other qualified organizations'' may use the Schedules for emergency preparedness and disaster relief.

It should be noted that this is an optional program under the FSS program. This final rule applies to all FSS contractors that agree to sell goods and services to these eligible entities, under the appropriate scope of use. A modification will be issued outlining if a

contractor wishes to sell to each of the 3 user groups, under the assigned scope. There are no additional compliance requirements for contractors than what is already required; therefore, there is no additional cost to small business if they decide to participate.

Further, the final rule amends the GSAR to implement section 101 of NAHASDA, codified at 25 U.S.C. 4111(j), which provides that ''each Indian tribe or tribally designated housing entity shall be considered to be an Executive agency in carrying out any program, service, or other activity under this Act; and (2) each Indian tribe or tribally designated housing entity and each employee of the Indian tribe or tribally designated housing entity shall have access to sources of supply on the same basis as employees of an Executive agency.'' As such, tribes or tribally designated housing entities expending funds from block grants pursuant to NAHASDA may access GSA's sources of supply, including the Schedules, at their discretion.

Additionally, the final rule amends the GSAR to implement Section 833 of the NDAA, which amends 40 U.S.C. 502(d)(1) to authorize the Administrator of General Services to provide to state or local governments the use of GSA's Schedules for the purchase of goods or services to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, *et seq.*) or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.

Finally, the final rule amends the GSAR to implement the LPAA, which amended 40 U.S.C. 502(c), by authorizing the Administrator of General Services to provide to state or local governments the use of GSA's Schedules for the acquisition of law enforcement, security, and certain other related items.

The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the FRFA may be obtained from the Regulatory Secretariat Division.

VI. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 511, 538 and 552

Government procurement.

Dated: May 27, 2016

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, GSA amends 48 CFR parts 511, 538, and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 511, 538, and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 511—DESCRIBING AGENCY NEEDS

■ 2. Amend section 511.204 by revising paragraphs (b)(2) and (c) to read as follows:

511.204 Solicitation provisions and contract clauses.

* * * * *

(b) * * *

(2) The contracting officer shall include the clause at 552.211–75, Preservation, Packaging, and Packing, in solicitations and contracts for supplies expected to exceed the simplified acquisition threshold. The contracting officer may also include the clause in contracts estimated to be at or below the simplified acquisition threshold when appropriate. The contracting officer shall use Alternate I in solicitations and contracts for all Federal Supply Schedule Contracts.

* * * * *

(c) *Supply contracts.* The contracting officer shall include the clause at 552.211–77, Packing List, in solicitations and contracts for supplies, including purchases over the micropurchase threshold. Use Alternate I in solicitations and contracts for all Federal Supply Schedule Contracts.

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

■ 3. Amend section 538.273 by revising paragraphs (a)(2) and (b)(2) to read as follows:

(a) * * *

(2) 552.238–71, Submission and Distribution of Authorized FSS Schedule Pricelists.

* * * * *

(b) * * *

(2) 552.238–75, Price Reductions.

* * * * *

Subpart 538.70—Purchasing by Non-Federal Entities

■ 4. Revise the heading of subpart 538.70 to read as set forth above.

■ 5. Amend section 538.7000 by adding paragraph (d) to read as follows:

538.7000 Scope of subpart.

* * * * *

(d) Other Federal Supply Schedules as authorized in this subpart.

■ 6. Amend section 538.7001 by adding in alphabetical order, the definitions ''Preparedness'', ''Recovery'', ''Relief'', and ''Response'' to read as follows:

538.7001 Definitions.

* * * * *

Preparedness means actions that may include, but are not limited to planning, resourcing, training, exercising, and organizing to build, sustain, and improve operational disaster response capabilities. Preparedness also includes the process of identifying the personnel, training, and equipment needed for a wide range of potential incidents, and developing jurisdiction–specific plans for delivering capabilities when needed for an incident.

Recovery means actions including, but not limited to, the development, coordination, and execution of service- and site-restoration plans; the reconstitution of Government operations and services; individual, private-sector, nongovernmental, and public-assistance programs to provide housing and to promote restoration; long-term care and treatment of affected persons; additional measures for social, political, environmental, and economic restoration; evaluation of the incident to identify lessons learned; post-incident reporting; and development of initiatives to mitigate the effects of future incidents.

