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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

RIN 0584–AE21

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Implementation of Electronic Benefit Transfer-Related Provisions

Correction

In rule document 2016–04261 beginning on page 10433 in the issue of Tuesday, March 1, make the following correction:

§ 246.12 [Corrected]

On page 10450, in the second column, in § 246.12(y)(3), in the second line, ''May 31, 2016'' should read ''August 1, 2016''.

[FR Doc. C1–2016–04261 Filed 3–30–16; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[FNS 2011–0017]

RIN 0584–AE07

Supplemental Nutrition Assistance Program: Nutrition Education and Obesity Prevention Grant Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule.

SUMMARY: This rule adopts the interim rule implementing the Supplemental Nutrition Assistance Program (SNAP) nutrition education and obesity prevention grant program with changes as provided in this rule. This rule also amends SNAP regulations to implement section 28 of the Food and Nutrition Act (FNA) of 2008, as added by section 241 of the Healthy, Hunger-Free Kids Act (HHFKA) of 2010, to award grants to States for provision of nutrition education and obesity prevention programs. These programs provide services for eligible individuals that promote healthy food choices consistent with the current Dietary Guidelines for Americans (DGAs). The rule provides State agencies with requirements for implementing section 28, including the grant award process and describes the process for allocating the Federal grant funding for each State's approved SNAP-Ed plan authorized under the FNA to carry out nutrition education and obesity prevention services each fiscal year. This final rule also implements section 4028 of the Agricultural Act of 2014 (Farm Bill of 2014), which authorizes physical activity promotion in addition to promotion of healthy food choices as part of this nutrition education and obesity prevention program.

DATES: This rule is effective March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Jane Duffield, Chief, State Administration Branch, Program Accountability and Administration Division, Supplemental Nutrition Assistance Program, USDA, 3101 Park Center Drive, Alexandria, VA 22302, *Jane.Duffield@fns.usda.gov,* (703) 605–4385.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Regulatory Action

The HHFKA removed the existing nutrition education program under section 11(f) of the FNA (7 U.S.C. 2011 *et seq.*), commonly known as SNAP Education (SNAP-Ed), and added in its place section 28, the nutrition education and obesity prevention grant program. This rule implements the new program, which the Food and Nutrition Service (FNS) continues to refer to as SNAP-Ed, and seeks to improve its operation and effectiveness to make the program easier for States to administer while improving the health of the low-income population.

The implementation of this program provides a focus on the critical problem of obesity and allows coordinated services to be provided to participants in Federal assistance programs and other low-income persons. This action broadens collaboration efforts and relationships in order to provide more flexibility to include a wider range of evidence-based intervention strategies.

The interim rule published at 78 FR 20411 (April 5, 2013) is adopted as a final rule with changes as provided in this rule.

B. Summary of the Major Provisions of the Regulatory Action in Question

Target Population

The FNA defines individuals eligible for SNAP-Ed as those who receive SNAP or National School Lunch/School Breakfast Program free or reduced price benefits, individuals residing in a community with a significant low-income population, and other low-income individuals as defined by the Secretary. FNS decided to include low-income individuals eligible to receive benefits under SNAP or other means-tested Federal assistance programs such as Medicaid or Temporary Assistance for Needy Families (TANF), etc., in this definition to ease administrative burden on States. This definition more closely aligns SNAP-Ed with other FNS, Federal and State-administered benefit programs.

Nutrition Education State Plans

This rule requires States to submit a Nutrition Education State Plan (SNAP-Ed Plan) in order to receive a SNAP-Ed grant, essentially the same procedure as before. FNS decided to strengthen SNAP-Ed Plan requirements to better assure that the Plans adequately address HHFKA requirements and public comment. The Plans must: (1) Present valid and data driven needs assessments of the nutrition, physical activity, and obesity prevention needs of the target population; (2) identify the use of funding for evidence-based State or local projects that meet those needs; (3) ensure that interventions are comprehensive in scope and appropriate for the eligible low-income population and communities; (4) recognize the population's constrained resources and potential eligibility for Federal nutrition assistance; and (5) demonstrate and follow evidence-based strategies for effective nutrition education and obesity prevention. The rule allows States to propose

implementing annual or multi-year SNAP-Ed Plans of up to three years.

Use of Funds

The FNA permits States to use funds for evidence-based allowable uses identified by the FNS Administrator in consultation with the Director of the Centers for Disease Control and Prevention (CDC). Under this rule, the definitions for nutrition education and obesity prevention services and an evidence-based approach are provided for States to use in their SNAP-Ed programming. These definitions provide States with greater flexibility to include environmental approaches and policy level work in addition to nutrition education, health promotion, and social marketing. Expanding these approaches has the added benefit of supporting more comprehensive anti-obesity efforts in addition to providing greater State flexibility in programming.

Under this rule, States may deliver nutrition education and obesity prevention activities using two or more of these approaches: Individual or group-based nutrition education, health promotion, and intervention strategies; comprehensive, multi-level interventions; and community and public health approaches. To improve program design, States are expected to integrate multiple approaches in implementing their activities.

Coordination

The rule encourages coordination of SNAP-Ed activities with public or privately funded health promotion and nutrition improvement strategies and requires that States describe their coordination activities in their SNAP-Ed Plans. States are strongly encouraged to coordinate with other organizations, particularly other State agencies delivering nutrition assistance programs, to reach low-income individuals through varied approaches.

Funding

1. National Funding

Congress prescribed specific dollar amounts for each of federal fiscal years (FFY) 2011–2015. For the 2016 and subsequent FFY, the total amount will be determined by adjusting the total SNAP-Ed allocation available nationally during the preceding FFY by an amount that is equal to the increase in the Consumer Price Index for All Urban Consumers for the 12-month period ending the preceding June 30, as published by the Bureau of Labor Statistics of the Department of Labor.

2. Individual State Allocation

This rule provides grants to States through Federal funding authorized specifically for SNAP-Ed grants, requires no State contribution or match, and is the only source of Federal SNAP funds for these activities. This rule encourages States to seek public and private financial contribution for SNAP-Ed activities to leverage the Federal SNAP investment. However, funds in excess of the Federal SNAP-Ed grant are not eligible for SNAP Federal reimbursement. The rule describes the allocation process by which a State receives funds between FFY 2011–2013, based on the State's SNAP-Ed expenditures in FFY year 2009, as reported to the Secretary in February 2010, in proportion to FFY 2009 SNAP-Ed expenditures by all States nationally in that year. For FFY 2014 and subsequent years, the allocation formula is based on a ratio of 1) a State's share of national SNAP-Ed expenditures in FFY 2009 and 2) the percentage of the number of individuals participating in SNAP in the State during the preceding year in relation to the percentage of SNAP participation nationally during that year. The second part of the formula, the ratio of SNAP participation in a State in relation to SNAP participation nationally, will progressively increase as a percentage of the annual State funding from FFY 2014 forward. In FFY 2014, the formula's ratio of State FFY 2009 SNAP-Ed expenditures to SNAP participation was 90/10. A State's FFY 2009 SNAP-Ed expenditure will annually decrease as a factor of the ratio until FFY 2018, when the ratio will be 50/50. The 50/50 ratio shall continue each FFY after 2018. The financial provisions of this rule stabilize SNAP-Ed funding and reduce State administrative burden since no State contribution is required.

II. Background

Purpose of the Rule

The HHFKA removed the previously existing nutrition education program under Section 11(f) of the FNA of 2008 (7 U.S.C. 2011 *et seq.*), known as SNAP-Ed, and adds in its place section 28, the Nutrition Education and Obesity Prevention Grant Program. This rule finalizes codification of the grant program, which FNS continues to refer to as SNAP-Ed, and seeks to improve its operation and effectiveness to make the program easier for States to administer while meeting the needs of the low-income population. The interim rule published at 78 FR 20411 (April 5, 2013), was effective upon publication, providing immediate direction for States, while also allowing for adjustments, based on public comment. It is adopted as a final rule with changes as provided in this rule.

This final rule provides State agencies with final requirements for implementing section 28 of the FNA, including the grant award process and describes the process for allocating the Federal grant funding authorized under the FNA. Section 28 of the FNA requires no State contribution or match, but permits States to seek public and private financial contributions to SNAP-Ed activities. This rule encourages States to seek these contributions to leverage their Federal SNAP investment. The rule encourages greater coordination of projects with other public or privately funded health promotion, nutrition improvement and obesity prevention strategies, including other Federal assistance programs.

Consultations

A requirement of section 28 of the FNA was for FNS to consult with the Director of the CDC and a wide range of stakeholders and experts to identify allowable uses of funds and to strengthen the delivery, oversight and evaluation of nutrition education and obesity prevention services in the development of the rule. FNS conducted an aggressive outreach effort during the development of the interim rule, hosting 25 consultative sessions and obtaining input from more than 150 stakeholders over a 6 month period. The extensive consultation period was instrumental in the development of the SNAP-Ed interim rule and may have contributed to FNS receiving relatively few comments recommending major changes for consideration during the comment period for the interim rule.

Based on the requirements of section 28 of the FNA and the input received during the consultations, the interim rule was formulated to make changes in SNAP-Ed programming in the following areas:

Nutrition Education State Plans

Consistent with prior law, section 28 of the FNA requires State agency submission of a SNAP-Ed Plan in order to receive a grant for the provision of nutrition education and obesity prevention services. Based on stakeholder interest, FNS determined that States may propose to implement annual or multi-year SNAP-Ed Plans that cover a timeframe of up to three years. The timelines associated with Plan development, submission and final reports remained the same as they were prior to changes in the FNA and these timelines were incorporated into the

interim rule. The interim rule codified the requirement that SNAP-Ed Plans address the provisions specified by law and meet standards established in the rule, SNAP-Ed Plan Guidance (*https://snaped.fns.usda.gov/national-snap-ed/snap-ed-plan-guidance-and-templates*), and other FNS policy.

Target Population

Section 28 of the FNA defines individuals eligible for SNAP-Ed services as those who receive SNAP or National School Lunch/School Breakfast Program free or reduced price benefits, individuals residing in a community with a significant low-income population, and other low-income individuals as defined by the Secretary. Some stakeholders recommended that FNS expand the definition of those eligible for SNAP-Ed. In considering that recommendation, FNS decided to define low-income persons for SNAP-Ed as SNAP participants and low-income individuals eligible to receive benefits under SNAP or other means-tested Federal assistance programs such as Medicaid, Temporary Assistance for Needy Families (TANF), the free and reduced price meals under the National School Lunch Program (NSLP), etc. This definition aligns SNAP-Ed with other FNS, Federal and State-administered benefit programs, allowing the focus to remain on low-income populations while permitting a greater reach to persons residing in communities with a significant low-income population.

Information received during the consultations leading up to the interim rule indicated the need for expanded strategies and data sources to assist in identifying SNAP-Ed target audiences, to address fully the challenges many experienced identifying and reaching their audiences. FNS recognized States' interest in greater flexibility in the methods and data sources to use in identifying their low-income SNAP-Ed population. FNS determined that States may propose several methodologies that use relevant supporting data sources beyond those included in SNAP-Ed Plan Guidance to identify their target audience, including alternative targeting methodologies such as defined areas around a qualifying school, SNAP office or other methodologies.

Use of Funds

FNS received input from stakeholders, including Federal partners, on the definition of nutrition education and obesity prevention services on which to base SNAP-Ed programming under the interim rule. FNS considered these recommendations, the definition used by CDC for obesity prevention services, and the Institute of Medicine's key messages about obesity prevention to define nutrition education and obesity prevention services. The interim rule definition considered the resources available for nutrition education and obesity prevention services, the mission of FNS, and the goal of SNAP-Ed.

Choosing physically active lifestyles along with making healthy food choices for those eligible for SNAP have long been included as goals of SNAP-Ed. SNAP-Ed principles at present also are aligned with the FNA's requirement for promotion of physical activity in addition to healthy food choices. Thus, physical activity choices along with food choices were included in the definition of SNAP-Ed nutrition education and obesity prevention services.

The FNA also required that allowable nutrition education and obesity prevention strategies shall be evidence-based. FNS received feedback on the evidence-based approaches stakeholders thought would move SNAP-Ed into closer alignment with other governmental, institutional, community-based and public health organizations. Stakeholders also encouraged FNS to approve and promote nutrition education and obesity prevention activities that showed promise and could be instrumental in demonstrating the effectiveness of a wide range of approaches to provide these activities. FNS reviewed definitions used by the Institute of Medicine and CDC, and recommendations from commenters to develop the definition of evidence-based activities included in the interim rule.

The FNA further stipulates that funds may be used for evidence-based activities using any or all of these three approaches: individual and group-based strategies; comprehensive multi-level interventions; and/or community and public health approaches. FNS also considered the following to determine how States might best deliver nutrition education and obesity prevention services in SNAP-Ed: use of the social-ecological model to address nutrition education and obesity prevention interventions; community and public health approaches promoted by CDC and other groups; and the 2010 DGAs Social-Ecological Framework for Nutrition and Physical Activity Decisions that illustrates how spheres of influence affect individual and family eating and physical activity choices. FNS decided to permit States to implement one or more of the approaches described in section 28 of the FNA to deliver evidence-based nutrition education and obesity prevention activities in their SNAP-Ed programs. FNS encouraged State agencies in the interim rule to integrate multiple approaches in implementing nutrition education and obesity prevention activities to improve program design.

Coordination

The FNA encourages States to coordinate nutrition education and obesity prevention grant program projects with other public or privately funded health promotion or nutrition improvement strategies as long as the State agency retains administrative control of the projects. FNS expects States to coordinate SNAP-Ed activities with other national, State and local nutrition education and health promotion initiatives and interventions, and requires that an applying State demonstrate such coordination in its SNAP-Ed Plan. FNS recognizes the synergy of coordinating activities and the potential impact of leveraging funding. In addition, States must show in their SNAP-Ed Plans that the Federal funding received from SNAP will remain under the administrative control of the State agency as they coordinate their activities with other organizations.

Although FNS has encouraged States to connect and integrate nutrition education across programs and to implement a variety of nutrition education approaches, stakeholders have advised FNS to more strongly encourage or mandate that State agencies coordinate their SNAP-Ed activities with other projects in their State.

Funding

Section 28 of the FNA altered the manner in which SNAP-Ed funding is determined for States. Because the funding language is specific and prescriptive, FNS has no discretion as to how funds are allocated to States with approved SNAP-Ed Plans. However, FNS has addressed concerns expressed by commenters about the methods used to determine the allocations, the allocation amounts and the reallocation of funds should any State surrender them. The interim rule implemented financial changes retroactive from the enactment of the HHFKA forward, stipulating that SNAP State agencies submitting an approved SNAP-Ed Plan will receive a Federal nutrition education and obesity prevention grant.

Summary of Comments

Eighteen comments to the interim rule were received and are available for public inspection on

www.regulations.gov. Representatives from two State agencies, six member organizations, four advocacy/policy groups, as well as six non-affiliated individuals provided comments.

In general, all of the commenters except one were supportive of the rule. The majority of the commenters observed that the interim rule is very consistent with their vision for SNAP-Ed. Several further stated that the rule is clearly responsive to the input that they and many other stakeholders provided during the development of the rule. The commenters acknowledged that the rule adds flexibility and efficiencies to SNAP-Ed programming while ensuring rigorous oversight and facilitating a comprehensive approach to SNAP-Ed. Commenters favorably viewed the provision allowing States to adopt multi-year nutrition education plans as having a positive impact on States' administrative burden. The one negative comment received expressed that there is no need for spending on the program.

Positive feedback was received on three definitions included in the interim rule: nutrition education and obesity prevention services; evidence-based approaches; and target population. One organization recommended that FNS expand the definition of nutrition education and obesity prevention services to include an emphasis on food insecurity as a strategy to improve nutrition and reduce obesity. FNS understands the commenter's interest in addressing food insecurity through SNAP-Ed. However, because receipt of SNAP benefits addresses food insecurity and addressing food insecurity is not a stated purpose for SNAP-Ed in section 28 of the FNA, the recommendation to include additional emphasis on food insecurity will not be included in the final rule. The definition for SNAP nutrition education and obesity prevention at § 272.2(d)(2)(vii)(B) has been improved to enhance clarity.

One organization expressed that States should be allowed to implement strategies that may not have been thoroughly reviewed in scientific literature but may have potential to improve nutrition and reduce obesity. In response to this comment FNS further refined the definition of evidence-based approaches at § 272.2(d)(2)(vii)(B) to indicate that SNAP-Ed services may include emerging strategies or interventions and that these strategies or interventions require justification and evaluation.

This final rule implements section 4028 of the Farm Bill of 2014 which authorizes physical activity promotion along with promotion of healthy food choices as part of SNAP-Ed programming. Language at § 272.2(d)(2)(vii)(C) remains the same as the interim rule because SNAP-Ed has promoted physical activity along with healthy food choices based on the Dietary Guidelines for Americans for some time. Physical activity was included as a required element of a SNAP-Ed Plan at § 272.2(d)(2)(iv), § 272.2(d)(2)(vi) and § 272.2(d)(2)(vii)(D).

The final rule addresses SNAP-Ed provisions of the FNA and HHFKA, however many of the comments relate to routine SNAP-Ed programmatic operations that are more effectively addressed through alternate means rather than through rulemaking. The SNAP-Ed Plan Guidance and other opportunities for additional policy development are available and are the most effective means to address stakeholder concerns that are unrelated to the provisions being implemented through this rule. The final rule at § 272.2 (d)(2)(i) stipulates that SNAP-Ed Plans shall conform to standards established in this regulation, SNAP-Ed Plan Guidance, and other FNS policy. FNS concurs with several comments on the interim rule and is responding by making adjustments in the final rule to address those comments. The comments received on the interim rule were reviewed, categorized and analyzed in six key areas and are discussed below.

Reporting

The Education and Administrative Reporting System (EARS) form is the current means by which States report SNAP-Ed programmatic activity to FNS. The EARS form was devised to collect uniform information about SNAP-Ed activities such as demographic characteristics of participants, topics covered, educational delivery sites, education strategies and resource allocation. EARS is not an evaluation tool but provides FNS with national data to inform management decisions, support policy initiatives, provide documentation for legislative, budget and other requests and support planning within FNS. Four commenters recommended that FNS replace EARS with a more comprehensive reporting and evaluation system that would accommodate collection of data related to new activities included in the FNA. FNS foresees opportunities to improve any reporting form and/or system such as EARS over time. FNS has begun the process of addressing the feasibility of additional data collection through the EARS form or another means that captures SNAP-Ed activities implemented in the past, as well as activities called for in post-HHFKA SNAP-Ed programming. On August 17, 2015, a notice was published in the **Federal Register** (80 FR 49198), inviting public comment on a revised EARS form that will collect data related to some HHFKA provisions.

The interim rule specified that States are expected to collect and report State and private financial contributions on the EARS form. The possibility exists that an alternative method for the reporting of programmatic and financial data will be identified by FNS. As a result, FNS changed language at § 272.2(d)(2)(xi), Fiscal recordkeeping and reporting requirements, in response to comments received, to indicate that States must submit financial data through the means and in the timeframe specified by FNS. This applies to financial data that is reported on the EARS form as well as other financial data. Reference to the EARS form was deleted. FNS will provide guidance to States outside this rulemaking on the submission of programmatic data such as that collected by EARS and any new data collection that might be implemented.

One organization representing State and Implementing Agencies requested that FNS extend the due date for annual reports. FNS currently does provide flexibility for report submissions in practice on a case by case basis. However FNS, in response to this comment at § 272.2(d)(2)(xiii), changed the due date for Annual Reports from November 30 to January 31 as requested to allow States more time to better analyze and report on Program activities and budget. The reporting of outcomes was added at this section to emphasize that these should be included in Annual Reports.

Target Population

Language was added at § 272.2(d)(2)(v) to modify the definition of the target population to explicitly include individuals residing in communities with a significant low-income population as specified in the FNA. The SNAP-Ed target population is now defined in this final rule as SNAP participants and low-income individuals eligible to receive benefits under SNAP or other means-tested Federal assistance programs and individuals residing in communities with a significant low-income population.

Several groups commented that FNS should make available information on approved alternative targeting strategies for assessing eligible areas and defining target populations. FNS considered this suggestion and included extensive

information relevant to this issue in recent SNAP-Ed Plan Guidance. FNS will continue to identify alternative targeting strategies and methodologies and will disseminate the information through SNAP-Ed Plan Guidance and other appropriate means. One advocacy group suggested FNS permit inclusion of large-scale institutional settings and systems, buffer zones, etc., as part of a targeting strategy where there is a significant proportion of potentially eligible individuals. Another organization recommended allowing State-specific criteria to determine target audiences. States may propose these and other targeting strategies for FNS consideration under current SNAP-Ed Plan Guidance, so no changes will be made to the rule in this area.

One State agency provided comments about requiring States to conduct valid and data-driven needs assessments of their target populations to include barriers to accessing healthier options. A member organization further elaborated on the characteristics of the target population that States should consider when conducting needs assessments. These recommendations were incorporated into the rule at § 272.2(d)(2)(iv). In response to the same State agency, FNS added language at § 272.2(d)(2)(vi) requiring States to specify how their evidence-based interventions and strategies meet the assessed needs of their target population.

Evaluation

Several commenters provided suggestions related to evaluations. One recommended expanding approval of formative research and ongoing monitoring costs; two organizations suggested establishing clearer definitions for SNAP-Ed methods, interventions, metrics and evaluation; others commented that FNS should allow greater flexibility in how SNAP-Ed funds may be used for subsequent evaluative purposes. Another recommended continued FNS investment in SNAP-Ed evaluations such as the SNAP Education and Evaluation Studies (WAVEs I and II). These recommendations are relevant and timely but go beyond the scope of the requirements for SNAP-Ed set forth in the FNA and HHFKA. FNS will continue to consider these concerns, as applicable, through other SNAP-Ed policy-making and development processes. FNS did include evaluating programs in addition to planning, implementing, and operating SNAP-Ed programs as an appropriate use of funds at § 272.2(d)(2)(vii).

Several commenters requested that FNS share information about new SNAP-Ed nutrition education and obesity prevention programming that has demonstrated effectiveness or has shown significant promise. FNS agrees with this recommendation and did release with the FFY 2014 Guidance for States in March 2013 the *SNAP-Ed Strategies and Interventions: An Obesity Prevention Toolkit for States* (*https://snaped.fns.usda.gov/snap//SNAP-EdInterventionsToolkit.pdf)* developed in conjunction with the National Collaborative for Childhood Obesity Research. This toolkit was designed to help States identify evidence-based obesity prevention policy and environmental change strategies and interventions to include in SNAP-Ed Plans. The toolkit was updated in July 2013, again in May 2014, and will continue to be updated as needed. Also, an inventory of best practices in nutrition education was prepared through a National Institute of Food and Agriculture grant which FNS released in April 2014. Further information on promising and proven nutrition education and obesity prevention strategies for SNAP-Ed will be communicated to States through appropriate channels as they are identified.

Two organizations commented that FNS should encourage States to conduct needs assessment, formative research, interventions and evaluations for three population segments: SNAP participants, persons with incomes less than 130 percent of the Federal Poverty Level (FPL), and persons between 130 and 185 percent of the FPL to expand the target population for interventions and evaluations. Interventions and evaluations conducted in venues that qualify for SNAP-Ed are covered for these three population segments as described in SNAP-Ed Plan Guidance. Other organizations also recommended that: the costs of formative research, pilot testing, and ongoing monitoring and surveillance, and outcome/impact evaluation should be borne fully by SNAP-Ed; the costs of surveys, surveillance and special studies should be fully allowed as reasonable and necessary and not subject to proration when the baselines of different segments or communities impacts SNAP-Ed interventions; and FNS should clarify that the cost of evaluations and State surveys conducted for planning and evaluation include the full SNAP-Ed target population and not be prorated to apply only to persons at less than 130 percent of the FPL.

The SNAP-Ed Plan Guidance includes information about conducting interventions and evaluations and is an appropriate source to provide clarifying information on these topics. Additional focus on evaluation in SNAP-Ed was achieved with: The addition of an evaluation and related resources section to the SNAP-Ed Plan Guidance; the addition of an evaluation section to the *SNAP-Ed Strategies and Interventions: An Obesity Prevention Toolkit for States;* the development and posting of the guide, Addressing the Challenges of Conducting Effective Supplemental Nutrition Assistance Program Education (SNAP-Ed) Evaluations: A Step-by Step Guide (*http://www.fns.usda.gov/sites/default/files/SNAPEDWaveII_Guide.pdf*), and the addition of an evaluation Web page (*https://snaped.fns.usda.gov/professional-development-tools/evaluation*) to the SNAP-Ed Connection Web site, a resource for professionals working in SNAP-Ed. FNS will continue to provide evaluation information through existing communication with State agencies and will consider these comments when doing so.

Program Coordination

States were encouraged in the interim rule to coordinate their activities with other public or private entities. Two groups commented that FNS should require rather than encourage States to coordinate activities with other organizations as well as report on the coordination efforts of their sub-grantees. In recent Guidance, FNS sets forth its expectation that States will coordinate SNAP-Ed activities with other groups. FNS believes that by stating its expectation and encouraging States to move forward with their coordination efforts rather than requiring them to form such cooperative relationships, consideration is properly given to the varying levels of existing efforts States have made and their abilities and resources to establish additional partnerships. Reflecting the intent of the HHFKA, States are encouraged at § 272.2(d)(2)(viii) to coordinate obesity prevention, nutrition education, and health promotion initiatives and interventions and must describe such coordination in State SNAP-Ed Plans. Recognizing the importance of coordination of efforts among operators of FNS programs, FNS added language at § 272.2(d)(2)(viii) requiring States to consult and coordinate with State and local operators of other FNS programs to ensure that their SNAP-Ed activities complement the nutrition education and obesity prevention efforts of these programs.

One commenter recommended that the rule further clarify when written agreements between partnering organizations are needed. A change was made at § 272.2(d)(2)(viii) to reflect that the term Memoranda of Understanding is often used interchangeably with Memoranda of Agreement and to clarify that these documents must be available for inspection only when SNAP-Ed funding is being used in collaborative efforts with other programs or organizations.

Other coordination-related recommendations to the interim rule that FNS may explore and address through SNAP-Ed Plan Guidance and other policy-making include suggestions that FNS: Encourage States to inform State and local staff of implementing agency SNAP-Ed efforts; waive SNAP cost allocation requirements when a State Nutrition Action Plan is operational among Federally-funded programs; and require States to describe the processes for coordination between States, other organizations, or contractors providing services. These recommendations will not be included in this final rule.

Funding

The funding provisions of the FNA are prescriptive and were included as such in the interim rule. One implementing agency and three organizations provided funding-related comments and suggestions. The comments and FNS' determinations related to changes in the final rule are listed below.

Recommendation	FNS Determination
Amend the reallocation methodology	No change. Reallocation method is a provision of the FNA and cannot be amended by this rule.
Include details on an appeal and dispute resolution process for State disagreement with Federal funding allocations.	No change. SNAP-Ed allocations are determined through a formula contained in the FNA and is not contestable.
Clarify that States do not have the authority to require matching funds	No change. This is not a provision of the FNA.
Establish protocols for the receipt of non-Federal funds for SNAP-Ed activities and using SNAP-Ed funds as an incentive.	No change. Recommendation beyond the scope of current regulation but may be addressed through other channels.
Include as an allowable SNAP-Ed activity the establishment of State exchanges or expert panels for peer training, technical assistance, and consultation.	No change. Such activity is currently allowable.
Release State allocation numbers when the SNAP-Ed Guidance is released.	No change. Final State allocations can only be determined when an actual appropriation is received, but estimates based on the President's Budget are provided for planning purposes.
Provide provisional approval of implementing agency budgets of greater than two years.	No change. The rule provides requirements for State agencies, not sub-grantees.

The funding-related sections of the final rule at § 272.2(d)(2)(x), Federal financial participation and allocation of grants, are revised from the interim rule in these areas: deleted the specific funding amounts for FFYs 2011- 2015 since SNAP-Ed funding levels are indicated in the FNA; deleted reference to the two-year period of performance since this language does not appear in the FNA and the information can be communicated to States through other channels; and minimally revised parts to delete non-essential information and to enhance clarity.

In response to the comment of one member organization, at § 272.2(d)(2)(vii)(A), Use of Funds, language was added to specify that State agencies shall provide program oversight and demonstrate program effectiveness regarding SNAP-Ed outcomes and impacts. At § 272.2(d)(2)(x)(B) the word State was added so that all parties are clear that the funds allocated under this grant may be used for State as well as local projects.

Recently concern has been expressed to FNS about identifying SNAP-Ed funds that may be at risk of not being spent in a timely manner and returned to the Federal government. Connected to this concern is identifying opportunities for the potential reallocation of funds should a State(s) surrender them. To address these interests and foster full use of limited resources, language was added at § 272.2(d)(2)(ix) requiring a State as part of the budget process to inform FNS, by the end of the first quarter of each FFY (December 31) of any portion of its prior year allocation that it cannot or does not plan to spend for SNAP-Ed activities by the end of the FFY. This section also is referenced at § 272.2(d)(2)(x)(F) to advise a State that FNS may reallocate unobligated or unexpended funds to another participating State agency if informed that a State will not obligate or expend funds during the period for which funding is available for new obligation by FNS. Other minor changes were made to this section for clarity.

Program Delivery

Several commenters provided suggestions for the final rule related to program delivery. Two organizations recommended that the rule include specific language allowing SNAP-Ed programming to include advice on specific types of food to reduce in the diet consistent with the DGAs. States are permitted, as described in the SNAP-Ed Plan Guidance, to include such programming in their SNAP-Ed Plans. In response to the comments of two organizations, language was added to the definition of SNAP nutrition education and obesity prevention services at § 272.2(d)(2)(vii)(B) to indicate that intervention strategies may focus on limiting, as well as increasing, consumption of certain foods, beverages, and nutrients consistent with the DGAs. The SNAP-Ed Plan Guidance further specifies that FNS has determined that States may not use SNAP-Ed funds to convey negative written, visual, or verbal expressions about any specific brand of food, beverage or commodity. Policy changes regarding specific brands of foods, beverages and commodities are not be included in the final rule.

One State agency recommended that the rule include language that States may use all aspects of the social-ecological model and multi-level interventions. The rule does encourage this but at § 272.2(d)(2)(vii)(B) interpersonal level was added to the levels where SNAP-Ed activities can be conducted. Another organization recommended that FNS work with States denied approval to submit a multi-year plan in order to resolve any concerns. FNS currently does work with States to address concerns that may impede their progress in developing multi-year plans. The recommendation is not included in this rule.

Several organizations commented that FNS should strengthen the language regarding the number and requirements for approaches used in SNAP-Ed

activities. These groups recommended that language should be changed from ''states are encouraged to integrate'' to ''states are expected to integrate'' multiple approaches in implementing their SNAP-Ed activities. FNS agrees with and supports these comments. The preamble of the final rule makes this change in language under Use of Funds. Additionally at § 272.2(d)(2)(vii)(D) language was changed to specify that SNAP-Ed activities must include evidence-based activities using two or more approaches.

One member organization recommended that FNS invest in technical assistance and training for regional and State SNAP staff to integrate fully comprehensive approaches to behavior change in State SNAP-Ed Plans. FNS does provide training, support and technical assistance to States. States additionally may use their SNAP-Ed funding for staff training. This recommendation will not be included in the final rule. Another organization suggested that FNS solicit and accept comments on the SNAP-Ed Guidance process from States and collaborating partners. States and partners currently may provide recommendations on the Guidance content and development process and FNS sought the input of a virtual work group of stakeholders in the development of recent SNAP-Ed Guidance. This recommendation does not necessitate any changes to the final rule.

Several other recommendations unrelated to the current rule were submitted. These include suggestions for communication improvement between State and local implementing agencies, using reallocated funds for purposes other than those stated in the FNA, discussing point-of-purchase strategies, and expanding the use of SNAP-Ed funds to conduct what might be considered SNAP outreach-related functions. These recommendations which are unrelated to provisions of the FNA, the HHFKA, and the interim rule may be addressed through other communications with States, and are not being addressed in the final rule.

Executive Order 12866 and 13563

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.

The changes from the interim rule to this final rule were determined to be not significant and thus no further review was required by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

This rule has been designated as not significant by the Office of Management and Budget; therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities. Currently 53 State agencies receive funding for SNAP-Ed, and this final rule institutes policy oversight and cost reductions required by statute.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

SNAP is listed in the Catalog of Federal Domestic Assistance Programs under 10.561. For the reasons set forth in 2 CFR chapter IV, SNAP is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132, requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

This final rule is necessary to amend SNAP regulations to implement Section 28 of the FNA of 2008, as added by Section 241 of Public Law 111–296, the HHFK Act of 2010. The Department has determined that this rule does not have Federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a Federalism summary impact statement is not required.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this final rule in accordance with USDA Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability. After a careful review of the rule's intent and provisions, FNS has determined that this rule is not expected to affect the participation of protected individuals in SNAP.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation

and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FNS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under EO 13175. On February 18, 2015 FNS held a webinar for tribal participation and comments. During the comment period, FNS did not receive any comments on the interim rule. If a Tribe requests consultation, FNS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR part 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

Information Collection for SNAP-Ed requirements will not change under this rule. This final rule contains information collections that have been approved by OMB. The rule does not increase burden hours for State agencies in the preparation of Nutrition Education Plans. Nutrition Education State Plan requirements are included in the State Plan of Operations, OMB 0584–0083, Program, and Budget Summary Statement, and will not change with this rule.

Additionally, State requirements to report on the Education and Administration Reporting System (EARS) information collection form, OMB 0584–0542, will not change under this rule. FNS may determine that future revisions are needed. States will report FY 2014 EARS data by December 31, 2014, thereby negating the necessity for an Information Collection Request as part of this rule.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 272

Alaska, Civil rights, Grant programs-social programs, Reporting and recordkeeping requirements, Supplemental Nutrition Assistance Program, Unemployment compensation, Wages.

Accordingly, the interim rule amending 7 CFR part 272 which was published at 78 FR 20411 (April 5, 2013), is adopted as a final rule with the following changes:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

■ 1. The authority citation for part 272 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

■ 2. In § 272.2:
■ a. Republish paragraph (d)(1)(iii).
■ b. Revise paragraph (d)(2).
■ c. Revise paragraph (e)(6).
The revisions read as follows:

§ 272.2 Plan of operation.

* * * * *

(d) * * *

(1) * * *

(iii) Nutrition Education Plan if the State agency elects to request Federal Supplemental Nutrition Assistance Program Education (SNAP-Ed) grant funds to conduct nutrition education and obesity prevention services as discussed in paragraph (d)(2) of this section.

* * * * *

(2) *Nutrition Education Plan.* If submitted, the Supplemental Nutrition Assistance Program Education (SNAP-Ed) Plan must include the following:

(i) Conform to standards established in this regulation, SNAP-Ed Plan Guidance, and other FNS policy. A State agency may propose to implement an annual or multiyear Plan of up to three years;

(ii) Identify the methods the State will use to notify applicants, participants and eligible individuals to the maximum extent possible of the availability of SNAP-Ed activities in local communities;

(iii) Describe methods the State agency will use to identify its target audience. FNS will consider for approval targeting strategies and supporting data sources included in SNAP-Ed Plan Guidance and alternate targeting strategies and supporting data sources proposed by State agencies;

(iv) Present a valid and data-driven needs assessment of the nutrition, physical activity, and obesity prevention needs of the target population, and their barriers to accessing healthy foods and physical activity. The needs assessment should consider the diverse characteristics of the target population, including race/ethnicity, gender, employment status, housing, language, transportation/mobility needs, and other factors;

(v) Ensure interventions are appropriate for the low-income population defined as SNAP participants and low-income individuals eligible to receive benefits under SNAP or other means-tested Federal assistance programs and individuals residing in communities with a significant low-income population. The interventions must recognize the population's constrained resources and potential eligibility for Federal food assistance;

(vi) Describe the evidence-based nutrition education and obesity prevention services that the State will provide in SNAP-Ed and how the State will deliver those services, either directly or through agreements with other State or local agencies or community organizations, and how the interventions and strategies meet the assessed nutrition, physical activity, and obesity prevention needs of the target population;

(vii) *Use of Funds.* (A) A State agency must use the SNAP-Ed nutrition education and obesity prevention grant to fund the administrative costs of planning, implementing, operating, and evaluating its SNAP-Ed program in accordance with its approved SNAP-Ed Plan; State agencies shall provide program oversight to ensure integrity of funds and demonstrate program effectiveness regarding SNAP-Ed outcomes and impacts;

(B) *Definitions.* SNAP nutrition education and obesity prevention services are defined as a combination of educational strategies, accompanied by supporting environmental interventions, demonstrated to facilitate adoption of food and physical activity choices and other nutrition-related behaviors conducive to the health and well-being of SNAP participants and low-income individuals eligible to receive benefits under SNAP or other means-tested Federal assistance programs and individuals residing in communities with a significant low-income population. Nutrition education and

obesity prevention services are delivered through multiple venues, often through partnerships, and involve activities at the individual, interpersonal, community, and societal levels. Acceptable policy level interventions are activities that encourage healthier choices based on the current Dietary Guidelines for Americans. Intervention strategies may focus on increasing consumption of certain foods, beverages, or nutrients as well as limiting consumption of certain foods, beverages, or nutrients consistent with the Dietary Guidelines for Americans; SNAP-Ed nutrition education and obesity prevention activities must be evidence-based. An evidence-based approach for nutrition education and obesity prevention is defined as the integration of the best research evidence with best available practice-based evidence. The best research evidence refers to relevant rigorous nutrition and public health nutrition research including systematically reviewed scientific evidence. Practice-based evidence refers to case studies, pilot studies and evidence from the field on nutrition education interventions that demonstrate obesity prevention potential. Evidence may be related to obesity prevention target areas, intervention strategies and/or specific interventions. The target areas are identified in the current Dietary Guidelines for Americans. SNAP-Ed services may also include emerging strategies or interventions, which are community- or practitioner-driven activities that have the potential for obesity prevention, but have not yet been formally evaluated for obesity prevention outcomes. Emerging strategies or interventions require a justification for a novel approach and must be evaluated for effectiveness. Intervention strategies are broad approaches to intervening on specific target areas. Interventions are a specific set of evidence-based, behaviorally-focused activities and/or actions to promote healthy eating and active lifestyles. Evidence-based allowable uses of funds for SNAP-Ed include conducting and evaluating intervention programs, and implementing and measuring the effects of policy, systems and environmental changes in accordance with SNAP-Ed Plan Guidance;

(C) SNAP-Ed activities must promote healthy food and physical activity choices based on the most recent Dietary Guidelines for Americans.

(D) SNAP-Ed activities must include evidence-based activities using two or more of these approaches: individual or group-based nutrition education, health promotion, and intervention strategies; comprehensive, multi-level interventions at multiple complementary organizational and institutional levels; community and public health approaches to improve nutrition and physical activity;

(viii) Include a description of the State's efforts to coordinate activities with national, State, and local nutrition education, obesity prevention, and health promotion initiatives and interventions, whether publicly or privately funded. States must consult and coordinate with State and local operators of other FNS programs, including the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the National School Lunch Program, Farm to School, and the Food Distribution Program on Indian Reservations, to ensure SNAP-Ed complements the nutrition education and obesity prevention activities of those programs. States may engage in breastfeeding education, promotion, and support that is supplementary to and coordinated with WIC, which has the lead and primary role in all breastfeeding activities among FNS programs. The relationship between the State agency and other organizations it plans to coordinate with for the provision of services, including statewide organizations must be described. Copies of contracts and Memoranda of Agreement or Understanding that involve funds made available under the State agency's Federal SNAP-Ed grant must be available for inspection upon request;

(ix) Include an operating budget for the Federal fiscal year with an estimate of the cost of operation for one or more years, according to the State's approved SNAP-Ed Plan. As part of the budget process, the State must inform FNS by the end of the first quarter of each Federal fiscal year (December 31) of any portion of its prior year allocation that it cannot or does not plan to spend for SNAP-Ed activities by the end of the Federal fiscal year.

(x) *Federal financial participation and allocation of grants.* (A) A State agency's receipt of a Federal SNAP-Ed grant is contingent on FNS' approval of the State agency's SNAP-Ed Plan. If an adequate Plan is not submitted or an extension granted, FNS may reallocate a State agency's grant among other State agencies with approved Plans. These funds are the only source of Federal funds to States available under section 28 of the Food and Nutrition Act of 2008, as amended, for SNAP nutrition education and obesity prevention services. Funds in excess of the grants are not eligible for SNAP Federal reimbursement. The grant requires no State contribution or match;

(B) Shall identify the uses of funding for State or local projects and show that the funding received shall remain under the administrative control of the State agency;

(C) For each of fiscal years (FY) 2011–2013, each State agency that submitted an approved 2009 SNAP-Ed Plan received a Federal grant based on the State's SNAP-Ed expenditures in FY 2009, as reported to the Secretary in February 2010, in proportion to FY 2009 SNAP-Ed expenditures by all States in that year.

(D) For FY 2014 and subsequent years, the allocation formula (prescribed in section 28(d)(2)(A) of the Food and Nutrition Act of 2008) is based on a ratio of:

(*1*) A State's share of national SNAP-Ed expenditures in FY 2009 in relation to State SNAP-Ed expenditures nationally (as described in paragraph (d)(2)(x)(C) of this section) and

(*2*) The percentage of the number of individuals participating in SNAP in the State during the preceding fiscal year in relation to the percentage of SNAP participation nationally during that year.

(E) The second part of the formula applicable to FY 2014 and subsequent years, the ratio of SNAP participation in a State in relation to SNAP participation nationally, will annually increase as a percentage of the annual Federal SNAP-Ed funding. In FY 2014, the formula's ratio of State FY 2009 SNAP-Ed expenditures to SNAP participation was 90/10. SNAP participation will increase as a factor in the funding formula until FY 2018, when the ratio will be 50/50. The 50/50 ratio shall continue after FY 2018.

The allocations to a State for SNAP-Ed grants will be:

(*1*) For FY 2013, in direct proportion to a State's SNAP-Ed expenditures for FY 2009, as reported in February 2010;

(*2*) For FY 2014, 90 percent based on a State's FY 2009 SNAP-Ed expenditures, and 10 percent based on the State's share of national SNAP participants for the 12-month period February 1, 2012 to January 31, 2013;

(3) For FY 2015, 80 percent based on a State's FY 2009 SNAP-Ed expenditures, and 20 percent based on the State's share of national SNAP participants for the 12-month period February 1, 2013 to January 31, 2014;

(*4*) For FY 2016, 70 percent based on a State's FY 2009 SNAP-Ed expenditures, and 30 percent based on the State's share of national SNAP

participants for the 12-month period February 1, 2014 to January 31, 2015;

(*5)* For FY 2017, 60 percent based on a State's FY 2009 SNAP-Ed expenditures, and 40 percent based on the State's share of national SNAP participants for the 12-month period February 1, 2015 to January 31, 2016; and,

(*6*) For FY 2018 and subsequent years, 50 percent based on a State's FY 2009 SNAP-Ed expenditures, and 50 percent based on the State's share of national SNAP participants for the previous 12-month period ending January 31;

(F) If a participating State agency notifies FNS as required in (ix) above that it will not obligate or expend all of the funds allocated to it for a fiscal year under this section, FNS may reallocate the unobligated or unexpended funds to other participating State agencies that have approved SNAP-Ed Plans during the period for which the funding is available for new obligations by FNS. Reallocated funds received by a State will be considered part of its base FY 2009 allocation for the purpose of determining the State's allocation for the next fiscal year; funds surrendered by a State shall not be considered part of its base FY 2009 allocation for the next fiscal year for the purpose of determining the State's allocation for the next fiscal year.

(xi) Fiscal recordkeeping and reporting requirements. Each participating State agency must meet FNS fiscal recordkeeping and reporting requirements. Total SNAP-Ed expenditures and State, private, and other contributions to SNAP-Ed activities are reported through the financial reporting means and in the timeframe designated by FNS;

(xii) Additional information may be required of the State agency, on an as needed basis, regarding the type of nutrition education and obesity prevention activities offered and the characteristics of the target population served, depending on the contents of the State's SNAP-Ed Plan, to determine whether nutrition education goals are being met;

(xiii) The State agency must submit a SNAP-Ed Annual Report to FNS by January 31 of each year. The report shall describe SNAP-Ed Plan project activities, outcomes, and budget for the prior year.

(e) * * *

(6) The SNAP-Ed Plan shall be signed by the head of the State agency and submitted prior to funding of nutrition education and obesity prevention activities when the State agency elects to request Federal grant funds to conduct these SNAP-Ed activities. The Plan shall be submitted for approval no later than August 15. Approved plans become effective the following FFY October 1 to September 30.

* * * * *

Dated: March 24, 2016.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2016–07179 Filed 3–30–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

RIN 0575–AD00

Single Family Housing Guaranteed Loan Program

Correction

Rule document 2016–07049, beginning on page 17361 in the issue of Tuesday, March 29, 2016, was inadvertently published and is withdrawn from that issue.

[FR Doc. C1–2016–07049 Filed 3–29–16; 4:15 pm]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3983; Directorate Identifier 2015–NM–141–AD; Amendment 39–18448; AD 2016–07–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747SR, and 747SP series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the upper chords of the upper deck floor beams are subject to widespread fatigue damage (WFD). This AD requires repetitive inspections for cracks at the floor panel attachment fastener holes; repetitive inspections for cracks in the upper and lower chords of the upper deck floor beams at permanent fastener locations; repetitive inspections for cracks in certain repaired and modified areas; and related investigative and corrective actions if necessary. This AD also requires repetitive replacement of the upper chords of the upper deck floor beams, including pre-replacement inspections and corrective action if necessary; and post-replacement repetitive inspections and repair if necessary. We are issuing this AD to detect and correct fatigue cracking of the upper chords of the upper deck floor beams. Undetected cracking could result in large deflection or deformation of the upper deck floor beams, resulting in damage to wire bundles and control cables for the flight control system, and reduced controllability of the airplane. Multiple adjacent severed floor beams could result in rapid decompression of the airplane.

DATES: This AD is effective May 5, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 5, 2016.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3983.

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–2015–3983; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA

98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747SR, and 747SP series airplanes. The NPRM published in the **Federal Register** on October 6, 2015 (80 FR 60303) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH indicating that the upper chords of the upper deck floor beams are subject to WFD. The NPRM proposed to require repetitive inspections for cracks at the floor panel attachment fastener holes; repetitive inspections for cracks in the upper and lower chords of the upper deck floor beams at permanent fastener locations; repetitive inspections for cracks in certain repaired and modified areas; and related investigative and corrective actions if necessary. The NPRM also proposed to require repetitive replacement of the upper chords of the upper deck floor beams, including pre-replacement inspections and corrective action if necessary; and post-replacement repetitive inspections and repair if necessary. We are issuing this AD to detect and correct fatigue cracking of the upper chords of the upper deck floor beams. Undetected cracking could result in large deflection or deformation of the upper deck floor beams, resulting in damage to wire bundles and control cables for the flight control system, and reduced controllability of the airplane. Multiple adjacent severed floor beams could result in rapid decompression of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment. A member of the public supported the NPRM and an anonymous commenter had no objection to the NPRM.

Request To Clarify Credit for Previous Actions

Boeing requested that we clarify that credit for previous actions is limited to those actions that comply with the new proposed requirements of the NPRM. Boeing noted that paragraph (m) of the proposed AD should provide credit for using Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, provided the new requirements specified in Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, are met.

We agree that clarification is necessary. Paragraph (m) of this AD, ''Credit for Previous Actions,'' provides credit for actions done before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, for the corresponding actions required by paragraphs (g), (h), and (i) of this AD. Paragraphs (g), (h), and (i) of this AD refer to Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, as the appropriate source of service information for accomplishing the actions required by those paragraphs. Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, added certain inspection locations. Therefore, for the added inspection locations specified in Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, paragraph (m) of this AD does not provide credit because Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, cannot be used for those locations. We have revised paragraph (m) of this AD to clarify that although credit is given for using Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, actions required by paragraphs (g), (h), and (i) of this AD that are not identified in Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, must still be done.

Boeing also stated that credit should be given in the NPRM for Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012; and Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012.

We have not included Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012; and Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012; in paragraph (m) of this AD because that service information is already cited in paragraphs (g) through (k) of this AD as the only appropriate source of service information for accomplishing the actions required by this AD. As allowed by the phrase, ''unless already done,'' in paragraph (f) of this AD, if the requirements of this AD have already been accomplished, this AD does not require that those actions be repeated.

Request To Give Credit for Previous Alternative Methods of Compliance (AMOCs)

Boeing requested that previously approved AMOCs for AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005), be approved for the corresponding provisions of the proposed AD, provided the previously approved AMOCs satisfy the inspection locations and compliance times specified by the proposed AD. Boeing noted that AMOCs would be needed for new inspection locations and compliance times specified in the proposed AD.

We acknowledge that certain AMOCs for AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005), might also address the actions and compliance times required by this AD. However, each individual AMOC would need to be evaluated to ensure the identified unsafe condition is addressed. Any person may request approval of an AMOC under the provisions of paragraph (o) of this AD. We have not changed this final rule in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed the following service information.

- Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012. This service information describes procedures for repetitive open hole or surface high frequency eddy current (HFEC) inspections, as applicable, for cracks at the floor panel attachment fastener holes in certain areas and stations; repetitive surface HFEC inspections for cracks in the upper and lower chords of the upper deck floor beams at permanent fastener locations in certain areas and stations; and related investigative and corrective actions. This service information also describes procedures, for airplanes on which certain repairs or modifications are done, for repetitive open hole or surface HFEC inspections, as applicable, for cracks in the repaired and modified areas; and repair.
- Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012. This

service information describes procedures for repetitive replacement of the upper chords of the upper deck floor beams, including pre-replacement inspections and corrective action, and post-replacement repetitive inspections and repair.

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

Costs of Compliance

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

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections specified in Boeing Alert Service Bulletin 747-53A2452, Revision 1, dated July 16, 2012.	Up to 884 work-hours × $85 per hour = $75,140, per inspection cycle.	$0	$75,140, per inspection cycle.	$5,034,380, per inspection cycle.
Replacement specified in Boeing Alert Service Bulletin 747-53A2852, dated June 22, 2012.	Up to 696 work-hours × $85 per hour = $59,160, per replacement.	[1] $0	$59,160, per replacement	$3,963,720, per replacement.
Post-replacement inspections specified in Boeing Alert Service Bulletin 747-53A2852, dated June 22, 2012.	Up to 586 work-hours × $85 per hour = $49,810, per inspection cycle.	$0	$49,810, per inspection cycle.	$3,337,270, per inspection cycle.

[1] We currently have no specific cost estimates associated with the parts necessary for the replacement.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–07–03 The Boeing Company: Amendment 39–18448 ; Docket No. FAA–2015–3983; Directorate Identifier 2015–NM–141–AD.

(a) Effective Date

This AD is effective May 5, 2016.

(b) Affected ADs

This AD affects AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747SR, and 747SP series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the upper chords of the upper deck floor beams are subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct fatigue cracking of the upper chords of the upper deck floor beams. Undetected cracking could result in large deflection or deformation of the upper deck floor beams, resulting in damage to wire bundles and control cables for the flight control system, and reduced controllability of the airplane. Multiple adjacent severed floor beams could result in rapid decompression of the airplane.