Relief means disaster ''response'' and ''recovery.'' Please see the full definitions for these terms in this section.

Response means immediate actions taken during a disaster, or in its immediate aftermath, in order to save lives, protect property and the environment, and meet basic human needs. Response also includes the execution of emergency plans and actions to support short-term recovery.

* * * * *

■ 7. Amend section 538.7002 by revising paragraph (d); and adding paragraphs (e) through (g) to read as follows:

538.7002 General.

* * * * *

(d) Public Law 109–364, the John Warner National Defense Authorization Act for Fiscal Year 2007 authorizing state and local governments, to use Federal Supply Schedule contracts to purchase products and services to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) or to facilitate for recovery from terrorism or nuclear, biological, chemical, or radiological attack. Public Law 111–263, the Federal Supply Schedules Usage Act of 2010 authorizing state and local governments to use Federal Supply Schedule contracts to purchase products and services to be used to facilitate disaster preparedness or response.

(e) Public Law 111–263, the Federal Supply Schedules Usage Act of 2010, authorizes the American National Red Cross to use Federal Supply Schedule contracts to purchase goods or services to be used in furtherance of its purposes as set forth in its federal charter (36 U.S.C. 300102).

(f) Public Law 111–263, the Federal Supply Schedules Usage Act of 2010, authorizes other qualified organizations to use Federal Supply Schedule contracts to purchase products and services in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency. Other qualified organizations must meet the requirements of 42 U.S.C. 5152.

(g) A listing of the participating contractors and SINs for the goods and services that are available under these authorized Federal Supply Schedules, is available in GSA's e-Library at *www.gsa.gov/elibrary.*

■ 8. Amend section 538.7003 by revising the introductory text to read as follows:

538.7003 Policy.

Preparing solicitations when schedules are open to eligible non-federal entities. When opening authorized Federal Supply Schedules for use by eligible non-federal entities, the contracting officer must make minor modifications to certain Federal Acquisition Regulation and GSAM provisions and clauses in order to make clear distinctions between the rights and responsibilities of the U.S. Government in its management and regulatory capacity pursuant to which it awards schedule contracts and fulfills associated Federal requirements versus the rights and responsibilities of eligible ordering activities placing orders to fulfill agency needs. Accordingly, the contracting officer is authorized to modify the following FAR provisions/clauses to delete ''Government'' or similar language referring to the U.S. Government and substitute ''ordering activity'' or similar language when preparing solicitations and contracts to be awarded under authorized Federal Supply Schedules. When such changes are made, the word ''(DEVIATION)'' shall be added at the end of the title of the provision or clause. These clauses include but are not limited to:

* * * * *

■ 9. Revise section 538.7004 to read as follows:

538.7004 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 552.238–77, Definition (Federal Supply Schedules)–Non-Federal Entity in solicitations and contracts for all Federal Supply Schedules.

(b) The contracting officer shall insert the clause at 552.238–78, Scope of Contract (Eligible Ordering Activities), in solicitations and contracts for all Federal Supply Schedules.

(c) The contracting officer shall insert the clause at 552.238–79, Use of Federal Supply Schedule Contracts by Non-Federal Entities, in solicitations and contracts for all Federal Supply Schedules.

(d) See 552.101–70 for authorized FAR deviations.

Subpart 538.71—[Removed and Reserved]

■ 10. Remove and reserve subpart 538.71.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.211–85 [Amended]

■ 11. Amend section 552.211–85 by removing from the introductory text ''511.204(b)(5)'' and adding ''511.204(b)(4)'' in its place.

552.211–86 [Amended]

■ 12. Amend section 552.211–86 by removing from the introductory text ''511.204(b)(6)'' and adding ''511.204(b)(5)'' in its place.

552.211–87 [Amended]

■ 13. Amend section 552.211–87 by removing from the introductory text ''511.204(b)(7)'' and adding ''511.204(b)(6)'' in its place.

552.211–88 [Amended]

■ 14. Amend section 552.211–88 by removing from the introductory text ''511.204(b)(8)'' and adding ''511.204(b)(7)'' in its place.

■ 15. Amend section 552.211–89 by:

■ a. Removing from the introductory text ''511.204(b)(4)'' and adding ''511.204(b)(8)'' in its place;

■ b. Revising the date of the clause; and

■ c. Removing from paragraph (d) ''*http://www.dla.mil/j-3/j-3311/DLAD/rev5.htm''* and adding ''*http://farsite.hill.af.mil/archive/Dlad/Rev5/PART47.htm''* in its place.