(f) Compliance

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

(g) Repetitive Inspections of the Upper Chords of the Upper Deck Floor Beams

At the applicable times specified in Tables 1 through 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, except as required by paragraph (l)(1) of this AD: Do the inspections specified in paragraphs (g)(1) and (g)(2) of this AD, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, except as required by paragraph (l)(2) of this AD. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at the applicable

times specified in Tables 1 through 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012. Do all applicable related investigative and corrective actions before further flight. Doing the inspections required by paragraphs (g)(1) and (g)(2) of this AD terminates the inspections required by paragraphs (m) and (n) of AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005).

(1) Do an open hole or surface high frequency eddy current (HFEC) inspection, as applicable, for cracks at the fastener holes of the floor panel attachment in the applicable areas and stations identified in Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(2) Do a surface HFEC inspection for cracks in the upper and lower chords of the upper deck floor beams at permanent fastener locations in the applicable areas and stations identified in Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(h) Terminating Modification and Repair for the Inspection Specified in Paragraph (g)(1) of This AD

A fastener hole modification or a fastener hole repair in Area 1 or Area 2 as described in Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, terminates the inspection of the fastener holes of the floor panel attachment required by paragraph (g)(1) of this AD for the repaired or modified area only, provided the modification and repair, including related investigative and corrective actions, are done in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, except as required by paragraph (l)(2) of this AD.

(i) Post Modification/Repair Repetitive Inspections

(1) For airplanes on which any fastener hole modification or any fastener hole repair was done as specified in Boeing Alert Service Bulletin 747–53A2452: Except as required by paragraph (i)(2) of this AD, at the applicable times specified in Tables 8 and 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do an open hole or surface HFEC inspection, as applicable, for cracks in the repaired and modified areas, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (o) of this AD. Repeat the applicable inspections thereafter at the times specified in Tables 8 and 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012. Doing an inspection required by this paragraph terminates the inspections required by paragraph (p) of AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005).

(2) For any repair #10 or repair #13 done as specified in Boeing Alert Service Bulletin 747–53A2452: Before further flight, do post-repair inspections using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(j) Replacement of the Upper Chords of the Upper Deck Floor Beams (Includes Pre-Replacement Inspections)

Replace the upper chords of the upper deck floor beams by doing the actions required by paragraphs (j)(1) and (j)(2) of this AD at the times specified in those paragraphs. Accomplishing the replacement required by this paragraph terminates the inspections required by paragraphs (g) and (i) of this AD.

(1) Before the accumulation of 30,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, do an open hole HFEC inspection for cracks at certain fastener locations in the floor beam webs and side of body frames, and do a detailed inspection for cracks of any removed part that will be re-installed, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012, except as required by paragraph (l)(2) of this AD. Do all applicable corrective actions before further flight.

(2) Before further flight after accomplishing the inspections required by paragraph (j)(1) of this AD, install new upper chords of the upper deck floor beams and reinforcing straps or angles, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012, except as required by paragraph (l)(2) of this AD.

(k) Post-Replacement Repetitive Inspections

For airplanes on which any replacement required by paragraph (j) or (k)(2)(ii) of this AD is done: At the applicable times specified in Tables 2 through 4 in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012, do HFEC inspections for cracks at the permanent fastener holes and the upper chords of the upper deck floor beams, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(1) If any cracking is found during any inspection required by the introductory text of paragraph (k) or paragraph (k)(2)(i) of this AD, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(2) If no cracking is found during any inspection required by the introductory text of paragraph (k) or paragraph (k)(2)(i) of this AD, do the actions required by paragraphs (k)(2)(i) and (k)(2)(ii) of this AD.

(i) Repeat the inspections specified in paragraph (k) of this AD thereafter at the applicable times specified in Tables 8 and 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(ii) Within 10,000 flight cycles after accomplishing the initial HFEC inspections required by the introductory text of paragraph (k) of this AD, replace the upper chords of the upper deck floor beams by doing the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(l) Exceptions to Service Information

(1) Where Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, specifies a compliance time ''after the Revision 1 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012; or Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012; specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(m) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g), (h), and (i) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003. For the actions required by paragraphs (g), (h), and (i) of this AD that are not identified in Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, those actions must still be done. Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, is incorporated by reference in AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005).

(n) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(o) Alternative Methods of Compliance (AMOCs)

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

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

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

(p) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (q)(3) and (q)(4) of this AD.

(q) 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) Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(ii) Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on March 20, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–07024 Filed 3–30–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–2208; Directorate Identifier 2015–NE–19–AD; Amendment 39–18447; AD 2016–07–02]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. (Type Certificate Previously Held by AlliedSignal Inc., Garrett Turbine Engine Company) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Honeywell International Inc. (Honeywell) TFE731–4, –4R, –5AR, –5BR, and –5R turbofan engines. This AD was prompted by a report of certain interstage turbine transition (ITT) ducts failing to meet containment capability requirements. This AD requires replacing certain ITT ducts. We are issuing this AD to prevent failure of the ITT duct, which could lead to an uncontained part release, damage to the engine, and damage to the airplane.

DATES: This AD is effective May 5, 2016

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 5, 2016.

ADDRESSES: For service information identified in this final rule, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099; Internet: *https://myaerospace.honeywell.com/wps/portal/!ut/.* You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2208.

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–2015–2208; 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: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Honeywell TFE731–4, –4R, –5AR, –5BR, and –5R turbofan engines with ITT duct, part number (P/N) 3075292–4, installed, with a serial number (S/N) listed in Table 2 of Honeywell Service Bulletin (SB) TFE731–72–3789, Revision 0, dated March 23, 2015. The NPRM published in the **Federal Register** on October 29, 2015 (80 FR 66481). The NPRM was prompted by report of certain ITT ducts that were not properly heat treated and failed to meet containment capability requirements. The NPRM proposed to require replacing certain ITT ducts. We are issuing this AD to correct the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 66481, October 29, 2015) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 66481, October 29, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 66481, October 29, 2015).

Related Service Information Under 1 CFR Part 51

We reviewed Honeywell SB TFE731–72–3789, Revision 0, dated March 23, 2015. The SB describes procedures for removing affected ITT ducts. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 47 engines installed on airplanes of U.S. registry. We also estimate that it will take about 2 hours per engine to comply with this AD. The average labor rate is $85 per hour. We estimate that replacement parts will cost $15,000 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $712,990.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska 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.

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):

2016–07–02 Honeywell International Inc. (Type Certificate previously held by AlliedSignal Inc., Garrett Turbine Engine Company): Amendment 39–18447; Docket No. FAA–2015–2208; Directorate Identifier 2015–NE–19–AD.

(a) Effective Date

This AD is effective May 5, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Honeywell International Inc. (Honeywell) TFE731–4, –4R, –5AR, –5BR, and –5R turbofan engines with an interstage turbine transition (ITT) duct, part number (P/N) 3075292–4, installed, with a serial number (S/N) listed in Table 2 of Honeywell Service Bulletin (SB) TFE731–72–3789, Revision 0, dated March 23, 2015.

(d) Unsafe Condition

This AD was prompted by a report of certain ITT ducts failing to meet containment capability requirements. We are issuing this AD to prevent failure of the ITT duct, which could lead to an uncontained part release, damage to the engine, and damage to the airplane.

(e) Compliance

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

(1) At the next removal of the ITT duct from the engine not to exceed 2,600 hours time-in-service after the effective date of this AD, remove the affected ITT duct and replace with a part eligible for installation.

(2) Reserved.

(f) Definition

For the purpose of this AD, a part eligible for installation is an ITT duct with an S/N that is not listed in Table 2 of Honeywell SB TFE731–72–3789, Revision 0, dated March 23, 2015 or, if listed in Table 2 of this SB, was reworked using Honeywell SB TFE731–72–3789.

(g) Installation Prohibition

After the effective date of this AD, do not install any ITT duct with an S/N listed in Table 2 of Honeywell SB TFE731–72–3789, Revision 0, dated March 23, 2015, onto any engine, unless the ITT duct is marked with the overhaul/repair instructions number ''P35864'' near the ITT duct P/N and S/N markings.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Los Angeles Aircraft Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(i) Related Information

For more information about this AD, contact Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

(j) 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) Honeywell Service Bulletin TFE731–72–3789, Revision 0, dated March 23, 2015.

(ii) Reserved.

(3) For Honeywell service information identified in this AD, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099; Internet: *https://myaerospace.honeywell.com/wps/portal/!ut/.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(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 Burlington, Massachusetts, on March 21, 2016.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2016–07231 Filed 3–30–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–5422; Directorate Identifier 2016–CE–011–AD; Amendment 39–18456; AD 2016–07–11]

RIN 2120–AA64

Airworthiness Directives; Weatherly Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Weatherly Aircraft Company Models 201, 201A, 201B, 201C, 620, 620A, 620B, 620B–TG, and 620TP airplanes. This AD requires visually inspecting the center and outer wing front spar lower hinge fittings for cracks and corrosion

and taking all necessary corrective actions. This AD also requires sending the inspection results to the FAA. This AD was prompted by a report of cracks found on the center wing front spar lower hinge fitting. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective April 15, 2016.

We must receive comments on this AD by May 16, 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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–2016–5422; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Lee, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Suite 100, Lakewood, California, 90712; phone: (562) 627–5325; fax: (562) 627–5210; email: *mike.s.lee@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Recently, a Weatherly Aircraft Company Model 620B airplane crashed while conducting agricultural operations. Preliminary investigation indicates presence of fatigue cracks in the center wing front spar lower hinge fitting of the accident aircraft. As a result of voluntary operator inspections, an additional cracked fitting in the center wing joint was recently reported.

Investigation reveals that the cracks resulted from fatigue damage on the hinge fitting and that routine maintenance practices are not finding this damage. This condition, if not detected and corrected, could result in failure of the wing front spar lower hinge fittings, which could cause the wing to separate and cause loss of control. We are issuing this AD to correct the unsafe condition on these products.

FAA's Determination

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

AD Requirements

This AD requires visually inspecting the center and outer wing front spar lower hinge fittings for cracks and corrosion and taking all necessary corrective actions. This AD also requires sending the inspection results to the FAA.

Based on the reports received from the AD requirements, we will work with the type certificate holder to evaluate that information to determine whether repetitive inspections are necessary and/or a possible terminating action. Based on this evaluation, we may initiate further rulemaking action to address the unsafe condition identified in this AD.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failure of the wing front spar lower hinge fitting could cause the wing to separate from the airplane and cause loss of control. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2016–5422 and Directorate Identifier 2016–CE–011–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD affects 95 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visually inspect the center and outer wing front spar lower hinge fitting.	2 work-hours × $85 per hour = $170.	N/A	$170	$16,150

We estimate the following costs to do any necessary repair or replacement that will be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this corrective action:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace wing front spar lower hinge fitting	6 work-hours × $85 per hour = $510 per fitting	$800 per fitting	$1,310 per fitting.
Remove corrosion on wing front spar lower hinge fitting.	2 work-hours × $85 per hour = $170	N/A	$170.

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–07–11 Weatherly Aircraft Company: Amendment 39–18456; Docket No. FAA–2016–5422; Directorate Identifier 2016–CE–011–AD.

(a) Effective Date

This AD is effective April 15, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Weatherly Aircraft Company Models 201, 201A, 201B, 201C, 620, 620A, 620B, 620B–TG, and 620TP airplanes, all serial numbers, that:

(1) have center and outer wing front spar lower hinge fittings, part number 40223 (any dash number configuration), installed; and

(2) are certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 57, Wing Attach Fittings.

(e) Unsafe Condition

This AD was prompted by a report of cracks found on the center wing front spar lower hinge fitting. We are issuing this AD to detect and correct cracks and corrosion in the center and outer wing front spar lower hinge fitting, which could cause the fittings to fail. Failure of the wing front spar lower hinge fitting could result in the wing separating from the airplane and loss of control.

(f) Compliance

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

(g) Inspection

Within the next 30 days after April 15, 2016 (the effective date of this AD), do a close visual inspection of the center and outer wing front spar lower hinge fittings for cracks and corrosion. Prior to the inspection do the following:

(1) Remove the left and right center wing to outer wing joint covers from the airplane.

(2) Remove the lower forward wing hinge pin bolt caps.

(h) Replacement

If any cracks are found during the inspection required in paragraph (g) of this AD, before further flight, replace the cracked wing front spar lower hinge fitting with an airworthy part.

(i) Repair

If any corrosion is found during the inspection required in paragraph (g) of this AD, before further flight, remove up to .020 inches of the wing front spar lower hinge fitting material in any direction to repair corrosion. Replace any parts requiring removal of more than .020-inch of wing front spar lower hinge fitting. Any operator may request an alternative to the replacement requirement using the procedures found in 14 CFR 39.19 and paragraph (m) of this AD.

(j) Reporting Requirement

Within the next 10 days after the inspection required in paragraph (g) of this AD or within 10 days after April 15, 2016 (the effective date of this AD), whichever occurs later, report the result of the inspection to the FAA, Los Angeles Aircraft Certification Office (ACO), Attn: Mike Lee, Aerospace Engineer, 3960 Paramount Blvd. Suite 100, Lakewood, California, 90712; fax: (562) 627–5210; email: *mike.s.lee@faa.gov.* Include the following information. Please

identify AD 2016–07–11 in the subject line if submitted through email.

(1) Airplane serial number.

(2) Hours time-in-service at time of inspection.

(3) A description of any cracks found.

(4) A description of any corrosion found.

(k) Special Flight Permit

Special flight permits are allowed for this AD per 14 CFR 39.23 for the requirement to remove up to .020 inches of corrosion as required in paragraph (i) of this AD. Special flight permits are prohibited for all other requirements of this AD.

(l) Paperwork Reduction Act Burden Statement

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

(m) Alternative Methods of Compliance (AMOCs)

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

(n) Related Information

For information on the subject matter of this AD, contact either:

(1) Weatherly Aircraft Company at phone: (316) 361–0101; email: *weatherlyaircraft@cox.net;* or

(2) Mike Lee, Aerospace Engineer, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd. Suite 100, Lakewood, California, 90712; phone: (562) 627–5325; fax: (562) 627–5210; email: *mike.s.lee@faa.gov.*

Issued in Kansas City, Missouri, on March 25, 2016.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–07228 Filed 3–30–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–5033; Directorate Identifier 2015–NM–118–AD; Amendment 39–18450; AD 2016–07–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–8 series airplanes. This AD requires an inspection to determine if all oxygen components in the passenger oxygen system are installed, installation of new o-rings, and corrective actions if necessary. This AD was prompted by a report that oxygen tube couplings in the passenger oxygen system could be missing or incorrectly installed. We are issuing this AD to detect and correct oxygen leaks from oxygen tube couplings in the passenger oxygen system, which could result in depletion of emergency oxygen at a faster rate than expected, reduce the passengers' and crews' protection from hypoxia at elevated cabin altitudes, and increase the risk of a fire.

DATES: This AD is effective April 15, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 15, 2016.

We must receive comments on this AD by May 16, 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5033.

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–2016–5033; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Susan Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We have determined that some Model 747–8 series airplanes could have oxygen components missing or incorrectly installed at oxygen tube couplings attached to the outboard stowage bin support assemblies. The manufacturer believes that these airplanes were delivered with the correct configuration of oxygen components. However, because of an error in an engineering drawing and related parts list, which omitted part number call-outs for some oxygen components, we want to be certain

installations are correct and prevent incorrect installation during subsequent rework of the oxygen tubing components. This condition, if not corrected, could result in oxygen leaks from oxygen tube couplings in the passenger oxygen system, which could result in depletion of emergency oxygen at a faster rate than expected, reduce the passengers' and crews' protection from hypoxia at elevated cabin altitudes, and increase the risk of a fire.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 747–35–2132, dated June 8, 2015. The service information describes procedures for inspection of passenger oxygen coupler assemblies for missing oxygen components, installation of o-rings, and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

AD Requirements

This AD requires accomplishing the actions identified in the service information identified previously. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5033.

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

This AD also requires sending the inspection results to the Manager, Seattle Aircraft Certification Office, FAA.

FAA's Justification and Determination of the Effective Date

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future. Therefore, we find that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–5033; Directorate Identifier 2015–NM–118–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD affects 0 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	8 work-hours × $85 per hour = $680	$0	$680	$0
Reporting	1 work-hour × $85 per hour = $85	0	85	0

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Corrective Action	8 work-hours × $85 per hour = $680	$6,888	$7,568

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

Paperwork Reduction Act

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

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs'' describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–07–05 The Boeing Company: Amendment 39–18450; Docket No. FAA–2016–5033 Directorate Identifier 2015–NM–118–AD.

(a) Effective Date

This AD is effective April 15, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Boeing Model 747–8 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 747–35–2132, dated June 8, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by a report of oxygen tube couplings in the passenger oxygen system that could be missing or incorrectly installed. We are issuing this AD to detect and correct oxygen leaks from oxygen tube couplings in the passenger oxygen system, which could result in depletion of emergency oxygen at a faster rate than expected, reduce the passengers' and crews' protection from hypoxia at elevated cabin altitudes, and increase the risk of a fire.

(f) Compliance

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

(g) Inspection and Corrective Actions

Within 72 months after the effective date of this AD: Do a general visual inspection to determine if all oxygen components are installed; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–35–2132, dated June 8, 2015. Do all applicable corrective actions before further flight.

(h) Reporting

Submit a report of the findings (both positive and negative) of the inspection required by paragraph (g) of this AD to the Manager, Seattle Aircraft Certification Office (ACO), at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD. The report must include the inspection results, a description of the condition found, and the airplane serial number.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Paperwork Reduction Act Burden Statement

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

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(3)(i) and (j)(3)(ii) apply.

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

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

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

(k) Related Information

For more information about this AD, contact Susan Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov.*

(l) 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) Boeing Special Attention Service Bulletin 747–35–2132, dated June 8, 2015.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on March 20, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–07025 Filed 3–30–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3942; Directorate Identifier 2014–SW–064–AD; Amendment 39–18446; AD 2016–07–01]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–07–04R1 for certain Model S–92A helicopters. AD 2014–07–04R1 required repetitive inspections in the upper deck area for incorrectly installed clamps and chafing between the electrical wires and the hydraulic lines and replacing any unairworthy wires or hydraulic lines. This new AD requires altering the wiring system in the upper deck area to correct the unsafe condition described in AD 2014–07–04R1. We are issuing this AD to prevent a fire in an area of the helicopter without extinguishing capability and subsequent loss of control of the helicopter.

DATES: This AD is effective May 5, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 5, 2016.

ADDRESSES: For service information identified in this final rule, contact Sikorsky Aircraft Corporation, Customer Service Engineering, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800-Winged–S or 203–416–4299; email *sikorskywcs@sikorsky.com.* You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, Texas 76177. It is also on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3942.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov in* Docket No. FAA–2015–3942; 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, any incorporated-by-reference information, the economic 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: Ian Lucas, Aviation Safety Engineer, Boston Aircraft Certification Office, Engine & Propeller Directorate, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7757; email *ian.lucas@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2014–07–04R1, Amendment 39–17964 (79 FR 54893, September 15, 2014) and add a new AD. AD 2014–07–04R1 applied to certain serial-numbered Sikorsky S92A helicopters and required repetitively inspecting the upper deck area for incorrectly installed clamps and for chafing between the electrical wires and hydraulic lines.

The NPRM published in the **Federal Register** on September 25, 2015 (80 FR 57751). The NPRM was prompted by an alteration developed by Sikorsky that separates and re-routes the engine inlet feeder lines. The NPRM proposed to require this alteration to prevent chafing between the electrical lines and hydraulic hoses, which could result in a fire in an area of the helicopter without extinguishing capability and subsequent loss of control of the helicopter.

Since the NPRM was issued, the mailing address for the Boston Aircraft Certification Office has changed. We have revised this contact information in this final rule to reflect the new mailing address.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (80 FR 57751, September 25, 2015).

FAA's Determination

We have reviewed the relevant information and determined that an 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.

Related Service Information Under 1 CFR Part 51

Sikorsky has issued Special Service Instructions SSI No. 92–070A, Revision A, dated April 25, 2014 (SSI 92–070A), which contains procedures to alter the wiring system in the upper deck area to prevent chafing. This service information is reasonably available because the interested parties have access to it through their normal course of business or by means identified in the **ADDRESSES** section.

Other Related Service Information

We also reviewed Sikorsky Alert Service Bulletin ASB 92–20–003, Basic Issue, dated May 5, 2014 (ASB 92–20–003). ASB 92–20–003 specifies a one-time modification of the upper deck wiring harnesses to prevent possible chafing by complying with SSI 92–070A.

Differences Between This AD and the Service Information

The service information provides a compliance date of November 5, 2015; this AD requires a compliance time of 150 hours time-in-service. Also, the service information requires submitting

certain documentation to the manufacturer, and this AD does not.

Costs of Compliance

We estimate that this AD will affect 20 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. Rerouting the upper deck wiring system and replacing and installing new parts will take 58 work-hours and $8,000 in required parts, for a total cost of $12,930 per helicopter and $258,600 for the 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 products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that a regulatory distinction is required, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–07–04R1, Amendment 39-17964 (79 FR 54893, September 15, 2014), and adding the following new AD:

2016–07–01 Sikorsky Aircraft Corporation: Amendment 39–18446; Docket No. FAA–2015–3942; Directorate Identifier 2014–SW–064–AD.

(a) Applicability

This AD applies to Model S–92A helicopters, serial number 920006 through 920084, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as an incorrectly installed clamp that does not provide adequate clearance to prevent chafing between the high voltage electrical lines and the hydraulic hoses. This condition could result in a fire in an area of the helicopter without extinguishing capability and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2014–07–04R1, Amendment 39–17964 (79 FR 54893, September 15, 2014).

(d) Effective Date

This AD becomes effective May 5, 2016.

(e) 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.

(f) Required Actions

Within 150 hours time-in-service, reroute the left hand and right hand upper deck wiring system by complying with the Instructions, paragraph B, of Sikorsky Aircraft Corporation Special Service Instructions SSI No. 92–070A, Revision A, dated April 25, 2014.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Ian Lucas, Aviation Safety Engineer, Engine & Propeller Directorate, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7757; email *ian.lucas@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

Sikorsky Aircraft Corporation Alert Service Bulletin ASB 92–20–003, Basic Issue, dated May 5, 2014, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this final rule, contact Sikorsky Aircraft Corporation, Customer Service Engineering, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800-Winged-S or 203–416–4299; email *sikorskywcs@sikorsky.com.* You may review a copy of this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 2910 Main Hydraulic System.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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) Sikorsky Aircraft Corporation Special Service Instructions SSI No. 92–070A, Revision A, dated April 25, 2014.

(ii) Reserved.

(3) For service information identified in this final rule, contact Sikorsky Aircraft Corporation, Customer Service Engineering, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800-Winged-S or 203–416–4299; email *sikorskywcs@sikorsky.com.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(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 Fort Worth, Texas, on March 21, 2016.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2016–06906 Filed 3–30–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–4212; Directorate Identifier 2015–NM–010–AD; Amendment 39–18451; AD 2016–07–06]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model BAe 146 series airplanes and Model Avro 146–RJ series airplanes. This AD was prompted by reports of cracking of the main fitting of the nose landing gear (NLG) and a determination that a new safe-life limitation for affected NLG main fittings has not been mandated. This AD requires replacing affected NLG main fittings that have exceeded the safe-life limitation with a new or serviceable fitting. We are issuing this AD to prevent collapse of the NLG, which if not corrected, could lead to degradation of direction control on the ground or an un-commanded turn to the left, and a consequent loss of control of the airplane on the ground, possibly resulting in damage to the airplane and injury to occupants.

DATES: This AD becomes effective May 5, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 5, 2016.

ADDRESSES: For service information identified in this final rule, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4212.

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–2015–4212; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1175; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all BAE Systems (Operations) Limited Model BAe 146 series airplanes and Model Avro 146–RJ series airplanes. The NPRM published in the **Federal Register** on November 12, 2015 (80 FR 69903) (''the NPRM'').

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2012–0191R1, dated November 6, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all BAE Systems (Operations) Limited Model BAe 146 series airplanes and Model Avro 146–RJ series airplanes. The MCAI states:

> Several occurrences of the aeroplane's Nose Landing Gear (NLG) Main Fitting cracking have been reported. Subsequently in different cases, NLG Main Fitting crack lead to collapsed NLG, locked NLG steering and an aeroplane's un-commanded steering to the left.
>
> Cracks in the NLG Bell Housing are not detectable with the NLG fitted to the aeroplane and are difficult to detect during overhaul without substantial disassembly of the gear.
>
> This condition, if not corrected, could lead to degradation of directional control on the ground or an un-commanded turn to the left and a consequent loss of control of the aeroplane on the ground, possibly resulting in damage to the aeroplane and injury to occupants.
>
> Prompted by these findings, BAE Systems (Operations) Ltd issued Inspection Service Bulletin (ISB) 32–186 (hereafter referred to as the ISB) to introduce a new safe life of 16,000 flight cycles (FC) for certain NLG main fittings, having a Part Number (P/N) as identified in Paragraph 1A, tables 1, 2 and 3 of the ISB.
>
> To correct this unsafe condition, EASA issued [EASA] AD 2012–0191 to require implementation of the new safe-life limitation for the affected NLG main fittings and replacement of fittings that have already exceeded the new limit.
>
> * * * * *
>
> 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–2015–4212.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

BAE Systems (Operations) Limited has issued Inspection Service Bulletin ISB.32–186, dated April 12, 2012. This service information describes procedures for reviewing airplane records to determine the part number for the NLG main fittings, and determining the compliance times for replacing the NLG main fittings, and replacing the fitting with a new or serviceable fitting. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 4 airplanes of U.S. registry.

We also estimate that it takes about 36 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost $81,000 per product. Based on these figures, we

estimate the cost of this AD on U.S. operators to be $336,240, or $84,060 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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):

2016–07–06 BAE Systems (Operations) Limited: Amendment 39–18451. Docket No. FAA–2015–4212; Directorate Identifier 2015–NM–010–AD.

(a) Effective Date

This AD becomes effective May 5, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; all models, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by reports of cracking of the main fitting of the nose landing gear (NLG) and a determination that a new safe-life limitation for affected NLG main fittings has not been mandated. We are issuing this AD to prevent collapse of the NLG, which if not corrected, could lead to degradation of direction control on the ground or an uncommanded turn to the left, and a consequent loss of control of the airplane on the ground, possibly resulting in damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Repetitive Replacement of NLG Main Fitting

At the applicable compliance time specified in paragraphs (g)(1) through (g)(4) of this AD: Replace each affected NLG main fitting, having a part number (P/N) as identified in paragraph 1.A, tables 1., 2., and 3. of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–186, dated April 12, 2012, in accordance with the Accomplishment Instructions of that BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–186, dated April 12, 2012. Thereafter, before the accumulation of 16,000 flight cycles on any affected NLG main fitting having a part number as identified in paragraph 1.A, tables 1., 2., and 3. of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–186, dated April 12, 2012, replace each affected NLG main fitting, in accordance with the Accomplishment Instructions of that BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–186, dated April 12, 2012.

(1) For NLG main fittings that have accumulated 29,000 flight cycles or more since first installation on an airplane: Within 12 months after the effective date of this AD.

(2) For NLG main fittings that have accumulated 20,000 flight cycles or more but less than 29,000 flight cycles since first installation on an airplane: Within 24 months after the effective date of this AD.

(3) For NLG main fittings that have accumulated 16,000 flight cycles or more but less than 20,000 flight cycles since first installation on an airplane: Within 36 months after the effective date of this AD.

(4) For NLG main fittings that have accumulated less than 16,000 flight cycles since first installation on an airplane: Before accumulating 16,000 flight cycles since first installation on an airplane, or within 36 months after the effective date of this AD, whichever occurs later.

(h) Parts Installation Limitation

As of the effective date of this AD, no person may install an NLG main fitting having a part number identified in paragraph 1.A., tables 1., 2., and 3., of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–186, dated April 12, 2012, unless that fitting is in compliance with the requirements of this AD.

(i) 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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1175; 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 BAE Systems (Operations) Limited's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2012–0191R1, dated November 6, 2012, 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–2015–4212.

(k) Material Incorporated by Reference

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

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

(i) BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–186, dated April 12, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.*

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

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

Issued in Renton, Washington, on March 20, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–07020 Filed 3–30–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–5391; Airspace Docket No. 16–AWA–3]

RIN 2120–AA66

Removal of Class A Airspace Area Exclusion

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes a provision in part 71 that excludes from Class A airspace, that portion of U.S. domestic airspace that overlies the Santa Barbara and Farallon Islands and the airspace south of latitude 25°04′00″ North (overlying and in the vicinity of the Florida Keys). The effect of this provision is that the airspace from 18,000 feet MSL up to and including Flight Level (FL) 600 (within the excluded areas) is classified as Class G (uncontrolled) airspace which limits the flexibility for air traffic control operations.

DATES: Effective date 0901 UTC March 31, 2016.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''How To Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

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 the 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 removes from 14 CFR 71.33(a) a provision that excludes the airspace in the vicinity of the Santa Barbara and Farallon Islands and the Florida Keys from U.S. Class A airspace in order to maintain the safe and efficient flow of air traffic.

Background

Positive Control Areas

In 1958, the Civil Aeronautics Board delegated to the Administrator the authority to designate positive control route segments in any portion of the airspace between 17,000 to 35,000 feet, within which certain operational requirements would be applicable. That same year the Administrator designated in 14 CFR part 601 specific airways as positive control airspace, noting that ''with experience and the acquisition of more and better equipment, the positive control area will undoubtedly, from time to time, be expanded.'' 23 FR 3917 (June 5, 1958).

In 1962, the FAA redesignated part 601 as part 71. 27 FR 10353 (Oct. 24, 1962). Section 71.15 addressed positive control areas, and § 71.193 (published separately) contained those areas designated as positive control areas. Over several years, the airspace designated as positive control areas continued to expand as anticipated with the FAA's increased capability to control air traffic. In 1965, the FAA established an expansive area of positive control airspace designated the ''continental positive control area.'' 30 FR 1836 (February 10, 1965). The FAA excluded from that positive control area the airspace over Santa Barbara Island and the Farallon Islands, and the airspace south of the latitude 25°04′00″ North.

Class A Airspace

In 1991, the FAA issued a final rule reclassifying ''positive control areas'' as Class A airspace.[1] 56 FR 65638, 65639 (Dec. 17, 1991).[2] In that final rule, new § 71.33 defined Class A airspace and continued to exclude from Class A airspace that airspace over Santa Barbara Island, the Farallon Islands, and south of latitude 25°04′00″ North that was originally established in 1965.

Unless otherwise specified, Class A airspace in the United States consists of that airspace from 18,000 feet MSL up to and including flight level (FL) 600. Unless otherwise authorized, all persons must operate their aircraft under instrument flight rules in airspace designated as Class A and comply with the applicable requirements of 14 CFR part 91. ''Class A airspace'' includes, in part, ''that airspace overlying the waters within 12 nautical miles of the coast of the 48 contiguous States, from 18,000 feet MSL to and including FL600 excluding the states of Alaska and Hawaii, Santa Barbara Island, Farallon Island, and the airspace south of latitude 25°04′00″ North.''

The airspace excluded from Class A airspace over the Santa Barbara and Farallon Islands and the airspace south of 25°04′00″ North renders those portions of U.S. domestic airspace (*i.e.,* within 12 nautical miles (NM) of the baseline of the United States) as Class G (uncontrolled) airspace, which limits the provision of air traffic control services in those areas.

As these excluded areas lie within the 12 NM territorial limits of the United States, the airspace would ordinarily be classified as Class A airspace. When the exclusions were implemented decades ago, air traffic control services in the

[1] The reclassification adopted the International Civil Aviation Organization (ICAO) letter classifications. (56 FR 65638; December 17, 1991).

[2] The effective date for the reclassification was September 16, 1993.

high altitude structure were limited due to lack of radar and radio communications coverage in some areas as well as less demand for those services. This was particularly true in the airspace near the Florida Keys.

Impact of the Exclusion

The lack of Class A airspace inside portions of United States domestic airspace impacts the provision of air traffic control services. Although transit of Instrument Flight Rules (IFR) traffic through uncontrolled airspace is permitted when requested by the pilot, Air Traffic Control (ATC) authority within uncontrolled airspace is limited.

An example of the impacts is the Florida Keys area (that airspace south of latitude 25°04′00″ North) which is under the jurisdiction of the Miami Air Route Traffic Control Center (ARTCC). There are four Air Traffic Service routes that transit the airspace in question. Miami ARTCC cannot use the routes or vector aircraft through the area unless requested by the pilot. This obligates air traffic controllers to vector aircraft around the airspace. Complicating their task is the location of military warning area airspace just to the south of the Florida Keys area. When the warning areas are activated, flights have to be rerouted hundreds of miles around the airspace. With an average of 317 flights per day transiting this airspace, ATC must employ Traffic Management Initiatives (TMI) to manage the volume of traffic. These TMIs increase delays and add to users' operating costs. The Miami ARTCC area has experienced dramatic growth in international air traffic to and through the area which is expected to continue into the future.

Another example is the Farallon Islands area which is under the jurisdiction of the Oakland ARTCC. This area falls within a corridor of arrivals and departures for international flights to San Francisco, Oakland, and San Jose, which have increased exponentially since the inception of the original exclusion. To circumvent this area of uncontrolled airspace would result in a significant impact both to the Oakland ARTCC and NAS users. Returning the Farallon Islands area to controlled airspace would reduce the workload for air traffic controllers and flight crews, which enhances safety and aids in the management of controlled airspace within the National Airspace System (NAS). In addition NAS users will gain a measurable increase in efficiency with the ability to create flight plans utilizing this area as controlled airspace.

The Santa Barbara Island exclusion encompasses two navigation fixes and overlaps the boundary of Control Area 1318H which connects to an inbound oceanic route. The close proximity of this exclusion to the Los Angeles terminal area affects Los Angeles ARTCC operations and poses similar impacts to the NAS as described above.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending section 71.33(a) in 14 CFR part 71 to remove the words ''. . . Santa Barbara Island, Farallon Island and the airspace south of latitude 25°04′00″ North.'' Subparagraphs (b) and (c) in § 71.33 remain unchanged by this action.

The FAA is taking this action because the current exclusion severely limits the FAA's ability to provide ATC services in the affected areas of U.S. domestic airspace. The FAA believes that the current Class A airspace exclusion is no longer warranted considering the expansion of radar and radio communications coverage, greater air traffic control system capabilities and increased demand for ATC services in the affected areas since the exclusion was originally promulgated. The current exclusion creates an impediment to providing ATC services and leads to air traffic delays, rerouting of air traffic, increased controller workload and reduced efficiency of the National Airspace System.

Good Cause for Immediate Adoption

Section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures when the agency for ''good cause'' finds that those procedures are ''impractical, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. Based on the information presented above, the FAA has determined that prompt remedial action is necessary to enhance safety and avoid significant adverse impact on the operation of the NAS. Without immediate action, the traveling public will experience substantial flight delays. Therefore, the FAA finds that it is impractical and contrary to the public interest to delay action in order to follow the normal notice and comment procedures.

Good Cause for Early Effective Date

Under 5 U.S.C. 553(d), publication of a substantive rule shall be made not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule. The FAA is issuing this rule with an effective date of March 31, 2016, which is less than 30 days after publication. The FAA finds good cause because this rule will enhance safety and prevent significant adverse impact on the operation of the NAS.

Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this [proposed/final] rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. Without this rule there will be: An impediment to providing ATC service; traffic will be rerouted; increasing air traffic delays; increase controller workload; resulting in reduced efficiency of the National Airspace System. As current traffic patterns will not change unless this rule is not issued, the economic impact of this rule will be minimal cost.

FAA has, therefore, determined that this rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This rule is necessary to avoid rerouting current air traffic. The rerouting will increase miles flown, increasing fuel and crew cost. While the rule will likely impact a substantial number of small entities, it will have a minimal economic impact.

If an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and determined that the rule will have the same impact on international and domestic flights and is a safety rule thus is consistent with the Trade Agreements Act.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million. This rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Environmental Review

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environment Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.5a and involves no extraordinary circumstances.

How To Obtain Additional Information

An electronic copy of a rulemaking document may be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or

3. Access the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680.

List 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 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.

■ 2. Amend § 71.33 by revising paragraph (a) to read as follows:

§ 71.33 Class A airspace areas.

(a) That airspace of the United States, including that airspace overlying the waters within 12 nautical miles of the coast of the 48 contiguous States, from 18,000 feet MSL to and including FL600 excluding the states of Alaska and Hawaii.

* * * * *

Issued in Washington, DC, on March 29, 2016.

Leslie M. Swann,

Acting Manager, Airspace Policy Group.

[FR Doc. 2016–07397 Filed 3–29–16; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 266

[Docket No. FR–5876–N–03]

Changes in Certain Multifamily Mortgage Insurance Premiums and Regulatory Waiver for the 542(c) Risk-Sharing Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Announcement and waiver.

SUMMARY: On January 28, 2016, HUD published a notice announcing

proposed changes to the Fiscal Year (FY) 2016 Mortgage Insurance Premiums (MIPs) for certain FHA Multifamily Housing Insurance programs, for commitments issued or reissued beginning April 1, 2016, and solicited public comments on the announced changes. This document announces that the FY 2016 MIP changes for certain FHA Multifamily Housing Insurance programs, including the 542(b) and 542(c) Risk-Sharing programs, proposed on January 28, 2016, are being implemented for commitments issued or reissued beginning April 1, 2016. These new MIP changes reflect the health of the FHA Multifamily portfolio, simplify the rate structure, and demonstrate HUD's commitment to promote its mission initiatives. The MIP rates for mortgage insurance programs under FHA's Office of Healthcare Programs, including health care facilities and hospital insurance programs, are not changed. This document also addresses the public comments received in response to the proposed MIP changes. Lastly, this MIP document also provides a regulatory waiver for the 542(c) Risk-Sharing program to participate in the FY 2016 MIP changes for commitments issued or reissued beginning April 1, 2016, for the remainder of FY 2016 and for FY 2017.

DATES: *Effective Date:* The revised MIP will be effective for any firm commitments issued or reissued on or after April 1, 2016. MIP rates will not be modified for any loans that close or reach initial endorsement prior to or on March 31, 2016. MIP rates will not be modified on FHA-insured loans initially or finally endorsed, in conjunction with interest rate reductions, or in conjunction with loan modifications. MIP rates for the 542(c) Risk-Sharing program will be eligible only through FY 2017.

FOR FURTHER INFORMATION CONTACT: Theodore K. Toon, Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–8000; telephone number: 202–402–8386 (this is not a toll-free number). Hearing- or speech-impaired individuals may access these numbers through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 203(c)(1) of the National Housing Act (the Act) authorizes the Secretary to set the premium charge for insurance of mortgages under the various programs in title II of the Act. The range within which the Secretary may set such charges must be between one-fourth of one percent per annum and one percent per annum of the amount of the principal obligation of the mortgage outstanding at any time. (see 12 U.S.C. 1709(c)(1)). HUD's Multifamily Housing Mortgage Insurance regulation at 24 CFR 207.254 provides that HUD must publish a notice of future premium changes in the **Federal Register**, and provide a 30-day public comment period for the purpose of accepting comments on whether the proposed changes are appropriate.

On October 2, 2015, HUD published a notice in the **Federal Register**, at 80 FR 59809, announcing that the MIPs for FHA Multifamily, Health Care Facilities, and Hospital mortgage insurance programs that have commitments to be issued or reissued in FY 2016 would be the same as those published for FY 2015. HUD then published a notice on January 28, 2016, at 81 FR 4926, announcing proposed MIP changes for FY 2016 in certain programs authorized under the Act (12 U.S.C. 1709(c)(1)), and certain other multifamily programs. The January 28, 2016, notice was proposed to promote two of HUD's mission priorities: affordable housing and energy efficiency. HUD sought public comment on the proposed changes, as required by 24 CFR 207.254.

II. Public Comments

The public comment period on the January 28, 2016, notice closed on February 29, 2016, and HUD received 19 public comments by the close of the public comment period. Comments were submitted by mortgage lenders, organizations representative of the health care industry and of the home building industry, private citizens, and other interested parties. All public comments can be found on *www.regulations.gov* under the docket number FR–5876–N–01. The following presents the key issues raised by commenters and HUD's response to these issues.

Authority

Comment: One commenter stated that HUD had not demonstrated its authority to implement these MIP changes, and another commenter asked if HUD would be issuing additional regulations to confirm the appropriate MIP.

HUD Response: We disagree; section 203(c)(1) of the Act authorizes the Secretary to set the premium charge for insurance of mortgages under the various programs in the Act, and 24 CFR 207.254 provides that HUD will implement future multifamily premium changes by publishing a notice in the **Federal Register** and soliciting public comment for 30 days. HUD has complied with those requirements and no additional regulations must be issued to implement these changes.

Comment: One commenter observed that MIPs ''must be determined based on the prudent management of risk to the government of the potential and severity of mortgage losses.'' In other words, the MIPs should be set at levels that are actuarially sufficient to cover expected credit losses and other costs.

HUD Response: HUD agrees; portfolio and actuarial analysis of the new rate structure demonstrated that premium revenues will exceed losses for the foreseeable future.

Applicability of New Rates

Comment: Commenters urged HUD to extend MIP changes to programs under FHA's Office of Healthcare Programs, including the health care facilities and hospital insurance programs, in order to further promote these programs. These commenters suggested that by excluding properties financed under Section 232 and Section 242 programs, HUD misses the opportunity to further the Administration's healthcare objectives.

HUD Response: HUD will continue to evaluate MIP rates, but is not at this time extending MIP changes to programs under FHA's Office of Healthcare Programs, including the health care facilities and hospital insurance programs under sections 232 and 242, respectively.

Comment: Commenters asked that the new MIP rates be made available to existing FHA-insured loans on properties that meet or will meet the required standards, to loans undergoing interest rate reductions through HUD's Multifamily Office of Asset Management and Portfolio Oversight (OAMPO), to loan modifications through OAMPO, to loans initially endorsed (closed) but not finally endorsed, and to loans on recently built housing (within the past 5 years) that have or could obtain Energy Star building certification.

HUD Response: New MIP rates cannot be applied retroactively; each of these scenarios represents already-closed loans. Therefore, the MIP new rates will become effective only for FHA firm commitments issued or reissued, and closed, on or after April 1, 2016.

Affordability

Comment: Commenters asked for a change to the requirements to qualify for the MIP rate for Broadly Affordable housing: Properties must have ''achievable and underwritten tax credit rents at least 10 percent below

comparable market rents.'' Commenters recommended that ''achievable and'' be deleted because of the confusion it could cause.

HUD Response: HUD disagrees. The phrase (''achievable and underwritten tax credit rents at least 10 percent below comparable market rents'') is necessary in order to differentiate from the maximum or ceiling tax credit rents, and is widely understood in the industry.

Comment: Commenters recommended that properties with greater than 90 percent affordable units, but without a 10 percent underwritten market rent advantage necessary to qualify as Broadly Affordable, should qualify for the Affordable mixed-income MIP rate of 35 basis points.

HUD Response: HUD agrees, and has made the change in the final notice.

Comment: Commenters asked if a property will qualify for the MIP reduction if it has a project-based Section 8 that runs less than 15 years or is not renewed but the owner honors the full 15-year use restriction.

HUD Response: HUD will be providing the MIP reduction only to properties that have a Section 8 contract and use restriction that run a minimum of 15 years after final endorsement.

Comment: Commenters recommended that the new MIP rates be available in situations where the property owner accepts Section 8 voucher holders for just the affordable units, rather than an unlimited requirement for the entire property, due to potential property owners' concerns about converting an entire property to Section 8, over time, in what is intended as a mixed- income property. Another commenter stated that in the MIP definition of Affordable there is a requirement that the property owner agree to accept Section 8 voucher holders for the life of the loan, and the commenter requested that this be limited to the 15-year affordability period rather than the life of the loan.

HUD Response: HUD disagrees, and continues to require that for a property owner to access the MIP rate under the Affordable rate category the property owner must agree to accept voucher holders as residents for all vacancies and for the life of the regulatory agreement.

Lender Fee Restrictions for Certain MIP Rate Categories (Broadly Affordable and Green/Energy Efficient)

Comment: Commenters requested that the 5 percent cap on total loan fees be removed, or the threshold significantly increased. The commenters stated that small loans are challenging to originate, underwrite, and service, due to certain fixed lender costs and time requirements, and asked HUD to assess the impact for loans that fall into the $2–5 million range; commenting that the market is familiar with the $5 million small loan limit set by the Federal Housing Finance Agency for the Fannie Mae and Freddie Mac small loan programs. One commenter asked that HUD provide underlying information on the need for such a broad limitation.

HUD Response: The intent is to ensure that the benefits of these MIP rates directly benefit the properties and residents. In FHA's experience, Multifamily Accelerated Processing (MAP) lenders today are generally not charging fees in excess of 5 percent on loans under $5 million, even though they may do so. According to aggregated lender disclosures, just 6 percent of FHA-insured loans under $5 million, originated between FY 2013 and FY 2016, year-to-date, charged fees in excess of 5 percent, and most of these were concentrated in loans under $2 million. Accordingly, HUD does not believe that this limitation will present a burden to MAP lenders.

Comment: One commenter said that it may be counterproductive to have a loan fee limit on loans over $2 million at precisely the time HUD is encouraging MAP lenders to participate in its Small Building Risk Share Initiative (SBRS).

HUD Response: Loans originated under Risk Share programs, including SBRS, are exempt from the fee limitations.

Comment: One commenter asked that loans with firm commitments issued prior to the January 28, 2016, publication of the proposed MIP rates be excluded from the fee limitations.

HUD Response: The loan fee limitations only apply to loans with FHA firm commitments issued or reissued on or after April 1, 2016. Firm commitments issued prior to that date are exempt from the loan fee limitation (though still subject to disclosure), unless requesting reissuance or modification to utilize the new rates. Any loan accessing the lower rates will also be subject to the loan fee limitation.

Inclusionary Zoning

Comment: Commenters wrote that properties subject to inclusionary zoning agreements are only eligible for the reduced MIP rate if the term of the affordability agreement is 30 years or longer, compared to Low Income Housing Tax Credit (LIHTC) or Project-Based Rental Assistance (PBRA) properties in this same rate category, which have minimum compliance periods of 15 years. They asked that the inclusionary zoning compliance period be reduced from 30 years to 15 years.

HUD Response: The affordability requirements under LIHTC or PBRA/Section 8 are much deeper than those generally required under inclusionary zoning laws. HUD believes, therefore, that the longer affordability requirement (30 years) is reasonable.

Comment: One industry association opposed using the FHA multifamily insurance programs ''to incentivize complicated and controversial inclusionary zoning laws at the local level.'' One commenter stated that some studies have shown inclusionary zoning may not be the most cost effective way to address affordability, and can actually lead to fewer units being delivered.

HUD Response: HUD is not incentivizing inclusionary zoning or other set-aside laws through these rates. Rather, the new structure recognizes affordability in its many forms. HUD will study the effects of these rates for future rate considerations.

Green/Energy Efficient

Comment: A number of commenters pointed out that the requirement for a property owner to report building performance 12 months after new construction/substantial rehabilitation is unreasonable, as the property must be occupied, and operate for a full 12 months, before collecting and reporting the data. Further, the requirement may preclude properties from one or more of the performance-based green building certifications recognized for the green/energy efficient MIP rate.

HUD Response: HUD agrees, and has amended the notice to require reporting of complying building performance ''. . . no more than 15 months after completion of new construction, substantial rehabilitation or renovations, or 15 months after break-even occupancy.''

Comment: Commenters stated that small properties make up the majority of all apartment buildings and often provide housing affordability. Yet properties under 20 units are excluded from getting a 1–100 EnergyStar score from Portfolio Manager, effectively blocking them from taking advantage of the reduced MIP rate. Commenters asked that HUD consider, for the purpose of accessing the Green/Energy Efficient MIP rate, exempting smaller properties from the requirement of a 75+ score on Portfolio Manager, as long as they are or will be certified by one of the recognized, independent green building standards.

HUD Response: HUD agrees, and has modified the notice. Small properties

(under 20 units) must meet one of the recognized independent green building/energy efficiency standards in order to access the Green/Energy Efficient MIP rate, but are exempt from the 75+ Portfolio Manager score requirement.

Comment: One commenter recommended that HUD consider tiered or graduating MIP rates for varying levels of energy efficiency to encourage all property owners to undertake efficiency retrofits to the extent feasible.

HUD Response: While HUD agrees with the intent, such a rate structure would be overly complex and challenging to administer. HUD will continue to review rates and opportunities to promote its mission objectives.

Comment: Multiple commenters presented alternative green building certification standards for consideration, and/or asked what the process will be for approval of green building certification standards beyond those listed in the notice.

HUD Response: In addition to the recognized standards listed in the notice, HUD will accept ''other industry-recognized green building standards in the sole discretion of HUD's Office of Multifamily Production.'' Lenders should submit such requests to the Director of Multifamily Production, in HUD headquarters. A committee will review such requests for consideration. In response to the specific requests submitted with public comments, HUD has revised the notice to recognize Passive House certifications, LEED for Existing Buildings: Operations & Maintenance, and Living Building Challenge Certification.

Comment: Commenters asked about notice references to Real Estate Assessment Center (REAC) protocols for properties not achieving their proposed green building standard or the 75+ Portfolio Manager score. One commenter stated that the REAC protocol should not be unilaterally changed to incorporate tests on whether properties are eligible for MIP reductions. Others asked what actions HUD would pursue for a property's failure to achieve green building certification and a score of 75+ in Portfolio Manager (for example, might actions include 2530 flags or MIP changes).

HUD Response: HUD is not changing REAC protocols. The intent is not to be punitive, but to ensure compliance with the specified green building certification and efficiency performance standards. Properties that fail to achieve their designated green building standard or the 75+ Portfolio Manager score will be required to submit to HUD a compliance plan and timeline for achieving the required certification and performance, acceptable to HUD. An owner working in good faith and demonstrating progress toward compliance in HUD's discretion will not be flagged in HUD's 2530 previous participation system.

Comment: Commenters asked that the notice clarify that the person certifying the green building standard be appropriately credentialed, and stated that a Capital Needs Assessment (CNA) provider may or may not be able to provide an energy design certification, unless they are licensed/accredited per the Energy Auditor requirements.

HUD Response: HUD agrees, and has struck CNA provider as a qualified certifier of a green building standard or energy design certification. The CNA provider may certify, if appropriately credentialed, in their capacity as architect, engineer, energy auditor, and/or approved certifier under the specified green building standard.

Comment: Commenters recommended that HUD delete the phrase ''and maintain'' in reference to recognized green building certifications, because the notice requires a property to not only achieve, but to maintain one of the recognized, independent green building certification standards, yet the named green building rating systems are all design and construction standards and do not include provisions for maintaining the certification.

HUD Response: HUD agrees, and has modified the notice to strike ''and maintain'' from the green building certification requirement.