The revision reads as follows:

552.211–89 Non-manufactured wood packaging material for export.

* * * * *

Non-Manufactured Wood Packaging Material for Export (JUL 2016)

* * * * *

■ 16. Amend section 552.238–71 by:

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a) ''Federal Government'' and adding ''ordering activity'' in its place; and

■ c. Removing Alternate I.

The revision reads as follows:

552.238–71 Submission and Distribution of Authorized FSS Schedule Pricelists.

* * * * *

Submission and Distribution of Authorized FSS Schedule Pricelists (JUL 2016)

* * * * *

■ 17. Amend section 552.238–75 by:

■ a. Revising the date of the clause and paragraph (d)(3); and

■ b. Removing Alternate I.

The revisions read as follows:

552.238–75 Price Reductions.

* * * * *

Price Reductions (JUL 2016)

* * * * *

(d) * * *

(3) Made to Eligible Ordering Activities identified in GSAR clause 552.238–78 when the order is placed under this contract (and the Eligible Ordering Activities identified in GSAR clause 552.238–78 is the agreed upon customer or category of customer that is the basis of award); or

* * * * *

552.238–76 [Removed and Reserved]

■ 18. Remove and reserve section 552.238–76.

■ 19. Amend section 552.238–77 by:

■ a. Revising the section and clause headings; and

■ b. Removing from the definition ''Ordering activity'' the phrase ''(see 552.238–78)'' and adding ''(see 552.238–78),'' in its place.

The revisions read as follows:

552.238–77 Definition (Federal Supply Schedules)—Non-Federal Entity.

* * * * *

Definition (Federal Supply Schedules)—Non-Federal Entity (JUL 2016)

* * * * *

■ 20. Amend section 552.238.78 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (a)(7) and (8) as paragraphs (a)(8) and (9), respectively;

■ c. Adding a new paragraph (a)(7);

■ d. Revising paragraph (d);

■ e. Adding paragraph (h); and

■ f. Removing Alternate I.

The revisions and additions read as follows:

552.238–78 Scope of Contract (Eligible Ordering Activities).

* * * * *

Scope of Contract (Eligible Ordering Activities) (JUL 2016)

(a) * * *

(7) Tribes or tribally designated housing entities pursuant to 25 U.S.C. 4111(j);

* * * * *

(d) The following activities may place orders against Schedule 70 contracts:

(1) State and local government may place orders against Schedule 70 contracts, and Consolidated Schedule contracts containing information technology Special Item Numbers, and Schedule 84 contracts, on an optional basis; PROVIDED, the Contractor accepts order(s) from such activities;

(2) The American National Red Cross may place orders against Federal Supply Schedules for products and services in furtherance of the purposes set forth in its Federal charter (36 U.S.C. 300102); PROVIDED, the Contractor accepts order(s) from the American National Red Cross; and

(3) Other qualified organizations, as defined in section 309 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5152), may place orders against Federal Supply Schedules for products and services determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency; PROVIDED, the Contractor accepts order(s) from such activities.

(4) State and local governments may place orders against Federal Supply Schedules for goods or services determined by the Secretary of Homeland Security to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, *et seq.*) to facilitate disaster preparedness or response, or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack; PROVIDED, the Contractor accepts order(s) from such activities.

* * * * *

(h) All users of GSA's Federal Supply Schedules, including non-Federal users, shall use the schedules in accordance with the ordering guidance provided by the Administrator of General Services. GSA encourages non-Federal users to follow the Schedule Ordering Procedures set forth in the Federal Acquisition Regulation (FAR) 8.4, but they may use different established competitive ordering procedures if such procedures are needed to satisfy their state and local acquisition regulations and/or organizational policies.

■ 21. Amend section 552.238–79 by revising the section and clause headings to read as follows:

552.238–79 Use of Federal Supply Schedule Contracts by Non-Federal Entities

* * * * *

Use of Federal Supply Schedule Contracts by Non-Federal Entities (JUL 2016)

* * * * *

552.238–80 [Removed and Reserved]

■ 22. Remove and reserve section 552.238–80.

[FR Doc. 2016–13115 Filed 6–3–16; 8:45 am]

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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