Comment: A commenter asked for clarification on the requirement for a property accessing the Green/Energy Efficient MIP rate to achieve and maintain the 75+ Portfolio Manager score.

HUD Response: A property accessing the Green/Energy Efficient MIP rate will be required to maintain its efficiency performance. The property owner will submit its 1–100 ENERGY STAR score from EPA's Portfolio Manager report to HUD, annually.

Comment: Commenters stated the notice's required score of 75+ on EPA's Portfolio Manager will be a ''moving target'' as the underlying database of properties recalibrates the scores, and asked how an owner can certify to this target.

HUD Response: The Portfolio Manager data set and underlying algorithm, and therefore the resulting scores, will not be changed for the foreseeable future, according to EPA. The objective is to ensure sustained property performance. If, in the future, the 1–100 ENERGY STAR score is recalibrated, properties may demonstrate ongoing compliance by providing a copy of the Portfolio Manager report showing building consumption/performance has been maintained, even if the resulting score under a recalibrated scale is less than 75. Properties applying for the MIP rate will have to comply with the current standard score requirement that is applicable at that time.

Comment: One commenter asked why a property that can meet both the Broadly Affordable and the Green/Energy Efficient requirements is not rewarded through a further rate reduction.

HUD Response: The rates offered under those two rate categories are the lowest allowed by statute, so not further reductions can be offered at this time.

Comment: One commenter asked whether the reduction in MIP for Green/Energy Efficient buildings have to be from private investment, or if the energy upgrades can be paid be from a government program such as DOE Weatherization or a similar State program.

HUD Response: While it is anticipated that many property owners may utilize the additional mortgage proceeds made possible by the lower MIP to retrofit properties to meet the stringent efficiency standards required, an owner is not required to do so. Energy efficiency retrofits can be paid from any public or private source of funds, subject to limitations on other debt established by the FHA MAP program.

General

Comment: One commenter asked that HUD's posted data identify current loans in its portfolio in the new MIP rate categories, to allow a viewer to determine which loans in the portfolio would qualify for which rates.

HUD Response: HUD does not have the level of detail in its dataset to allow this identification. All loans originated under the new rate structure will be identified by rate category.

Comment: One commenter suggested that the new MIP rate structure would disadvantage market rate properties, disproportionately harming rental properties in secondary and tertiary markets.

HUD Response: The largest reduction from current rates to those effective April 1, 2016, is for market rate properties that are, or choose to, retrofit to a recognized green building/energy efficiency standard. This rate category was added specifically to recognize and promote green and energy efficient

properties, whether affordable or market rate.

Comment: A commenter observed that the negative subsidy rates for MIP since FY 2013 show that the multifamily programs are generating more than enough revenue to cover losses, and requested that HUD review the MIPs for all of its loan programs, and set the levels at the rate necessary to cover losses and costs to the program.

HUD Response: HUD has and will continue to review its MIP rates.

Comment: Commenters requested clarification with regard to the notice's reference to the upfront capitalized MIP for construction loans and the absence of a reference to a ''look back'' after final closing that recalculates MIP at 1 percent of the actual outstanding amount.

HUD Response: For New Construction and Substantial Rehabilitation transactions, the upfront capitalized MIP is the applicable annual MIP rate, times the loan amount, times the number of years of construction, rounded up to the nearest full year for partial years.

Comment: One commenter stated that there may be an advantage for risk-share lenders compared to MAP lenders, on tax credit projects in markets where tax credit rents are close to market rents (less than 10 percent advantage), and the rate for MAP lender originated loans will be 35 basis points, while risk-share loans qualify as Broadly Affordable at 25 basis points.

HUD Response: The risk share program is an affordable lending program by statute, and is therefore categorically qualified for the lowest MIP rate. In the limited cases where the described scenario may apply, we do not believe the 10 basis points differential will be enough to skew the market away from MAP lending. HUD will continue to explore the potential disparity raised by the commenter, and may consider changes to address the issue in a subsequent MIP notice.

Comment: One commenter raised concerns about the impact of Executive Order 13690 and the new Federal Flood Risk Management Standard (FFRMS) on housing affordability when implemented and applied to new FHA-insured loans for new construction and substantial rehabilitation, Community Development Block Grants (CDBG), and HOME Investment Partnerships Program funds.

HUD Comment: Executive Order 13690 and the new FFRMS are outside the scope of this notice. Any actions implementing the Executive order will be the subject of a separate publication.

III. Final Notice

This notice adopts the proposed changes in the January 28, 2016 notice. Specifically, HUD is adopting changes to FY 2016 MIPs for FHA-insured loans on properties under specific Multifamily Mortgage Insurance programs effective on April 1, 2016. The new annual multifamily mortgage insurance rates will be structured as four categories, as follows, and as illustrated on the table below. Under this rate structure, portfolio and actuarial analysis demonstrates that premium revenues will exceed losses for the foreseeable future. HUD has made minor changes in response to comments received, as discussed below.

A. Market Rate Housing

Upfront and annual MIP rates will remain unchanged for all FHA-insured multifamily loan types on market rate properties, except properties that meet the criteria below for green and energy efficient housing.

B. Broadly Affordable Housing

Annual MIPs will change from the current rates generally between 45 and 50 basis points,[1] to 25 basis points for all multifamily FHA-insured loan types that meet the criteria in this section.

All loans originated by Housing Finance Agencies under FHA's Section 542(c) Risk-Sharing program, and by Qualified Participating Entities including Fannie Mae and Freddie Mac under FHA's Section 542(b) Risk-Sharing program, will be eligible for this 25 basis points rate, multiplied by the percentage risk assumed by FHA (see table below). For all others to qualify, the property must have Section 8 assistance or another recorded affordability restriction, and/or Low-Income Housing Tax Credits (LIHTC).

These projects must either:

- Have at least 90 percent of units covered by a Section 8 PBRA contract or other State or Federal rental assistance program contract serving very low income residents, with a remaining term of at least 15 years; or
- Have at least 90 percent of its units covered by an affordability use restriction under the LIHTC program or a similar State or locally sponsored program, with achievable and underwritten tax credit rents at least 10 percent below comparable market rents, and with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity.

To ensure that the benefits of these MIP rates directly benefit the affordable housing properties and residents, lenders submitting applications for loans using this MIP rate are limited, in the total loan fees they may charge on any loan greater than $2 million, to no more than 5 percent of the insured loan amount. Loan fees include (a) origination and placement fees as permitted by the Multifamily Accelerated Processing (MAP) Guide;[2] *plus* (b) trade profit, trade premium or marketing gain earned on the sale of the Government National Mortgage Association (GNMA) security at a value above par, even if the security sale is delayed until after endorsement; *minus* (c) loan fees applied by the mortgagee to its legal expenses incurred in connection with loan closing.

C. Affordable Housing

Annual MIPs will change from current rates generally between 45 and 70 basis points,[3] to 35 basis points for all multifamily FHA-insured loan types. To qualify, the property must provide a set-aside of affordable units as defined below, and agree to accept voucher holders:

- Inclusionary Zoning, Density Bonus Set-asides, and Other Local Affordability Restrictions: Property owners shall submit with the FHA mortgage insurance application evidence of a deed covenant or housing ordinance on ''inclusionary zoning'' at the subject property to evidence the requirement for affordable unit set-asides. A minimum of 10 percent of the units must be affordable to, at most, a family at 80 percent Area Median Income (AMI), with rents sized to be affordable at 30 percent of the income at that level. The affordability set-aside must be on site, be in effect for at least 30 years after final endorsement of the FHA-insured mortgage, be monitored by public authority, and be recorded in a regulatory agreement;
- Project has between 10 percent and 90 percent of units covered by a Section 8 PBRA contract or other State or Federal rental assistance program contract serving very low-income residents, with a remaining term of at least 15 years;
- Project has between 10 percent and 90 percent of its units covered by an affordability use restriction under the LIHTC program or similar State or locally sponsored program, with rents

[1] Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

[2] *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430.*

[3] Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

sized at no greater than 30 percent of the income eligible for occupancy under the LIHTC program, with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity; or

• Project has at least 90 percent of its units covered by an affordability use restriction under the LIHTC program or similar State or locally sponsored program, but without the rent advantage required to qualify as Broadly Affordable (achievable and underwritten tax credit rents at least 10 percent below comparable market rents), and with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity.

To qualify for this MIP rate, the project owner must also agree to accept voucher holders under the Section 8 Housing Choice Voucher program or other Federal program voucher holders as residents for vacancies in units not covered by project-based Section 8, and execute a rider to the FHA regulatory agreement, acceptable to HUD, evidencing the owner's agreement to accept Section 8 vouchers for the life of the regulatory agreement.

Change: In response to public comments, HUD added the forth bullet providing an extra class of properties to those that are eligible for this affordable housing MIP rate.

D. Green and Energy Efficient Housing

Annual MIPs will change from current rates generally between 45 and 70 basis points,[4] to 25 basis points for all multifamily FHA-insured loan types. Projects will access this rate to encourage owners to adopt higher standards for construction, rehabilitation, repairs, maintenance, and property operations that are more energy efficient and sustainable than traditional approaches to such activities. The lower rate will incentivize owners to implement measures that result in projects with greater energy and water efficiency, reduced operating costs, improved indoor air quality and resident comfort, and reduced overall impact on the environment. It is anticipated that mortgage proceeds will be used to retrofit properties to meet the stringent efficiency standards required to access this lower MIP premium. For properties that have already achieved a green building standard and that are refinancing with this lower MIP premium, proceeds may be used to complete further efficiency upgrades, and/or to retrofit to the next-level green certification standards.

To qualify, upon application for FHA mortgage insurance, the owner must evidence that the project has achieved, or the owner must certify that it will pursue and achieve, an industry-recognized standard for green building. Acceptable, independently verified standards include the Enterprise Green Communities Criteria; U.S. Green Building Council's LEED–H, LEED–H Midrise, LEED–NC, or LEED for Existing Buildings: Operations & Maintenance; ENERGY STAR certification; EarthCraft House; EarthCraft Multifamily; Earth Advantage New Homes; Greenpoint Rated New Home; Greenpoint Rated Existing Home (Whole House or Whole Building label); the National Green Building Standard (NGBS); Passive Building Certification or EnerPHit Retrofits certification from the Passive House Institute US (PHIUS), International Passive House Association, or the Passive House Institute; and Living Building Challenge Certification from the International Living Future Institute, or other industry-recognized green building standards, in the sole discretion of HUD's Office of Multifamily Production.

Further, the owner must certify that it has achieved, or will pursue, achieve, and maintain a score of 75 or better on the 1–100 ENERGY STAR score, using EPA's Portfolio Manager. The reasonableness of achieving and maintaining the specified, independent green building standard, and the score of 75 or better in Portfolio Manager, must be verified by the independent conclusion of the qualified assessor preparing the physical condition assessment, and supported by the physical condition assessment report and recommendations, ASHRAE level II energy audit (required for existing structures only), and plans for new construction, or rehabilitation, repairs, and operations and maintenance. The physical condition assessment report submitted with the mortgage insurance application must include a certification from the architect, engineer, or energy auditor that the planned scope of work is reasonably sufficient to achieve and maintain the specified certification.

Additionally, the owner must submit to HUD evidence that the specified, independent green building standard has been achieved, and provide a copy of the Portfolio Manager report showing building performance at or above 75, when those standards have been achieved, and no more than 15 months after completion of new construction, substantial rehabilitation or renovations or 15 months after break-even occupancy. If not achieved, HUD may impose protocols to ensure the owner brings the property into compliance, similar to protocols used by REAC for unacceptable property standards. The owner must submit the Portfolio Manager report annually to HUD showing that the property has maintained its efficiency performance. Note that properties of less than 20 units may qualify for this MIP rate by achieving an industry-recognized standard for green building, as described above, but are exempt from the requirement to achieve a score of 75 or better on the 1–100 ENERGY STAR score.

To ensure that the benefits of these MIP rates directly benefit the properties and residents, lenders submitting applications for loans using this MIP rate are limited in the total loan fees they may charge on any loan greater than $2 million, to no more than 5 percent of the insured loan amount. Loan fees include (a) origination and placement fees as permitted by the MAP Guide; *plus* (b) trade profit, trade premium or marketing gain earned on the sale of the GNMA security at a value above par, even if the security sale is delayed until after endorsement; *minus* (c) loan fees applied by the mortgagee to its legal expenses incurred in connection with loan closing.

Change: In response to public comments, HUD makes the following changes:

• Deletes the phrase ''and maintain'' in reference to the owner providing evidence that the project has achieved an industry-recognized standard for green building.

• Adds to the list of certifications Passive House certifications, LEED for Existing Buildings: Operations & Maintenance, and Living Building Challenge Certification, and clarifies that other industry-recognized green building standards will be approved at the discretion of HUD's Office of Multifamily Production.

• Clarifies that a CNA provider may only certify a physical condition assessment report, if appropriately credentialed, in their capacity as architect, engineer, energy auditor, and/or approved certifier under the specified green building standard.

• Amends the time frame for providing the report showing compliance with building performance after completion of new construction, substantial rehabilitation, or renovations from no more than 12 months to no more than 15 months. HUD also provides that such report may be provided 15 months after break-even occupancy.

[4] Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

• Requires that owners submit the Portfolio Manager report annually to HUD showing that the property has maintained its efficiency performance.

• Provides that while small properties (under 20 units) must meet one of the recognized independent green building/energy efficiency standards in order to access the Green/Energy Efficient MIP rate, small properties are exempt from the requirement to achieve a score of 75 or better on the 1–100 ENERGY STAR score.

IV. MIPs for Certain FHA's Multifamily Mortgage Insurance Programs for April 1, 2016

The chart below details the MIP rates for each rate category, and each type of FHA multifamily mortgage insurance covered under this notice. This notice does not change MIP rates for programs under FHA's Office of Healthcare Programs, including health care facilities and hospital insurance programs.

FHA Multifamily Mortgage Insurance Premiums By Rate Category

FHA Multifamily mortgage insurance program	Current upfront capitalized MIP * basis points	Apr 1, 2016, upfront capitalized MIP * basis points	Current annual MIP basis points	Apr 1, 2016, annual MIP basis points
MARKET RATE HOUSING	.....	Unchanged	.....	Unchanged
207 Multifamily New Constr/Sub Rehab w/o LIHTC	70	70	70	70
207 Manufactured Home Parks w/o LIHTC	70	70	70	70
221(d)(4) New Constr/Sub Rehab w/o LIHTC	65	65	65	65
220 Urban Renewal Housing w/o LIHTC	70	70	70	70
213 Cooperative	70	70	70	70
207/223(f) Refi or Purchase for Apts. w/o LIHTC	100	100	60	60
223(a)(7) Refi of Apts. w/o LIHTC	50	50	50	50
231 Elderly Housing w/o LIHTC	70	70	70	70
241(a) Supplemental Loans for Apts. coop w/o LIHTC	95	95	95	95
BROADLY AFFORDABLE HOUSING	.....	*25*	.....	*25*
207 New Constr/Sub Rehab w 90 percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
207 Manufactured Home Parks w 90 percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
221(d)(4) New Constr/Sub Rehab w 90 percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
220 Urban Renewal Housing w 90 percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
207/223(f) Refi or Purchase w 90 percent+ LIHTC, or 90 percent+ Section 8	100	25	45	25
223(a)(7) Refi w 90 percent+ LIHTC, or 90 percent+ Section 8	50	25	45	25
231 Elderly Housing w 90 percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
241(a) for Apts./coop w 90 percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
Section 542(b) Risk-Sharing **	50	25	50	25
Section 542(c) Risk-Sharing **	50	25	50	25
AFFORDABLE: INCLUSIONARY VOUCHERS	.....	*35*	.....	*35*
207 New Constr/Sub Rehab w Inclusionary Zoning, or 10 percent–90 percent LIHTC, or 10 percent–90 percent Section 8	45–70	35	45–70	35
207 Manufactured Home Parks w Inclusionary Zoning, or 10 percent–90 percent LIHTC, or 10 percent–90 percent Section 8	45–70	35	45–70	35
221(d)(4) New Constr/Sub Rehab w Inclusionary Zoning, or 10 percent–90 percent LIHTC, or 10 percent–90 percent Section 8	45–65	35	45–65	35
220 Urban Renewal Housing w Inclusionary Zoning, or 10 percent–90 percent LIHTC, or 10 percent–90 percent Section 8	45–70	35	45–70	35
207/223(f) Refi or Purchase w Inclusionary Zoning, or 10 percent–90 percent LIHTC, or 10 percent–90 percent Section 8	100	35	45–60	35
223(a)(7) Refinance of Apts. w Inclusionary Zoning, or 10 percent–90 percent LIHTC, or 10 percent–90 percent Section 8	50	35	45–50	35
231 Elderly Housing w Inclusionary Zoning, or 10 percent–90 percent LIHTC, or 10 percent–90 percent Section 8	45–70	35	45–70	35
241(a) Supplementals for Apts./coop w Inclusion Zoning, or 10 percent–90 percent LIHTC, or 10 percent–90 percent Section 8	45–95	35	45–95	35
GREEN/ENERGY EFFICIENT HOUSING	.....	*25*	.....	*25*
207 Multifamily New Construction/Sub Rehab w Green	45–70	25	45–70	25
207 Manufactured Home Parks with Green	45–70	25	45–70	25
221(d)(4) New Constr/Sub Rehab w Green	45–65	25	45–65	25
220 Urban Renewal Housing w Green	45–70	25	45–70	25
207/223(f) Refi or Purchase for Apts. w Green	100	25	45–60	25
223(a)(7) Refi of Apts. w Green	50	25	45–50	25
231 Elderly Housing w Green	45–70	25	45–70	25

FHA MULTIFAMILY MORTGAGE INSURANCE PREMIUMS BY RATE CATEGORY—Continued

FHA Multifamily mortgage insurance program	Current upfront capitalized MIP * basis points	Apr 1, 2016, upfront capitalized MIP * basis points	Current annual MIP basis points	Apr 1, 2016, annual MIP basis points
241(a) Supplemental Loans for Apts./coop w Green	45–95	25	45–95	25

* Upfront premiums for multifamily refinancing programs are capitalized and based on the first year's annual MIP for the applicable rate category (except market rate 223(f), where the upfront rate remains at 100 basis points). Upfront premiums for multifamily new construction and substantial rehabilitation programs insuring advances are capitalized and based on the annual MIP for the applicable rate category for the entire construction period, rounded up to the nearest whole year.

** Under the Sections 542(b) and 542(c) Risk-Sharing programs, the MIP collected by HUD is currently, and will continue to be, proportionate to the percentage of risk assumed by FHA, as follows:

Program	FHA percent of risk share	April 1, 2016, upfront capitalized MIP basis points (bps)	April 1, 2016, annual MIP basis points (bps)
542(b)	50 percent	12.5 (25 bps × 50 percent)	12.5 (25 bps × 50 percent).
542(c)	50 percent	12.5 (25 bps × 50 percent)	12.5 (25 bps × 50 percent).
	75 percent	18.75 (25 bps × 75 percent)	18.75 (25 bps × 75 percent).
	90 percent	22.5 (25 bps × 90 percent)	22.5 (25 bps × 90 percent).

V. Regulatory Waiver for the 542(c) Risk-Sharing Program

Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) (42 U.S.C. 3535(q)) requires HUD to publish waivers in the **Federal Register**. To allow for the FY 2016 MIP changes covered in this notice to apply to the 542(c) Risk-Sharing program, authorized under the Housing and Community Development Act of 1992, HUD must waive §§ 266.600, 266.602, and 266.604, which currently prescribe percentages for calculating the MIP under the 542(c) Risk-Sharing program. HUD believes these set percentages are no longer appropriate for the 542(c) Risk-Sharing program and issued a proposed rule on March 8, 2016, entitled ''Section 542(c) Housing Finance Agencies Risk-Sharing Program: Revisions to Regulations'' (81 FR 12051), which would permit MIP changes for the Risk-Sharing program to be published through **Federal Register** notice. All loans originated under the Risk-Sharing programs are for affordable housing purposes with recorded affordability restrictions, and therefore qualify as Broadly Affordable housing. HUD believes that the 542(c) Risk-Sharing program, like the other identified Multifamily Housing programs, should be eligible for the MIP changes in this notice. Therefore, HUD is issuing this regulatory waiver of §§ 266.600, 266.602, and 266.604 for FY 2016 and FY 2017. Commitments issued or reissued for 542(c) Risk-Sharing program beginning April 1, 2016, through FY 2017 will be eligible for these MIP changes.

VI. Environmental Impact

This notice involves the establishment of rate or cost determinations and related external administrative requirements that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: March 28, 2016.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

Dated: March 28, 2016.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2016–07405 Filed 3–30–16; 8:45 am]

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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506–AB27

Imposition of Special Measure Against FBME Bank Ltd., Formerly Known as the Federal Bank of the Middle East Ltd., as a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Final rule.

SUMMARY: In a Notice of Finding (NOF) published in the **Federal Register** on July 22, 2014, FinCEN found that reasonable grounds exist for concluding that FBME Bank Ltd. (FBME), formerly known as the Federal Bank of the Middle East Ltd., is a financial institution of primary money laundering concern pursuant to Section 311 of the USA PATRIOT Act (Section 311). On the same date, FinCEN also published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) to propose the imposition of a special measure authorized by Section 311 against FBME and opened a comment period that closed on September 22, 2014. On July 29, 2015, FinCEN published in the **Federal Register** a final rule imposing the fifth special measure, which the United States District Court for the District of Columbia subsequently enjoined before the rule's effective date of August 28, 2015. FinCEN is issuing this final rule imposing a prohibition on U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, FBME in place of the rule published on July 29, 2015.

DATES: This final rule is effective July 29, 2016.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767–2825 or *regcomments@fincen.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56 (the USA PATRIOT

Act). Title III of the USA PATRIOT Act amends the anti-money laundering (AML) provisions of the Bank Secrecy Act (BSA), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (the Secretary) to administer the BSA and its implementing regulations has been delegated to FinCEN.

Section 311 of the USA PATRIOT Act (Section 311) grants FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of transactions, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' to address the primary money laundering concern. The special measures enumerated under Section 311 are prophylactic safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. Special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows FinCEN to prohibit or impose conditions on the opening or maintaining of correspondent or payable-through accounts for the identified institution by U.S. financial institutions.

B. FBME Bank Ltd.

FBME Bank Ltd. (FBME) was established in 1982 in Cyprus as the Federal Bank of the Middle East Ltd., a subsidiary of the private Lebanese bank, the Federal Bank of Lebanon. Both FBME and the Federal Bank of Lebanon are owned by Ayoub-Farid M. Saab and Fadi M. Saab. In 1986, FBME changed its country of incorporation to the Cayman Islands, and its banking presence in Cyprus was re-registered as a branch of the Cayman Islands entity. In 2003, FBME left the Cayman Islands and incorporated and established its headquarters in Tanzania. At the same time, FBME's Cypriot operations became a branch of FBME Tanzania Ltd. In 2005, FBME changed its name from the Federal Bank of the Middle East Ltd. to FBME Bank Ltd.

As of July 22, 2014, the date that FinCEN issued its Notice of Finding, FBME's headquarters in Tanzania was widely regarded as the largest bank in Tanzania based on its $2 billion asset size, despite having only four Tanzania-based branches. While FBME is presently headquartered in Tanzania, as of July 2014, FBME transacted over 90 percent of its global banking business and held over 90 percent of its assets in its Cyprus branch. FBME has long maintained a significant presence in Cyprus.

II. FinCEN's Section 311 Rulemaking Regarding FBME

A. The 2014 Notice of Finding and Notice of Proposed Rulemaking

In a Notice of Finding (NOF) published in the **Federal Register** on July 22, 2014, FinCEN explained its finding that reasonable grounds exist for concluding that FBME is a financial institution of primary money laundering concern pursuant to 31 U.S.C. 5318A.[1] FinCEN's NOF identified two main areas of concern: (1) FBME's facilitation of money laundering, terrorist financing, transnational organized crime, fraud schemes, sanctions evasion, weapons proliferation, corruption by politically-exposed persons, and other financial crime, and (2) FBME's weak AML controls, which allowed its customers to perform a significant volume of obscured transactions and activities through the U.S. financial system. In particular, FinCEN found that FBME had been used to facilitate this illicit activity internationally and through the U.S. financial system, and attracted high-risk shell companies (*i.e.,* entities that typically have no physical presence other than a mailing address, and generate little to no independent economic value). As described in the NOF, FBME performed a significant volume of transactions and activities that had little or no transparency with regard to customer information and often no apparent legitimate business purpose. Such lack of transparency makes it difficult for U.S. and other financial institutions, as well as law enforcement, to detect illicit activity.

As detailed in the NOF, illicit activities involving FBME included: (1) An FBME customer's receipt of a deposit of hundreds of thousands of dollars from a financier for Lebanese Hezbollah; (2) providing financial services to a financial advisor for a major transnational organized crime figure; (3) FBME's facilitation of funds transfers to an FBME account involved in fraud against a U.S. person, with the FBME customer operating the alleged fraud scheme later being indicted in the United States District Court for the Northern District of Ohio; and (4) FBME's facilitation of U.S. sanctions evasion through its extensive customer base of shell companies, including at least one FBME customer that was a front company for a U.S.-sanctioned Syrian entity, the Scientific Studies and Research Center (SSRC), which used its FBME account to process transactions through the U.S. financial system.

On the same day it published the NOF, FinCEN also published in the **Federal Register** a related Notice of Proposed Rulemaking (NPRM) proposing the imposition of a prohibition on U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, FBME.[2] On July 29, 2015, after considering comments and other information available to FinCEN, including both public and non-public information, FinCEN finalized the rule, to take effect on August 28, 2015.[3]

B. Re-Opening of the Comment Period

Following the publication of the rule in the **Federal Register**, on August 7, 2015, FBME filed suit in the United States District Court for the District of Columbia, seeking a preliminary injunction against the final rule. On August 27, 2015, the court granted FBME's motion for preliminary injunction and enjoined the rule from taking effect.[4] In its order, the court held that FBME was likely to succeed on the merits of two of its claims: (1) That FinCEN had provided insufficient notice of unclassified, non-protected information on which it relied during the rulemaking proceedings, and (2) that FinCEN had failed to adequately consider at least one potentially significant, viable, and obvious alternative to the special measure it had imposed.[5]

On November 6, 2015, the court granted FinCEN's motion for voluntary remand so that FinCEN could engage in further rulemaking to address the procedural issues identified by the court. On November 27, 2015, FinCEN published in the **Federal Register** a Notice to re-open the final rule for 60 days to solicit additional comments in connection with the rulemaking, particularly with respect to the unclassified, non-protected documents

[1] *See* 79 FR 42639 (July 22, 2014).

[2] 79 FR 42486 (July 22, 2014) (RIN 1506–AB27).

[3] 80 FR 45057 (July 29, 2015) (RIN 1506–AB27).

[4] *FBME Bank Ltd.* v. *Lew,* No. 1:15–cv–01270 (CRC), 2015 WL 5081209 (D.D.C. Aug. 27, 2015).

[5] *Id.* at *5.

that supported the rulemaking, and whether any alternatives to the prohibition on the opening or maintaining of correspondent accounts for FBME would effectively mitigate the money laundering and terrorist financing risks associated with FBME. FinCEN also made available for comment on *www.regulations.gov* the unclassified, non-protected material that FinCEN considered and intended to rely upon during the rulemaking proceeding. The re-opened comment period closed on January 26, 2016.

III. FBME Developments

This section outlines steps taken by FBME's relevant banking regulators in FBME's jurisdictions of operation following FinCEN's announcement of its NOF and NPRM.

On July 21, 2014, the Central Bank of Cyprus (CBC), under authority of the Cyprus Resolution Act, issued a decree announcing that it would formally place FBME's Cyprus branch ''under resolution'' and appoint a Special Administrator to protect the bank's depositors. On December 21, 2015, the CBC announced that it is considering the withdrawal of FBME's license to operate the branch in Cyprus; however, there is litigation pending between FBME and the CBC.

On July 24, 2014, the Bank of Tanzania (BoT) appointed a statutory manager over FBME's headquarters in Tanzania to ensure sound operations of the bank in order to restore and maintain confidence of depositors and the general public; to ensure the safety of bank assets; and to execute duties in accordance with the prevailing laws and regulations, guidelines, and directives issued by the BoT.

IV. Summary of FinCEN's Ongoing Concerns Regarding FBME

After considering comments from FBME and the public as well as other information available to the agency, including both public and non-public information, FinCEN is issuing this rule imposing a prohibition on U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, FBME. The information available to FinCEN [6] provides reason to conclude that FBME's AML compliance efforts remain inadequate to address the risks posed by FBME, and that FBME continues to facilitate illicit financial activity. Because of the ongoing money laundering and terrorist financing concerns that FinCEN has regarding FBME, FinCEN finds that FBME continues to be a financial institution of primary money laundering concern.

As described in Part V, audits of FBME's Cyprus branch performed by third parties in 2013 and 2014 that FBME provided to FinCEN to demonstrate the effectiveness of its AML compliance program instead identified significant, recurring weaknesses in FBME's compliance program. Indeed, one of the third party auditors identified several deficiencies as being of high or medium significance. These deficiencies, which FinCEN has reason to conclude have continued since the issuance of the NOF, facilitate the illicit financial activities of FBME's customers.

Furthermore, FinCEN notes that these audits only address the bank's Cyprus branch. As defined in the NOF and NPRM, FinCEN's finding that FBME is of primary money laundering concern identified the entire bank, to include its headquarters in Tanzania and its other branches, offices, and subsidiaries.

Also, as discussed below, the CBC's identification of ''serious and systemic'' AML deficiencies at FBME following an AML examination of the bank's Cyprus branch in 2014, as well as the CBC's findings since the issuance of the NOF and NPRM, reinforce and corroborate FinCEN's concerns regarding the money laundering and terrorist financing risks associated with FBME.

FinCEN also concludes that FBME has sought to evade AML regulations and has ignored the CBC's AML directives. As noted in FinCEN's NOF, FBME was recognized by its high-risk customers for its ease of use. FBME even advertised the bank to its potential customer base as being willing to facilitate the evasion of AML regulations. FBME's Cyprus branch also ignored instructions from its AML regulator, the CBC, to remedy AML deficiencies specifically identified by the CBC. In addition, in late 2014, FBME employees took various measures to obscure information. FinCEN finds this behavior may have been part of an effort to reduce scrutiny over FBME's operations following the issuance of the NOF and increased regulatory scrutiny. Moreover, FinCEN is concerned that terrorist financing activity involving the bank has continued beyond publication of the NOF. As of early 2015, an alleged Hezbollah associate and the Tanzanian company he managed owned accounts at FBME. And this is not the first episode of the bank's involvement in financial activity possibly connected to Hezbollah. As discussed in the NOF, in 2008, an FBME customer received a deposit of hundreds of thousands of dollars from a financier for Hezbollah.

The CBC's AML Examination of FBME's Cyprus Branch

As described in the NOF, FinCEN had reasonable grounds to find FBME to be of primary money laundering concern because, among other things, the bank's AML controls encouraged use of the bank by high-risk customers, and the bank conducted a significant volume of transactions and activities with little or no transparency and often with no apparent legitimate business purpose. The CBC independently identified many of these same concerns during an on-site AML examination of FBME's Cyprus branch conducted from June to September 2014.[7]

In a September 18, 2015 letter to the Special Administrator of FBME's Cyprus branch regarding that examination,[8] the CBC found, among other things, that FBME (1) failed to apply enhanced due diligence to high-risk customers; (2) allowed customers to use FBME's physical address in wire transfers in lieu of the customers' true addresses, thus obscuring key transactional details that U.S. and other financial institutions need to conduct appropriate AML screening; (3) failed to adequately assess its own money laundering and terrorist financing risk, thus hindering the bank's ability to mitigate those risks; (4) accepted false beneficial ownership information for high-risk customers; and (5) maintained incomplete customer due diligence information and failed to update and review customer files.

In sum, according to the September 18, 2015 letter, the CBC identified ''serious and systemic'' AML failures—failures to comply with applicable AML laws that resulted in an ''inadequate and ineffective'' AML system. The CBC fined FBME €1.2 million in December 2015 for these AML deficiencies. These deficiencies contributed to the CBC's

[6] As contemplated by Section 311, FinCEN's determinations that FBME is of primary money laundering concern and the appropriate special measure to address that concern are based on unclassified information provided to the public as well as classified or otherwise-protected materials. This final rule necessarily describes only the record information made available to the public or authorized to be publicly released.

[7] That examination sought to evaluate FBME's Cyprus branch for compliance with the provisions of Part VIII of the Prevention and Suppression of Money Laundering Activities Law of 2007, the Directive issued by the CBC for the Prevention of Money Laundering and Terrorist Financing in December 2013, and the provisions of Regulation 1781/2006 of the European Parliament and of the Council of November 15, 2006 regarding information related to funds transfer information.

[8] FBME provided this letter to FinCEN as Exhibit 41 to its January 26, 2016 comment. FBME also included, as Exhibit 41a to its comment, a letter from the bank to the CBC, dated September 28, 2015, in which it raised issues regarding the conclusions set forth in the CBC's September 18, 2015 letter.

conclusion that the lack of robust AML controls at FBME's Cyprus branch increases the risk that the branch's services can be used by criminals for the purpose of money laundering and/or terrorist financing. FinCEN shares this concern.

Banks with weak AML controls, like FBME, can become a magnet for illicit actors seeking to hide their identity and the illicit nature of their activities. Indeed, the illicit activity at FBME, including holding an account for an alleged Hezbollah associate and the Tanzanian company he managed, illustrates this vulnerability. Protecting the United States from such illicit financial activity requires FinCEN to ensure that banks with severely deficient AML controls, like FBME, do not have access to the U.S. financial system.

As part of its January 26, 2016 comment, FBME included responses to the CBC's conclusions, which FinCEN reviewed as part of its evaluation of whether FBME remains of primary money laundering concern. FBME's responses generally consisted of arguments that the CBC misinterpreted FBME's banking records or Cypriot regulations, that other Cypriot banks were as non-compliant with certain AML provisions as FBME, or expressed general disagreement with the CBC's conclusion. After a thorough point-by-point review of the deficiencies identified by the CBC and FBME's responses, FinCEN found FBME's responses to be neither persuasive nor sufficient to alleviate FinCEN's concerns surrounding FBME's AML deficiencies. For example, although FBME disputed the CBC's findings that the bank failed to maintain sufficiently comprehensive and up-to-date files on its customers, FinCEN notes that in some cases FBME conceded that the CBC's findings were correct. Further, FinCEN remains troubled by the fact that as of June 2014, FBME had completed its review of only three percent of its high-risk customer files. As another example, FBME accepted false identifying information regarding beneficial ownership of FBME customers who it should have known were high-risk. FBME contended that valid confidentiality concerns existed and that accepting the false information did not impede the application of enhanced due diligence measures. FinCEN, however, agrees with the CBC's assessment that excluding certain relevant information on customer forms prevented FBME from adequately identifying and mitigating money laundering risks.

V. Consideration of Comments

Following the issuance of the July 22, 2014, NOF and NPRM, FinCEN opened a comment period that closed on September 22, 2014. FinCEN re-opened the comment period on November 27, 2015, following the court's order granting the government's motion for a voluntary remand to allow for further rulemaking. That comment period closed on January 26, 2016. FinCEN first addresses the comments received from FBME and then addresses the other comments received.

A. Comments Received From FBME

1. FBME's September 22, 2014 Comment and Additional Submissions Regarding the Notice of Finding and Proposed Rulemaking

FBME, through its counsel, submitted a comment dated September 22, 2014. FBME made six additional submissions of information related to that comment. FinCEN reviewed and considered each of these submissions in drafting this final rule.

FBME's September 22, 2014 comment consists of an introduction followed by two major sections. In its introduction, FBME makes six key points.

- First, FBME states that its AML compliance program policies are in line with applicable requirements, including the requirements of the European Union's Third Money Laundering Directive and the CBC's Fourth Directive. FBME contends that this alignment has been the case since at least 2013, according to third party audits.
- Second, FBME states that, in response to recommendations made as a result of audits conducted by Ernst & Young (EY) in 2011 and KPMG in 2013, FBME substantially strengthened its compliance program between 2012 and 2014.
- Third, FBME states that FBME and its officers and directors do not condone the use of FBME for illicit purposes and strive to prevent such misuse.
- Fourth, FBME contends that some of the statements made in the NOF are incorrect or are based on incomplete information, which FBME also describes in the second section of its comment.
- Fifth, FBME states that, in some cases, FBME filed Suspicious Transaction Reports (STRs) with the Cypriot Financial Intelligence Unit (MOKAS) on activity described in the NOF and NPRM.
- Sixth, FBME claims that the NOF and NPRM have had a significant adverse impact on FBME and its customers.

The first section of FBME's September 22, 2014 comment then describes aspects of its AML compliance program, and the second section responds to statements made in the NOF that FBME asserts are inaccurate or based on incomplete information.[9]

FBME's AML Program

With regard to FBME's first and second points, *i.e.,* FBME's contention that its AML compliance program policies are in line with applicable requirements and that it has substantially strengthened its compliance program, the KPMG and EY audits that FBME provided to FinCEN show a pattern of recurring AML deficiencies at the bank. FBME has asserted that it continued to make improvements, but FBME has not provided meaningful information to support these assertions. These deficiencies included failures to maintain adequate customer identification files and other customer due diligence weaknesses, failure to ensure that third parties the bank relied on to establish new customer relationships employed appropriate AML controls with regard to such persons, and issues with sanctions-related screening.

According to FBME's September 22, 2014 comment, EY conducted an audit in 2011 (the EY 2011 Audit). During that audit, according to FBME, EY found that FBME's due diligence procedures with respect to obtaining information from new clients met the requirements of the CBC Directive at the time, but also noted that some customer information requirements of the Directive had not been fully met by FBME in previous iterations of its AML procedures and policies. According to FBME's comment, EY conducted another audit in 2014 (the EY 2014 Audit), which found that, although FBME had an AML compliance program in place that incorporated the requirements of both the CBC Fourth Directive and the European Union Third Directive, FBME nevertheless had deficiencies in its

[9] In this final rule, FinCEN focuses its response on the six points in the introduction, which summarize FBME's concerns with the NOF and NPRM. In responding to the first three points of FBME's introduction, FinCEN addresses the first section of FBME's comment because the first three points of FBME's introduction and the first section of FBME's comment all refer to FBME's AML compliance program, its policies, audits conducted by third parties, and FBME's management. In responding to the fourth point of FBME's introduction, FinCEN addresses the second section of FBME's comment because both the fourth point of the introduction and the second section of the comment refer to the same statements in the NOF that FBME asserts are inaccurate or based on incomplete information.

customer due diligence, automated alerts system, and AML training areas.

According to FBME's September 22, 2014 comment, KPMG also conducted an audit in 2013 (the KPMG 2013 Audit) which found that FBME ''basically fulfills'' the AML regulatory requirements of the CBC and the European Union, but also identified issues of ''high or medium'' significance with FBME's use of Approved Third Parties and FBME's sanction screening procedures. As FBME stated in its September 22, 2014 comment, FBME uses its relationships with Approved Third Parties (a person authorized by a bank to introduce new customers to the bank), some of which are in foreign jurisdictions, to develop potential new customer relationships. According to the KPMG 2013 Audit, FBME had never attempted to ensure the adequacy of its Approved Third Parties' AML measures. In addition, the KPMG 2013 Audit found that FBME only screened the related parties of its Approved Third Parties when the customers were initially onboarded.

The KPMG 2013 Audit also found FBME's customer due diligence procedures to be deficient. As FBME disclosed in its September 22, 2014 comment, in its 2013 audit, KPMG recommended better presentation of ownership information to demonstrate links between group entities for older customers, in line with a new structure that had been introduced for new customers. KPMG also found that certain customer files reviewed did not have sufficient information to gain a complete understanding of the customers' activities or business rationale. In its 2013 audit, KPMG further found that FBME's use of hold-mail accounts (a service that allowed a number of customers to keep their mail within the branch and use the branch's address in payment messages for the transfer of funds) and post office boxes managed by Approved Third Parties should be reconsidered by FBME in order to avoid potential anonymization.

The EY 2014 Audit identified numerous deficiencies in FBME's compliance program. Specifically, the EY 2014 Audit made the following recommendations: Consistently documenting the efforts taken to verify the sources of funds and business purpose of accounts from prospective customers; more thoroughly investigating relationships among FBME customers, especially when inordinate volumes of internal transfers are identified; modifying FBME's periodic customer due diligence process to align with industry practices (*e.g.,* moving to a rolling 12 or 36-month review cycle, depending on the customer's risk); implementing an automated case management system to record the alerts generated, stage of investigation, and ultimate disposition of the alerts generated by FBME's screening software, as opposed to the current process of manually entering the alerts/outcome on several different spreadsheets; and more thoroughly documenting the AML/sanctions training given for new hires and providing general awareness training to all employees on an annual basis.

The numerous AML compliance program deficiencies described in the KPMG 2013 Audit and the EY 2014 Audit in particular are similar to AML deficiencies FinCEN identified in the NOF. As FBME acknowledged in its September 22, 2014 comment, in 2010, the CBC fined FBME for customer identification, due diligence, and automated monitoring deficiencies. According to the KPMG 2013 Audit, FBME also undertook an extensive Know Your Customer (KYC) remediation project from 2009 through 2011 that was ordered by the CBC and resulted in the closure of thousands of FBME accounts. Despite this remediation project, the CBC identified deficiencies in the customer due diligence controls at the Cypriot branch during its 2014 AML audit. Also, the CBC fined FBME €1.2 million in December 2015 for AML deficiencies.

Finally, FBME's argument that its AML compliance program is now adequate is weakened by the list of illicit actors identified in the NOF that continued to make use of FBME as recently as 2014, including narcotics traffickers, terrorist financiers, and organized crime figures. In addition, as of early 2015, an alleged Hezbollah associate and the Tanzanian company he managed owned accounts at FBME.

FBME's Management

With regard to FBME's third point, *i.e.,* FBME's contention that FBME and its officers and directors do not condone the use of FBME for illicit purposes, FinCEN has no reason to believe that FBME's leadership has changed after issuance of the NOF. Given that FinCEN has reason to believe that illicit activity occurred at FBME after the NOF, FinCEN has no reason to believe that management has modified its practices and FBME has not provided information to support such a conclusion.

Alleged Errors in the Notice of Finding

With regard to FBME's fourth point, *i.e.,* where FBME has argued that portions of the eight statements in the NOF were incorrect or based on incomplete information, FBME submitted on December 5, 2014 a report prepared by EY (2014 EY Transaction Review) that specifically examined the concerns that FinCEN identified in the NOF and NPRM. The 2014 EY Transaction Review in some cases partially identified the activity of concern, and as noted below, failed to identify the activity of concern, or identified additional illicit financial activity that FinCEN has not previously identified. After a careful consideration of the public and non-public information available to FinCEN, including the 2014 EY Transaction Review, FinCEN continues to believe that the concerns identified in the NOF remain valid and accurate.

FinCEN amended the NOF based on these comments in the final rule issued on July 29, 2015 that was subsequently enjoined by the court. In the first case, FBME stated that it was not fined by the CBC in 2008, but that the CBC imposed an administrative fine on FBME in 2010. FinCEN agrees that the fine in question was imposed in 2010, not in 2008.

In the second case, FBME argued that the report that FBME may have been subject to a fine of up to €240 million is from a November 2013 article in the Cypriot press that relied on anonymous sources at the CBC. FinCEN agrees that the source of this statement was an article that appeared in the Cypriot press that referenced statements by a CBC official speaking anonymously. Neither of these two cases, nor any of FBME's remaining claims of incompleteness and factual inaccuracy, present any new information that would undercut the accuracy of the other information presented in the NOF.

FBME's Filing of STRs

With regard to FBME's fifth point, *i.e.,* FBME's assertion that it filed STRs with MOKAS on activity described in the NOF and NPRM, FinCEN notes that the filing of STRs on suspicious activities or transactions by a financial institution is not, taken in isolation, an adequate indicator of the robustness and comprehensiveness of a compliance program. Moreover, filing STRs does not excuse a financial institution's failure to adequately implement other areas of its AML program, such as, for example, customer due diligence procedures.

Adverse Impact on FBME and Its Customers

FBME claims in its sixth point that the NOF and NPRM have had a significant adverse impact on FBME and its customers. As part of FinCEN's consideration of the statutory factors supporting its imposition of a

prohibition under the fifth special measure, FinCEN has considered ''the extent to which the action or the timing of the action would have a significant adverse systemic impact on . . . legitimate business activities involving'' FBME.[10] This factor is discussed in the NOF and Part VI, Section A(3) below.

In addition to its public comment, FBME submitted supplemental information regarding FBME's policies and procedures, along with reports of the audits conducted by KPMG in 2013 and EY in 2014. Many of these submissions are addressed elsewhere in this final rule. FinCEN has considered these materials, which outline some of the steps that FBME may have taken to strengthen its compliance program. Although FBME claims that it took steps to address some of the obvious deficiencies in its AML controls, it failed to correct other deficiencies and it continues to pose a significant risk. After reviewing and considering these and other public and non-public materials, FinCEN concludes that, except as acknowledged in this final rule, the statements made in the NOF remain accurate.

2. FBME's January 26, 2016 Comment on the Re-Opened Rulemaking

FBME submitted a comment on January 26, 2016, during the re-opened comment period. Set forth below are the key points raised in this comment and FinCEN's responses.[11]

First, FBME argues that the procedures FinCEN followed in connection with the proposed rule are unconstitutional and unlawful. Specifically, FBME asserts that (1) FinCEN failed to provide FBME with meaningful notice and opportunity to confront evidence against it; (2) FBME is entitled to a neutral arbiter; and (3) FBME has a right to a hearing.

The procedures used by FinCEN are constitutional and lawful. FinCEN provided FBME with meaningful notice and opportunity to confront the evidence against it. Although FBME argues that FinCEN should not be able to rely on ''secret'' evidence, as previously noted, FinCEN disclosed all of the unclassified, non-protected information that it relied upon or otherwise considered during the rulemaking. FinCEN did not disclose information that is classified or otherwise protected from disclosure, and the law does not require that it do so. As for the due process argument, the process that FinCEN has undertaken is consistent with the Constitution and the Administrative Procedure Act (APA). Section 311 expressly provides for the reliance on classified information in making findings of primary money laundering concern and provides that such information will be submitted to the court ex parte and in camera. The BSA expressly protects from disclosure information to include Suspicious Activity Reports (SARs) to protect reporting financial institutions and their employees, and to encourage honest and open reporting of suspicious activity. FinCEN's use of SARs is more fully discussed later in this rule.

FinCEN engaged in a fully interactive process with FBME. It accepted and considered multiple submissions of information from FBME that sought to rebut or otherwise address the agency's findings, and participated in an active, long-running dialogue with the bank's counsel regarding the finding and the NPRM. Ultimately, after reviewing the bank's submissions, as well as additional information obtained from various non-public sources, FinCEN exercised its discretion in determining that reasonable grounds existed to find FBME of primary money laundering concern.

In making the finding that FBME was of primary money laundering concern, FinCEN exercised the specific grant of authority given to FinCEN by Congress and the Secretary.[12] FinCEN interpreted the relevant law and statutory provisions applicable to this exercise of authority. FinCEN exercised this authority consistent with the statute. Section 311 does not provide a right to a hearing, nor do applicable authorities allow for a neutral arbiter in making findings of primary money laundering concern. Section 311, as delegated by the Secretary, gives the authority to make such findings to FinCEN upon consultation with the Departments of State and Justice. The APA does not require otherwise for Section 311 rulemaking.

Second, FBME argues that FinCEN should not rely on information provided to it by the CBC, as the Cypriot government has consistently discriminated against FBME because it is owned by non-Cypriots and is financially stable. In support of this argument, FBME provides several examples of the CBC's alleged discrimination, including its denial of FBME's attempts to incorporate in Cyprus and other business opportunities, as well as the imposition of what FBME describes as unreasonable regulatory requirements and fines. FBME also argues that coordination between FinCEN and the CBC raises serious concerns, claiming that FinCEN and the CBC acted in concert against FBME.

As part of this rulemaking, FinCEN has reviewed a significant amount of information, including information related to fines that the CBC imposed on FBME and CBC examinations of FBME's Cyprus branch. As with any information available to the agency, FinCEN makes an independent assessment of its credibility and relevance. FinCEN assesses that the CBC is a government authority with relevant information related to the finding that FBME is of primary money laundering concern. The CBC has received positive reviews that cite the CBC's adequate monitoring of the Cypriot financial system for money laundering and terrorist financing issues from the Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism (MONEYVAL), an inter-governmental organization established to set standards and promote effective implementation of measures for combating money laundering and terrorist financing.[13]

FinCEN's consideration of information and actions related to the CBC's supervisory role over FBME is not improper and does not reflect inappropriate coordination with the CBC. Contrary to FBME's assertion, FinCEN has exercised its authority independently under Section 311 to protect the U.S. financial system.

Third, FBME argues that this administrative action is flawed for the following key reasons:

- FBME asserts that it has rebutted each of the allegations identified in FinCEN's NOF and that FinCEN did not provide any additional information supporting its finding that FBME is of primary money laundering concern since the publication of the NOF. With respect to FBME's assertion that it rebutted each of the allegations in the NOF, FinCEN disagrees and notes that it considered and addressed FBME's September 22, 2014 comment, and its supplemental submissions, and FBME's January 26, 2016 comment, which contained FBME's rebuttals to the allegations identified in FinCEN's NOF, as set forth in Part V, Section A.

[10] 31 U.S.C. 5318A(a)(4)(B)(iii).

[11] FBME also submitted an additional exhibit to its January 26, 2016 comment on January 29, 2016. FinCEN reviewed and considered this exhibit in drafting this final rule.

[12] 31 U.S.C. 5318A.

[13] Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism (MONEYVAL). ''Report of the Fourth Assessment Visit—Executive Summary: Anti-Money Laundering and the Combating of the Financing of Terrorism: CYPRUS.'' 27 Sep 2011. (last visited March 21, 2016). <*https://www.coe.int/t/dghl/monitoring/moneyval/Countries/Cyprus_en.asp*>.

Pursuant to the court's order granting FinCEN's request for a voluntary remand, the agency made publicly available all unclassified, non-protected information the agency relied upon as part of this rulemaking, including news articles regarding Italian government corruption and money laundering involving FBME, and information concerning alleged Hezbollah affiliated accounts at FBME.

- FBME contends that FinCEN ignored its assertion that FBME has an extensive AML compliance program that meets or exceeds local and European requirements. FBME also asserts that it has continued to make improvements to its AML program, as recently as January 2016. Even if FBME adopted specific policies and procedures to comply with AML requirements, FinCEN is concerned that FBME would not implement those policies and procedures given FBME's history of ignoring instructions from the CBC to improve the bank's AML controls at it Cyprus bank and its past willingness to evade AML regulations. For example, in late 2014, FBME employees took various measures to obscure information. Separately, the CBC noted in assessing a €1.2 million fine in December 2015 that FBME failed to comply with Cypriot money laundering laws and directives and European Union regulations related to funds transfers.
- FBME argues that FinCEN continues to ignore the positive conclusions reached by independent auditors and investigators concerning FBME's evolving AML practices. The EY 2014 Audit and other third party audits show a pattern of recurring AML deficiencies at FBME. This issue is addressed more fully above in Part V, Section A(1) above. As discussed, the deficiencies in FBME's AML compliance program described in the KPMG 2013 Audit and the EY 2014 Audit are similar to the AML deficiencies that FinCEN identified in the NOF, and support FinCEN's conclusion that there have been longstanding and comprehensive deficiencies in FBME's AML compliance program.
- FBME asserts that FinCEN failed to consider that FBME has promptly and consistently adopted auditors' suggestions to establish an AML compliance program that exceeds applicable legal requirements. As more fully addressed in Part V, Section A(1) above, FBME's assertion is contradicted by the findings of its third party auditors and by the CBC. FBME states that Exhibit 28 to its January 26, 2016 comment demonstrates its commitment to effective AML policies by documenting FBME's responses to, and implementation of, KPMG's recommendations in its 2013 audit to improve FBME's AML program, as of January 26, 2016. FBME also notes that Exhibit 33 to its January 26, 2016 comment details how FBME purportedly implemented the recommendations identified in the EY 2014 Audit. However, FBME does not provide any meaningful information that allows FinCEN to fully evaluate whether FBME has implemented those recommendations in the manner that FBME asserts it has. For example, according to FBME, it has purchased and implemented an onboarding platform to maintain key information regarding ultimate beneficial owners and address information for FBME customers. However, FBME did not provide meaningful information or documentation to demonstrate whether that onboarding platform satisfies EY's recommendation.
- FBME states that the allegations in FinCEN's NOF are misleading and inaccurate.
  - FBME argues that the 2014 EY Transaction Review refutes the allegations in the NOF.[14] However, FinCEN disagrees as discussed above in Part V, Section A(1).
  - FBME argues that supplemental information that FinCEN provided as part of the re-opened comment period only further undermines FinCEN's conclusions in the NOF. When FinCEN re-opened the comment period in November 2015, it provided supplemental information indicating that FBME had been used as part of a scheme involving Italian government corruption and money laundering. The money transferred to FBME in Tanzania was frozen and then sent back to Italy when the Tanzanian Financial Intelligence Unit and the BoT, which monitors foreign currency transactions, became suspicious of the activity at FBME. FBME argues that it detected the suspicious transaction, suspended the activity, returned the funds, closed the customer's accounts and all accounts related to it, and notified the Tanzanian authorities pursuant to FBME's AML policies and procedures. FinCEN notes that FBME did not provide documentation to substantiate its assertion. Regardless, the identification of a single transaction does not address FinCEN's broader concerns about FBME's systemic AML deficiencies.
  - FinCEN's NOF and NPRM found, as reflected in the administrative record, that FBME facilitated sanctions evasion on behalf of a sanctioned Syrian entity. FBME argues that FinCEN's reliance on the fact that a sanctioned individual was a customer of FBME as part of its finding that FBME was of primary money laundering concern was unjust, in part, because the customer's account had been closed or inactive since at least 2008, which FBME notes was years before the customer was sanctioned. In the 2014 EY Transaction Review, FBME identified an individual who was sanctioned by the Treasury Department's Office of Foreign Assets Control (OFAC) in 2014 for providing material support and services to the Government of Syria as an FBME customer. However, the sanctioned entity referenced in FinCEN's NOF was not the individual identified by FBME. Instead, FBME identified an additional sanctioned entity related to Syria that was also a customer of FBME.
  - FBME argues that FinCEN's use of SARs is misconceived and these reports should be made available to FBME to satisfy due process requirements. FBME argues that FinCEN does not correctly analyze SARs, that its reliance on SARs is arbitrary and capricious, that FinCEN should not rely upon SARs filed by other financial institutions, and that FinCEN's refusal to provide SARs to FBME violates due process.

FinCEN disagrees and notes that SARs, which are filed by financial institutions regarding transactions revealing a possible violation of law, are an invaluable source of information and an important tool for financial investigations. In this case, FinCEN believes that the SARs related to FBME are relevant to the finding that FBME is of primary money laundering concern when viewed in the context of all the other information considered. Multiple SARs indicate that FBME facilitated transactions on behalf of shell companies which, as stated earlier, can be an indicator of money laundering and other suspicious activity.

Regarding disclosure of SARs to FBME, the improper disclosure of SARs may cause significant risk to the filing institution and its employees. To encourage honest and open reporting of suspicious activity and to protect reporting financial institutions and their employees, the BSA and its implementing regulations impose severe restrictions on improper disclosures of SARs, and violations of these

[14] The 2014 EY Transaction Review was an evaluation of 11 statements from the NOF deemed specific enough for EY to attempt to identify and validate the relevant FBME customers, their activities, and related transactions.

restrictions may result in civil or criminal sanctions.[15]

• FBME argues that the mere fact that FBME transacted with shell or holding companies is not a basis to conclude that FBME is of primary money laundering concern. FinCEN's finding that FBME is of primary money laundering concern is not based solely on the fact that FBME transacts with shell companies, but rather is based on all of the information FinCEN considered when issuing the NOF. The formation and operation of shell companies can allow the owners of these companies to disguise their identity and purpose. With respect to FBME, FinCEN considered all of the relevant information and is particularly concerned with: (1) The large number of FBME customers that are either shell companies or that conduct transactions with shell companies; (2) the lack of transparency with respect to beneficial ownership or legitimate business purposes of many of FBME's shell company customers; (3) the location of many of its shell company customers in other high-risk money laundering jurisdictions outside of Cyprus; (4) the high volume of U.S. dollar transactions conducted by these shell companies with no apparent business purpose; and (5) FBME's longtime facilitation of its shell company customers' anonymity by allowing thousands of customers to use the bank's physical address in lieu of their own.

• FBME argues that FinCEN failed to explain why it finds FBME to be of primary money laundering concern. The NOF and this rule provide an explanation as to the basis for FinCEN's conclusion that there are reasonable grounds to find that FBME is of primary money laundering concern and to impose a special measure to address that concern.

Fourth, FBME argues that there are several alternatives to a prohibition of correspondent accounts under the fifth special measure. This issue is addressed below in Part VI.

FinCEN notes that FBME's January 26, 2016 comment includes 67 separate exhibits consisting of over 1,100 pages of documents, many of which are declarations, emails, letters, comments or information previously considered and evaluated in this record. FinCEN reviewed the exhibits as part of its consideration of FBME's comments and, if appropriate, addressed the exhibits elsewhere in this document.

B. Other Comments Received From the Public During Both Comment Periods

FinCEN received three comments in addition to the comment received from FBME during the initial comment period that opened on July 22, 2014 and closed on September 22, 2014.

FinCEN considered a comment received from the American Bankers' Association (ABA), dated September 22, 2014; a joint comment received from the Securities Industry and Financial Markets Association (SIFMA) and The Clearing House (TCH), dated September 22, 2014; and a separate comment received from SIFMA, dated September 22, 2014. FinCEN notes that these comments are procedural in nature and do not address the underlying conclusion surrounding the risk of money laundering and terrorist financing through FBME. FinCEN addresses the comments from the ABA, SIFMA, and TCH in the section-by-section analysis in Part VII below.

During the re-opened comment period that opened on November 27, 2015 and closed on January 26, 2016, in addition to FBME's comment, FinCEN received twelve comments[16] that generally raise the following issues: (1) FinCEN's purported use of unreliable, misleading, or inaccurate information to support its NOF and NPRM, (2) APA or Constitutional due process requirements, (3) concerns about the CBC's impartiality with respect to FBME, and (4) concerns that FinCEN is unfairly focusing on FBME as opposed to U.S. persons or other financial institutions. These comments are addressed below.

1. FinCEN's Purported Use of Unreliable, Misleading, or Inaccurate Information To Support Its NOF and NPRM

Multiple comments raise concerns regarding FinCEN's purported use of unreliable, misleading, or inaccurate information to support its NOF and NPRM. Multiple comments state that FinCEN's reliance on articles available on the Internet is concerning because they consider the articles unreliable sources of information.

FinCEN relies on a variety of information sources to support its rulemaking, including government-published material and press articles that may be found on the Internet. FinCEN assesses the credibility and weight to be given to Internet sources on a case-by-case basis, as it does with respect to all of its sources of information. FinCEN has continued to vet articles in the administrative record and when inaccuracies are identified, they are corrected. As discussed previously in Part V Section A(1), FinCEN corrected two inaccuracies, which FinCEN is publishing in this rule. FinCEN reviewed the remaining articles identified in these comments and finds that they provide valuable context and information about the background and history of FBME and its role in the Cypriot financial system.

2. APA and Constitutional Due Process Requirements

Multiple commenters state that FinCEN's actions violates the APA and are unconstitutional for reasons similar to those FBME asserted in its comments. FinCEN has reviewed the comments and believes the processes followed in this action were lawful and an appropriate exercise of FinCEN's authority. FinCEN notes that this issue is addressed above in Part V Section A(2) above.

3. Concerns About the CBC's Impartiality With Respect to FBME

Several commenters raise concerns with the CBC. Specifically, the commenters state that the CBC has provided FinCEN with misleading information, that CBC is incompetent, inefficient, and corrupt, and that FBME is in litigation with the CBC at the International Chamber of Commerce in Paris.

As part of this rulemaking, FinCEN has reviewed a significant amount of information, including information related to fines that the CBC imposed on FBME and CBC examinations of FBME's Cyprus branch. As with any information available to the agency, FinCEN makes an independent assessment of its credibility and relevance. FinCEN assesses that the CBC is a government authority with relevant information related to the finding that FBME is of primary money laundering concern. The CBC has received positive reviews that cite the CBC's adequate monitoring of the Cypriot financial system for money laundering and terrorist financing issues from MONEYVAL, an inter-

[15] *See* 31 U.S.C. 5318(g)(2) (prohibiting disclosure of SAR information to anyone involved in the reported transaction); 31 CFR 1020.320(e) (implementing regulation for depository institution SARs); 31 U.S.C. 5321, 5322 criminal and civil sanctions for BSA violations, including improper SAR disclosures); and 31 CFR 1010.820, 1010.840 (implementing regulations for civil and criminal penalties for BSA violations).

[16] Thirteen comments were submitted during the re-opened comment period that opened on November 27, 2015 and closed on January 26, 2016. In advance of publicly posting one of those comments received on January 18, 2016, the agency provided it to legal counsel for FBME to request redactions as appropriate. Legal counsel for FBME claimed that the comment contained privileged and confidential information and objected to the agency's consideration of that comment and to any public posting. While the agency does not concede that the comment is privileged, it has not publicly posted the comment and has not considered the comment as part of this rulemaking.

governmental organization established to set standards and promote effective implementation of measures for combating money laundering and terrorist financing.[17]

As part of this rulemaking, FinCEN reviewed a significant amount of information, to include information related to fines and audits conducted by the CBC. FinCEN's consideration of information and actions related to the CBC's supervisory role over FBME is not improper, but rather reflects FinCEN's consideration of the totality of information relevant to FBME as part of the agency's own rulemaking. FinCEN notes that this issue is also addressed above in Part V Section A(2).

4. Concerns That FinCEN Is Unfairly Focusing on FBME as Opposed to U.S. Persons or Other Financial Institutions

Three comments asserted that FinCEN treated FBME differently than other foreign financial institutions or U.S. persons and financial institutions. Specifically, the commenters identify other foreign banks involved in money laundering that were not the subject of a Section 311 rulemaking. In addition, a commenter notes that the involvement of U.S. persons and financial institutions in criminal activity was identified and questions what FinCEN has done about the criminal activity in the United States.

FinCEN may find only financial institutions operating outside of the United States to be of primary money laundering concern under Section 311. FinCEN continues to monitor for other instances of money laundering by foreign financial institutions and executes its authorities as appropriate.

VI. Imposition of Special Measure Against FBME as a Financial Institution of Primary Money Laundering Concern

As described in the NOF, NPRM, and as described in this document, FinCEN continues to find that reasonable grounds exist for concluding that FBME is a financial institution of primary money laundering concern. Based upon that finding, FinCEN is authorized to impose one or more special measures. Following the required consultations and the consideration of all relevant factors discussed in the NOF, FinCEN proposed the imposition of a prohibition under the fifth special measure in an NPRM published on July 22, 2014. The fifth special measure authorizes a prohibition against the opening or maintaining of correspondent accounts by any domestic financial institution or agency for, or on behalf of, a financial institution found to be of primary money laundering concern.

After re-opening the comment period, FinCEN considered all of the special measures, as well as measures short of a prohibition, and concluded that a prohibition under the fifth special measure is still the appropriate choice. Consistent with the finding that FBME is a financial institution of primary money laundering concern and in consideration of additional relevant factors, this final rule imposes a prohibition on the opening or maintaining of correspondent accounts by covered financial institutions for, or on behalf of, FBME under the fifth special measure. The prohibition on the opening or maintenance of correspondent accounts imposed by the fifth special measure will help guard against the money laundering and terrorist financing risks that FBME presents to the U.S. financial system as identified in the NOF, NPRM, and this final rule.

A. Discussion of Section 311 Factors

1. Whether Similar Actions Have Been or Will Be Taken by Other Nations or Multilateral Groups Against FBME

Given the interconnectedness of the global financial system, the potential for FBME to access the U.S. financial system indirectly, including through the use of nested correspondent accounts, exposes the U.S. financial system to FBME's risks. Accordingly, FinCEN concludes that it is necessary to restrict both direct and indirect access to the U.S. financial system by FBME, particularly since FinCEN does not have information suggesting that any other country has prohibited FBME from accessing its financial system in the same manner as this rule, based on the information available to FinCEN.

Moreover, despite measures that the CBC and the BoT have taken to protect the bank's depositors, FinCEN has reason to believe that those measures do not fully address the money laundering and terrorist financing risks associated with FBME. The continuation of illicit activity at the bank's Tanzanian headquarters even after the BoT appointed a statutory manager on July 24, 2014, bolsters FinCEN's concern. Specifically, in early 2015, an alleged Hezbollah associate and the Tanzanian company he managed owned accounts at FBME.

2. Whether the Imposition of the Fifth Special Measure Would Create a Significant Competitive Disadvantage, Including Any Undue Cost or Burden Associated With Compliance, for Financial Institutions Organized or Licensed in the United States

The fifth special measure imposed by this rulemaking prohibits covered financial institutions from opening or maintaining a correspondent account for, or on behalf of, FBME. As a corollary to this measure, covered financial institutions are also required to take reasonable steps to apply special due diligence, as set forth below, to all of their correspondent accounts to help ensure that no such account is being used indirectly to provide services to FBME. FinCEN does not expect the burden associated with these requirements to be significant. There is only a minimal burden involved in transmitting a onetime notice to correspondent account holders concerning the prohibition on indirectly providing services to FBME. U.S. financial institutions generally apply some level of transaction and account screening, often through the use of commercially available software. Financial institutions should, if necessary, be able to easily adapt their current screening procedures to support compliance with this final rule. Thus, the prohibition on the opening or maintenance of correspondent accounts required by this rulemaking is not expected to impose a significant additional burden upon U.S. financial institutions.

3. The Extent to Which the Action or Timing of the Action Will Have a Significant Adverse Systemic Impact on the International Payment, Clearance, and Settlement System, or on Legitimate Business Activities Involving FBME

FBME is not a major participant in the international payment system and is not relied upon by the international banking community for clearance or settlement services. Thus, the imposition of a prohibition under the fifth special measure against FBME will not have a significant adverse systemic impact on the international payment, clearance, and settlement system.

While this action could affect FBME's legitimate business activities in the jurisdictions in which it operates, FinCEN believes that the need to protect U.S. financial institutions from the money laundering and terrorist financing risks presented by FBME outweighs any of those potential effects. Also, FinCEN believes that a not insignificant amount of FBME's

[17] *See* Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism (MONEYVAL) supra note 13.

business activities are illegitimate. For example, as explained in the NOF, wire transfers related to suspected shell company activity accounted for hundreds of millions of dollars of FBME's financial activity between 2006 and 2014. In just the year from April 2013 through April 2014, FBME conducted at least $387 million in wire transfers through the U.S. financial system that had indicators of high-risk money laundering typologies, including shell company activity. FinCEN recognizes that shell companies are sometimes used for legitimate business activity, but notes that they are also commonly used on behalf of high-risk customers as vehicles to obscure transactions and launder money.

4. The Effect of the Action on United States National Security and Foreign Policy

Imposing a prohibition under the fifth special measure complements the U.S. Government's foreign policy efforts to expose and disrupt international money laundering and to encourage other nations to do the same. The United States has been a leader in combating money laundering and terrorist financing not only through action with regard to specific institutions, but also through participation in international operational and standard-setting bodies such as the Egmont Group and the Financial Action Task Force.

Excluding FBME and other banks that serve as conduits for money laundering, terrorist financing, and other financial crimes from the U.S. financial system will enhance U.S. national security by making it more difficult for terrorists, sanctions evaders, and money launderers to access the substantial resources of the U.S. financial system. As discussed in the NOF, NPRM, as well as herein, FBME facilitates money laundering, terrorist financing, transnational organized crime, fraud schemes, sanctions evasion, weapons proliferation, corruption by politically exposed persons, and other financial crimes. FinCEN is concerned that this activity, which has occurred at FBME for many years, persists. As of early 2015, an alleged Hezbollah associate and the Tanzanian company he managed owned accounts at FBME. This is not the first episode of the bank's involvement in financial activity possibly connected to Hezbollah, an organization designated by the U.S. government as a Foreign Terrorist Organization. As discussed in the NOF, in 2008, an FBME customer received a deposit of hundreds of thousands of dollars from a financier for Hezbollah.

B. Consideration of Alternatives to a Prohibition Under the Fifth Special Measure

FinCEN concludes that a prohibition under the fifth special measure is the only viable measure to protect the U.S. financial system against the money laundering and terrorist financing threats posed by FBME. In making this determination, FinCEN considered alternatives to a prohibition under the fifth special measure, including the first four special measures, imposing conditions on the opening or maintaining of correspondent accounts for, or on behalf of, FBME, and the alternatives suggested by FBME. For the reasons explained below, FinCEN concludes that none of these alternatives would sufficiently safeguard the U.S. financial system from the risks posed by FBME.

1. Special Measures One Through Four and Conditions Under the Fifth Special Measure

The first four special measures are focused on gathering additional information, and include (1) requiring additional recordkeeping and reporting of certain transactions, (2) requiring information related to beneficial ownership information, (3) requiring information related to certain payable-through accounts, and (4) requiring correspondent account customer information.[18] Also, under the fifth special measure, FinCEN can impose conditions—rather than a prohibition—on the opening or maintaining of correspondent accounts for FBME.[19]

There could be any number of conditions imposed under the fifth special measure, including those suggested by FBME in its January 26, 2016 comment. The parties responsible for assuring compliance with these conditions could include FinCEN and/or U.S. financial institutions. However, any condition, and any of the first four special measures, inherently rely on FBME to provide accurate, credible, and reliable information to the party responsible for assuring compliance. Given FBME's extensive history of AML deficiencies, including ignoring its own AML regulator's directives, and its active efforts to evade AML regulations, including advertising the bank to potential customers as being willing to facilitate the evasion of AML regulations, FinCEN has a reasonable basis to doubt the accuracy, credibility, or reliability of any information that FBME would provide in connection with compliance with any condition on the maintenance of correspondent accounts or the other four special measures available under Section 311.

Specifically, the CBC concluded that FBME's Cyprus branch failed to remedy AML weaknesses identified in previous CBC exams, despite the CBC's instructions to do so. FinCEN is also particularly concerned that FBME continued to take measures to evade regulatory oversight even after FinCEN highlighted its concerns in the NOF. In late 2014, FBME employees took various measures to obscure information. FinCEN finds this behavior may have been part of an effort to reduce scrutiny by its regulators over FBME's operations. In light of all of these factors, FinCEN is not assured that FBME will implement appropriate and necessary safeguards to ensure that it provides accurate, credible, and reliable information to the entities tasked with ensuring compliance with any alternative special measure or any condition under the fifth special measure.

Moreover, the ''serious and systemic'' AML deficiencies identified by the CBC during its 2014 AML examination of the bank's Cyprus branch inform FinCEN's concern that FBME would provide incomplete or erroneous information to FinCEN and/or U.S. financial institutions. As described above, the CBC found, in part, that FBME failed to apply enhanced due diligence to high-risk customers, allowed customers to obfuscate key identifying information and transactional details, and failed to maintain complete customer due diligence information. Accordingly, FinCEN assesses that any customer or transactional information provided by FBME would likely reflect these deficiencies.

2. Alternative Remedies Suggested by FBME

In its January 26, 2016 comment, FBME suggested multiple alternatives that it argued would be less damaging and still ensure that FBME poses no danger to the U.S. financial system. As noted above, FBME asserts that these alternatives could be conditions to FBME's eligibility to maintain correspondent accounts. To the extent that the alternatives depend on additional reporting or recordkeeping, FinCEN maintains that they would not protect the U.S. financial system from the risks posed by FBME because they would depend on FBME to provide accurate, credible, and reliable information, which FinCEN does not believe FBME will provide. As described above and as reflected in the record, FBME previously disregarded

[18] 31 U.S.C. 5318A(b)(1)–(4)

[19] 31 U.S.C. 5318A(b)(5)

the instructions of its AML regulator; engaged in opaque and suspicious money transfers; maintains deficient AML controls; and its employees took various measures to obscure information. Given this past behavior, FinCEN cannot reasonably rely on a proposed resolution that depends on FBME's candid provision of complete, credible, and accurate information.

FBME has also suggested as alternatives to a prohibition under the fifth special measure the imposition of an independent monitor to oversee and report on FBME's operations, making periodic reports to FinCEN regarding FBME's operations, placing appropriate conditions on the use of correspondent accounts, and consulting with FinCEN, or an expert chosen by FinCEN, to adopt specific and detailed policies to supplement FBME's existing compliance program. Like the first four special measures, the effectiveness of these alternatives to safeguard the U.S. financial system from the risks posed by FBME inherently depends on FBME to provide accurate, reliable, and credible information. In order for a monitor to work effectively, that monitor would have to have access to reliable, credible, and accurate customer and transactional information. But as noted above, FinCEN has a reasonable basis to doubt the accuracy, credibility or reliability of any such information provided by FBME, given FBME's history of ignoring its own AML regulator's directives and its active efforts to evade AML regulations. And with respect to FBME's suggestion to consult with FinCEN, or an expert chosen by FinCEN, to adopt specific policies and procedures, FinCEN remains concerned that FBME would not effectively implement any such policies given FBME's history of ignoring recommendations from its regulator to improve its AML controls.

FBME suggests two other alternatives that would not mitigate FinCEN's concerns regarding the bank's AML program for different reasons. FBME suggests that FinCEN should consider requiring FBME to pay a monetary fine for any historical shortcoming in FBME's AML compliance. By way of example, FBME cites to the civil money penalties that FinCEN imposed on a domestic bank and a domestic casino for violating certain U.S. AML laws. But the payment of a fine does not achieve the very purpose of the special measures available under Section 311, namely, to protect the U.S. financial system against risks posed by foreign financial institutions found to be of primary money laundering concern. Payment of a fine would not ameliorate the concerns that FinCEN has regarding FBME's deficient AML controls, which present risks to the U.S. financial system.

FBME also suggests that FinCEN require FBME to refrain from transactions that FinCEN deems most ''worrisome.'' Given the lack of transparency surrounding many of FBME's transactions, FinCEN is not confident that it would be able to identify all of the potentially ''worrisome'' transactions in which FBME might engage. And even assuming the ability to enforce such a provision, and the ability to identify these transactions, refraining from these transactions alone would not address all of the broader concerns regarding the bank's deficient AML controls.

Finally, just as none of FBME's suggested alternatives would sufficiently address FinCEN's concerns, no combination of these alternatives would do so either. Because such alternatives ultimately depend on FBME to provide accurate, reliable, and credible information, FinCEN concludes that no combination of these alternatives could overcome that fundamental deficiency.

In its January 26, 2016 comment, FBME also compares this matter to FinCEN's Section 311 action regarding Multibanka, a Latvia-based bank. In that matter, FinCEN withdrew a finding and an NPRM proposing the fifth special measure prohibiting the opening or maintaining of correspondent accounts for, or on behalf of, Multibanka after the bank took certain remedial measures to address FinCEN's concerns.[20] FBME argues that FinCEN should similarly withdraw the NPRM here.

FinCEN determines the appropriate outcome of a Section 311 action on a case-by-case basis. The matter of Multibanka is not analogous to the one here. At the time FinCEN withdrew the finding and NPRM regarding Multibanka, the bank had significantly revised its AML policies and procedures, and importantly, FinCEN found that Multibanka was working to ensure that its improved AML procedures were ''translated effectively into practice.'' [21] In contrast, FBME has not demonstrated any AML improvements with respect to its headquarters in Tanzania. And with respect to FBME's Cyprus branch, FinCEN remains concerned that FBME would not effectively implement new AML policies and procedures given FBME's history of ignoring instructions from its AML regulator and its past willingness to actively evade AML regulations. Indeed, because of the serious concerns that FinCEN has about FBME, as described in this document, FinCEN finds that FBME continues to be a financial institution of primary money laundering concern.

As in other cases, FinCEN will continue to assess developments with respect to FBME, its regulators, and the jurisdictions in which it operates in determining whether it remains of primary money laundering concern.

VII. Section-by-Section Analysis for Imposition of a Prohibition Under the Fifth Special Measure

A. 1010.658(a)—Definitions

1. FBME

Section 1010.658(a)(1) of the rule defines FBME to include all branches, offices, and subsidiaries of FBME operating in any jurisdiction, including Tanzania and Cyprus. Financial institutions should take commercially reasonable measures to determine whether a customer is a branch, office, or subsidiary of FBME. Currently, FBME's bank branches are located in Tanzania and Cyprus, with a representative office in Moscow, Russian Federation.

SIFMA, TCH, and the ABA noted that it would be useful for FinCEN to provide a list of FBME's subsidiaries; however, because subsidiary relationships can change frequently, covered financial institutions should use commercially-reasonable tools to determine the current subsidiaries of FBME.

2. Correspondent Account

Section 1010.658(a)(2) of the rule defines the term ''correspondent account'' by reference to the definition contained in 31 CFR 1010.605(c)(1)(ii). Section 1010.605(c)(1)(ii) defines a correspondent account to mean an account established to receive deposits from, or make payments or other disbursements on behalf of, a foreign bank, or to handle other financial transactions related to the foreign bank. Under this definition, ''payable through accounts'' are a type of correspondent account.

In the case of a U.S. depository institution, this broad definition includes most types of banking relationships between a U.S. depository institution and a foreign bank that are established to provide regular services, dealings, and other financial transactions, including a demand deposit, savings deposit, or other transaction or asset account, and a credit account or other extension of credit. FinCEN is using the same

[20] 71 FR 39,606.

[21] *Id.*

definition of ''account'' for purposes of this rule as was established for depository institutions in the final rule implementing the provisions of Section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.[22]

In the case of securities broker-dealers, futures commission merchants, introducing brokers-commodities, and investment companies that are open-end companies (mutual funds), FinCEN is also using the same definition of ''account'' for purposes of this rule as was established for these entities in the final rule implementing the provisions of Section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.[23]

3. Covered Financial Institution

Section 1010.658(a)(3) of the rule defines ''covered financial institution'' with the same definition used in the final rule implementing Section 312 of the USA PATRIOT Act,[24] which, in general, includes the following:

- An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));
- A commercial bank;
- An agency or branch of a foreign bank in the United States;
- A Federally insured credit union;
- A savings association;
- a corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611);
- A trust bank or trust company;
- A broker or dealer in securities;
- A futures commission merchant or an introducing broker-commodities; and
- A mutual fund.

4. Subsidiary

Section 1010.658(a)(4) of the rule defines ''subsidiary'' as a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

B. 1010.658(b)—Requirements for Covered Financial Institutions With Regard to the Fifth Special Measure

For purposes of complying with the final rule's prohibition on the opening or maintaining in the United States of correspondent accounts for, or on behalf of, FBME, covered financial institutions should take such steps as a reasonable and prudent financial institution would take to protect itself from loan or other fraud or loss based on misidentification of a person's status.

C. Prohibition on Opening or Maintaining Correspondent Accounts

Section 1010.658(b)(1) of the rule imposing the fifth special measure prohibits all covered financial institutions from opening or maintaining a correspondent account in the United States for, or on behalf of, FBME.

The prohibition requires all covered financial institutions to review their account records to ensure that they maintain no accounts directly for, or on behalf of, FBME.

D. Special Due Diligence of Correspondent Accounts To Prohibit Indirect Use

As a corollary to the prohibition on opening or maintaining correspondent accounts directly for FBME, section 1010.658(b)(2) of the rule imposing a prohibition under the fifth special measure requires a covered financial institution to apply special due diligence to its correspondent accounts that is reasonably designed to guard against processing transactions involving FBME. As part of that special due diligence, covered financial institutions must notify those foreign correspondent account holders that covered financial institutions know or have reason to know provide services to FBME that such correspondents may not provide FBME with access to the correspondent account maintained at the covered financial institution. Covered financial institutions should implement appropriate risk-based procedures to identify transactions involving FBME.

A covered financial institution may satisfy the notification requirement by transmitting the following notice to its foreign correspondent account holders that it knows or has reason to know provide services to FBME:

> Notice: Pursuant to U.S. regulations issued under Section 311 of the USA PATRIOT Act, *see* 31 CFR 1010.658, we are prohibited from opening or maintaining a correspondent account for, or on behalf of, FBME Bank, Ltd., or any of its branches, offices or subsidiaries. The regulations also require us to notify you that you may not provide FBME Bank, Ltd., or any of its branches, offices or subsidiaries with access to the correspondent account you hold at our financial institution. If we become aware that the correspondent account you hold at our financial institution has processed any transactions involving FBME Bank, Ltd., or any of its branches, offices or subsidiaries, we will be required to take appropriate steps to prevent such access, including terminating your account.

A covered financial institution may, for example, have knowledge through transaction screening software that a correspondent account processes transactions for FBME. The purpose of the notice requirement is to aid cooperation with correspondent account holders in preventing transactions involving FBME from accessing the U.S. financial system. However, FinCEN would not require or expect a covered financial institution to obtain a certification from any of its correspondent account holders that access will not be provided to comply with this notice requirement. Instead, methods of compliance with the notice requirement could include, for example, transmitting a one-time notice by mail, fax, or email to appropriate correspondent account holders of the covered financial institution, informing them that they may not provide FBME with access to the covered financial institution's correspondent account, or including such information in the next regularly occurring transmittal from the covered financial institution to those correspondent account holders.

In its comment to the NPRM, SIFMA requested reconsideration of the notice provision, specifically regarding the meaning of ''one-time notice,'' and further objected to the requirement to send such a notice as overly burdensome and possibly duplicative. SIFMA also requested further clarification with regard to the timing of the required notice. FinCEN emphasizes that the scope of the notice requirement is targeted toward those correspondent account holders that the covered financial institution knows or has reason to know provide services to FBME, not to all correspondent account holders. The term ''one-time notice'' means that a financial institution should provide notice to all existing correspondent account holders who the covered financial institution knows or has reason to know provide services to FBME, within a reasonably short time after this final rule is published, and to new correspondent account holders during the account opening process who the covered financial institution knows or has reason to know provide services to FBME. It is not necessary for the notice to be provided in any particular form. It may be provided electronically, orally (with documentation), or as part of the standard paperwork involved in opening or maintaining a correspondent account. Given the limited nature of FBME's correspondent relationships, FinCEN does not expect this requirement to be burdensome.

A covered financial institution is also required to take reasonable steps to identify any indirect use of its correspondent accounts by FBME, to the extent that such indirect use can be

[22] *See* 31 CFR 1010.605(c)(2)(i).

[23] *See* 31 CFR 1010.605(c)(2)(ii)-(iv).

[24] *See* 31 CFR 1010.605(e)(1).

determined from transactional records maintained by the covered financial institution in the normal course of business. Covered financial institutions are expected to apply an appropriate screening mechanism to be able to identify a funds transfer order that on its face lists FBME as the financial institution of the originator or beneficiary, or otherwise references FBME. An appropriate screening mechanism could be the mechanism used by a covered financial institution to comply with various legal requirements, such as the commercially available software programs used to comply with the economic sanctions programs administered by the Office of Foreign Assets Control (OFAC).

Notifying certain correspondent account holders and taking reasonable steps to identify any indirect use of its correspondent accounts by FBME in the manner discussed above are the minimum due diligence requirements under the rule imposing a prohibition under the fifth special measure. Beyond these minimum steps, a covered financial institution must adopt a risk-based approach for determining what, if any, additional due diligence measures are appropriate to guard against the risk of indirect use of its correspondent accounts by FBME, based on risk factors such as the type of services it offers and the geographic locations of its correspondent account holders.

Under this rule imposing a prohibition under the fifth special measure, a covered financial institution that obtains knowledge that a correspondent account is being used by a foreign bank to provide indirect access to FBME must take all appropriate steps to prevent such indirect access, including the notification of its correspondent account holder per section 1010.658(b)(2)(i)(A) and, where necessary, terminating the correspondent account. A covered financial institution may afford the foreign bank a reasonable opportunity to take corrective action prior to terminating the correspondent account. Should the foreign bank refuse to comply, or if the covered financial institution cannot obtain adequate assurances that the account will no longer be available to FBME, the covered financial institution must terminate the account within a commercially reasonable time. This means that the covered financial institution may not permit the foreign bank to establish any new positions or execute any transactions through the account, other than those necessary to close the account. A covered financial institution may reestablish an account closed under the rule if it determines that the account will not be used to provide banking services indirectly to FBME.

E. Reporting Not Required

Section 1010.658(b)(3) of the rule imposing a prohibition under the fifth special measure clarifies that the rule does not impose any reporting requirement upon any covered financial institution that is not otherwise required by applicable law or regulation. A covered financial institution must, however, document its compliance with the requirement that it notify those correspondent account holders that the covered financial institution knows or has reason to know provide services to FBME, that such correspondents may not process any transaction involving FBME through the correspondent account maintained at the covered financial institution.

VIII. Regulatory Flexibility Act

When an agency issues a final rule, the Regulatory Flexibility Act (RFA) requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' that will ''describe the impact of the final rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the final rule is not expected to have a significant economic impact on a substantial number of small entities.

A. Proposal to Prohibit Covered Financial Institutions From Opening or Maintaining Correspondent Accounts With Certain Foreign Banks Under the Fifth Special Measure

1. Estimate of the Number of Small Entities to Whom the Proposed Fifth Special Measure Will Apply

For purposes of the RFA, both banks and credit unions are considered small entities if they have less than $550,000,000 in assets.[25] Of the estimated 6,192 banks, 80 percent have less than $550,000,000 in assets and are considered small entities.[26] Of the estimated 6,021 credit unions, 92.5 percent have less than $550,000,000 in assets.[27]

Broker-dealers are defined in 31 CFR 1010.100(h) as those broker-dealers required to register with the Securities and Exchange Commission (SEC). Because FinCEN and the SEC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the Small Business Administration (SBA). The SEC has defined the term small entity to mean a broker or dealer that: (1) Had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements, were prepared pursuant to Rule 17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated debt) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this release.[28] Based on SEC estimates, 17 percent of broker-dealers are classified as small entities for purposes of the RFA.[29]

Futures commission merchants (FCMs) are defined in 31 CFR 1010.100(x) as those FCMs that are registered or required to be registered as a FCM with the Commodity Futures Trading Commission (CFTC) under the Commodity Exchange Act (CEA), except persons who register pursuant to section 4f(a)(2) of the CEA, 7 U.S.C. 6f(a)(2). Because FinCEN and the CFTC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the CFTC's definition of small business as previously submitted to the SBA. In the CFTC's ''Policy Statement and Establishment of Definitions of 'Small Entities' for Purposes of the Regulatory Flexibility Act,'' the CFTC concluded that registered FCMs should not be considered to be small entities for purposes of the RFA.[30] The CFTC's determination in this regard was based, in part, upon the obligation of registered FCMs to meet the capital requirements established by the CFTC.

For purposes of the RFA, an introducing broker-commodities dealer is considered small if it has less than $35,500,000 in gross receipts

[25] *Table of Small Business Size Standards Matched to North American Industry Classification System Codes,* Small Business Administration Size Standards (SBA Feb. 26, 2016) [hereinafter ''*SBA Size Standards*'']*.*

[26] Federal Deposit Insurance Corporation, *Find an Institution, http://www2.fdic.gov/idasp/main.asp; select* Size or Performance: Total Assets, *type* Equal or less than $: ''550000'' and *select* Find.

[27] National Credit Union Administration, *Credit Union Data, http://webapps.ncua.gov/customquery/; select* Search Fields: Total Assets, *select* Operator: Less than or equal to, *type* Field Values: ''550000000'' and *select* Go.

[28] 17 CFR 240.0–10(c).

[29] 76 FR 37572, 37602 (June 27, 2011) (the SEC estimates 871 small broker-dealers of the 5,063 total registered broker-dealers).

[30] 47 FR 18618, 18619 (Apr. 30, 1982).

annually.[31] Based on information provided by the National Futures Association (NFA), 95 percent of introducing brokers-commodities dealers have less than $35.5 million in adjusted net capital and are considered to be small entities.

Mutual funds are defined in 31 CFR 1010.100(gg) as those investment companies that are open-end investment companies that are registered or are required to register with the SEC. Because FinCEN and the SEC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the SBA. The SEC has defined the term ''small entity'' under the Investment Company Act to mean ''an investment company that, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.'' [32] Based on SEC estimates, seven percent of mutual funds are classified as ''small entities'' for purposes of the RFA under this definition.[33]

As noted above, 80 percent of banks, 92.5 percent of credit unions, 17 percent of broker-dealers, 95 percent of introducing brokers-commodities, no FCMs, and seven percent of mutual funds are small entities. The limited number of foreign banking institutions with which FBME maintains or will maintain accounts will likely limit the number of affected covered financial institutions to the largest U.S. banks, which actively engage in international transactions. Thus, the prohibition on maintaining correspondent accounts for foreign banking institutions that engage in transactions involving FBME under the fifth special measure would not impact a substantial number of small entities.

2. Description of the Projected Reporting and Recordkeeping Requirements of the Prohibition Under the Fifth Special Measure

The prohibition under the fifth special measure would require covered financial institutions to provide a notification intended to aid cooperation from foreign correspondent account holders in preventing transactions involving FBME from accessing the U.S. financial system. FinCEN estimates that the time it takes institutions to provide this notice is one hour. Covered financial institutions would also be required to take reasonable measures to detect use of their correspondent accounts to process transactions involving FBME. All U.S. persons, including U.S. financial institutions, currently must exercise some degree of due diligence to comply with OFAC sanctions and suspicious activity reporting requirements. The tools used for such purposes, including commercially available software used to comply with the economic sanctions programs administered by OFAC, can easily be modified to identify correspondent accounts with foreign banks that involve FBME. Thus, the special due diligence that would be required by the imposition of the fifth special measure—*i.e.,* the one-time transmittal of notice to certain correspondent account holders, the screening of transactions to identify any use of correspondent accounts, and the implementation of risk-based measures to detect use of correspondent accounts—would not impose a significant additional economic burden upon small U.S. financial institutions.

B. Certification

For these reasons, FinCEN certifies that this final rulemaking would not have a significant impact on a substantial number of small businesses.

IX. Paperwork Reduction Act

The collection of information contained in the final rule has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and has been assigned OMB Control Number 1506–AB19. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Description of Affected Financial Institutions: Banks, broker-dealers in securities, futures commission merchants and introducing brokers-commodities, and mutual funds.

Estimated Number of Affected Financial Institutions: 5,000.

Estimated Average Annual Burden in Hours per Affected Financial Institution: The estimated average burden associated with the collection of information in this rule is one hour per affected financial institution.

Estimated Total Annual Burden: 5,000 hours.

X. Executive Order 12866

Executive Orders 12866 and 13563 direct agencies to assess 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. It has been determined that the final rule is not a ''significant regulatory action'' for purposes of Executive Order 12866.

List of Subjects in 31 CFR Part 1010

Administrative practice and procedure, Banks and banking, Brokers, Counter-money laundering, Counter-terrorism, Foreign banking.

Authority and Issuance

For the reasons set forth in the preamble, chapter X of title 31 of the Code of Federal Regulations is amended as follows:

PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; title III, sec. 314 Pub. L. 107–56, 115 Stat. 307.

■ 2. Revise § 1010.658 to read as follows:

§ 1010.658 Special measures against FBME Bank, Ltd.

(a) *Definitions.* For purposes of this section:

(1) *FBME Bank, Ltd.* means all branches, offices, and subsidiaries of FBME Bank, Ltd. operating in any jurisdiction.

(2) *Correspondent account* has the same meaning as provided in § 1010.605(c)(1)(ii).

(3) *Covered financial institution* has the same meaning as provided in § 1010.605(e)(1).

(4) *Subsidiary* means a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

(b) *Prohibition on accounts and due diligence requirements for covered financial institutions*—(1) *Prohibition on use of correspondent accounts.* A covered financial institution shall not open or maintain a correspondent account in the United States for, or on behalf of, FBME Bank, Ltd.

(2) *Special due diligence of correspondent accounts to prohibit use*—(i) A covered financial institution shall apply special due diligence to its foreign correspondent accounts that is reasonably designed to guard against their use to process transactions involving FBME Bank, Ltd. At a

[31] SBA Size Standards at 28.

[32] 17 CFR 270.0–10.

[33] 78 FR 23637, 23658 (April 19, 2013).

minimum, that special due diligence must include:

(A) Notifying those correspondent account holders that the covered financial institution knows or has reason to know provide services to FBME Bank, Ltd., that such correspondents may not provide FBME Bank, Ltd. with access to the correspondent account maintained at the covered financial institution; and

(B) Taking reasonable steps to identify any use of its foreign correspondent accounts by FBME Bank, Ltd., to the extent that such use can be determined from transactional records maintained in the covered financial institution's normal course of business.

(ii) A covered financial institution shall take a risk-based approach when deciding what, if any, other due diligence measures it reasonably must adopt to guard against the use of its foreign correspondent accounts to process transactions involving FBME Bank, Ltd.

(iii) A covered financial institution that obtains knowledge that a foreign correspondent account may be being used to process transactions involving FBME Bank, Ltd. shall take all appropriate steps to further investigate and prevent such access, including the notification of its correspondent account holder under paragraph (b)(2)(i)(A) of this section and, where necessary, termination of the correspondent account.

(iv) A covered financial institution required to terminate a correspondent account pursuant to paragraph (b)(2)(iii) of this section:

(A) Should do so within a commercially reasonable time, and should not permit the foreign bank to establish any new positions or execute any transaction through such correspondent account, other than those necessary to close the correspondent account; and

(B) May reestablish a correspondent account closed pursuant to this paragraph if it determines that the correspondent account will not be used to provide banking services indirectly to FBME Bank Ltd.

(3) *Recordkeeping and reporting.* (i) A covered financial institution is required to document its compliance with the notice requirement set forth in paragraph (b)(2)(i)(A) of this section.

(ii) Nothing in this paragraph (b) shall require a covered financial institution to report any information not otherwise required to be reported by law or regulation.

Dated: March 25, 2016.

Jamal El-Hindi,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2016–07210 Filed 3–30–16; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2015–0038]

RIN 1625–AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is disestablishing thirteen anchorage grounds and one special anchorage area that are now obsolete in Newark Bay, the East River, Western Long Island Sound, Raritan Bay, and Lower New York Bay, and reducing the size of three anchorage grounds in Raritan, Sandy Hook, and Lower New York Bays.

DATES: This rule is effective May 2, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–0038 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 Mr. Craig Lapiejko, Waterways Management Branch at Coast Guard First District, telephone 617–223–8351, email *craig.d.lapiejko@uscg.mil* or Mr. Jeff Yunker, Coast Guard Sector New York Waterways Management Division, U.S. Coast Guard; telephone 718–354–4195, email *jeff.m.yunker@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
USACE United States Army Corps of Engineers
USCP United States Coast Pilot
U.S.C. United States Code
WAMS Waterways Analysis and Management System

II. Background Information and Regulatory History

In 2012, the Coast Guard conducted a WAMS survey of these anchorage regulations within Newark Bay. In 2013, the Coast Guard conducted a WAMS survey of these anchorage regulations within New Rochelle Harbor, Manhasset, and Little Neck Bays. In 2014, the Coast Guard conducted a WAMS survey of these anchorage regulations within Raritan Bay. In response, on November 25, 2015, the Coast Guard published an NPRM titled Anchorage Regulations; Port of New York (80 FR 73692). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to these anchorage regulations. During the comment period that ended January 25, 2016, we received one comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The First Coast Guard District Commander has determined that potential hazards associated with vessels anchoring in the shallow water of these charted anchorage grounds will be a safety concern for vessels constrained by their draft. The purpose of this rule is to reduce the risk of vessels grounding in shallow water and accurately reflect the anchorages currently in use.

IV. Discussion of Comments, Changes, and the Rule

This rule disestablishes thirteen anchorage grounds and one special anchorage area that are now obsolete in Newark Bay, the East River, Western Long Island Sound, Raritan Bay, and Lower New York Bay, and reduces the size of three anchorage grounds in Raritan, Sandy Hook, and Lower New York Bays.

As noted above, we received one comment on our NPRM published November 25, 2015. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The Office of Coast Survey, National Oceanic and Atmospheric Administration (NOAA) strongly recommended that the coordinates for the disestablished anchorage grounds be published within the final rule. These coordinates follow:

Coordinates for Disestablished Special Anchorage Area:

33 CFR 110.60(d)(2) New York Harbor:

• *Newark Bay, Southwest:* All waters bound by the following points: 40°38′52.1″ N., 074°09′41.1″ W.; thence

to 40°38′51.6″ N., 074°10′18.2″ W.; thence to 40°38′51.0″ N., 074°10′36.5″ W.; thence to 40°39′16.8″ N., 074°09′56.3″ W.; thence to 40°39′16.2″ N., 074°09′36.9″ W.; thence to the point of origiN., excluding therefrom the ''Pipe Line Area''.

Coordinates for Disestablished Anchorage Grounds:

33 CFR 110.155 Port of New York:

• *(a)(2) Anchorage Ground No. 1–A:* All waters southwest of a line from 40°54′27.36″ N., 073°46′04.16″ W to 40°54′01.65″ N., 073°45′23.02″ W. All waters northwest of a line from 40°54′01.65″ N., 073°45′23.02″ W, thence to 40°53′30.65″ N., 073°46′05.30″ W. All waters north of a line from 40°53′30.65″ N., 073°46′05.30″ W thence to 40°53′21.35″ N., 073°46′38.52″ W.

• *(a)(3) Anchorage Ground No. 1–B:* All waters west and north of the following lines: from 40°54′58.06″ N., 073°44′51.82″ W; thence to 40°54′10.69″ N., 073°45′10.48″ W.; thence to 40°54′26.89″ N., 073°46′04.84″ W.

• *(a)(4) Anchorage Ground No. 2:* All waters west of a line from 40°48′56.58″ N., 073°47′52.98″ W.; thence to 40°48′27.38″ N., 073°47′29.20″ W.

• *(a)(5) Anchorage Ground No. 3:* All waters northeast of a line from 40°50′54.57″ N., 073°44′16.64″ W.; thence to 40°51′28.94″ N., 073°44′49.11″ W. All waters southeast of a line from 40°51′28.94″ N., 073°44′49.11″ W.; thence to 40°52′07.26″ N., 073°44′15.41″ W. All waters southwest of a line from 40°52′07.26″ N., 073°44′15.41″ W.; thence to 40°51′57.80″ N., 073°43′47.86″ W.

• *(a)(6) Anchorage Ground No. 4:* All waters northeast of a line from 40°49′00.62″ N., 073°45′41.92″ W.; thence to 40°49′28.17″ N., 073°46′29.31″ W. All waters southeast of a line from 40°49′28.17″ N., 073°46′29.31″ W.; thence to 40°51′28.94″ N., 073°44′49.11″ W. All waters southwest of a line from 40°51′28.94″ N., 073°44′49.11″ W.; thence to 40°50′54.57″ N., 073°44′16.64″ W.

• *(a)(7) Anchorage Ground No. 5:* All waters east of a line from 40°47′40.53″ N., 073°46′28.93″ W.; thence to 40°49′18.69″ N., 073°46′12.69″ W. All waters south of a line from 40°49′18.69″ N., 073°46′12.69″ W.; thence to 40°49′00.62″ N., 073°45′41.92″ W.

• *(b)(2) Anchorage Ground No. 7:* All waters south of a line from 40°48′03.24″ N., 073°49′11.46″ W.; thence to 40°47′41.80″ N., 073°46′58.77″ W.

• *(h)(1) Anchorage Ground No. 34:* All waters bound by the following points: 40°38′51.5″ N, 074°10′35.6″ W.; thence to 40°39′20.2″ N, 074°09′50.8″ W.; thence to 40°39′41.4″ N, 074°09′30.2″ W.; thence to 40°39′29.6″ N, 074°08′58.0″ W.; thence to 40°39′21.7″ N, 074°08′50.8″ W.; thence to 40°39′08.0″ N, 074°08′58.9″ W.; thence to 40°38′49.9″ N, 074°09′20.0″ W.; thence to 40°38′53.5″ N, 074°09′37.1″ W.; thence to 40°38′52.0″ N, 074°09′41.6″ W.; thence to the point of origin (NAD 83).

• *(h)(3) Anchorage Ground No. 36:* All waters bound by the following points: 40°41′13.1″ N, 074°08′06.1″ W.; thence to 40°41′12.7″ N, 074°08′09.9″ W.; thence to 40°40′51.0″ N, 074°08′29.7″ W.; thence to 40°40′44.7″ N, 074°08′29.8″ W.; thence to 40°40′34.0″ N, 074°08′12.0″ W.; thence to 40°40′36.6″ N, 074°08′04.8″ W.; thence to 40°40′54.5″ N, 074°07′56.5″ W.; thence to 40°41′03.3″ N, 074°07′56.5″ W.; thence to the point of origin (NAD 83).

• *(h)(4) Anchorage Ground No. 37:* All waters bound by the following points: 40°41′40.66″ N, 074°06′38.63″ W.; thence to 40°41′51.85″ N, 074°07′01.88″ W.; thence to 40°39′16.54″ N, 074°08′33.79″ W.; thence to 40°39′16.68″ N, 074°08′25.82″ W, thence along the shoreline to point of origin (NAD 83).

• *(h)(5) Anchorage Ground No. 38:* All waters bound by the following points: 40°43′05.57″ N, 074°06′08.36″ W.; thence to 40°42′40.39″ N, 074°06′48.46″ W.; thence to 40°42′35.47″ N, 074°06′53.93″ W.; thence to 40°42′24.34″ N, 074°06′59.31″ W.; thence to 40°42′20.79″ N, 074°06′59.76″ W.; thence to 40°42′11.44″ N, 074°06′55.73″ W.; thence to 40°42′03.86″ N, 074°07′00.66″ W.; thence to 40°41′52.53″ N, 074°07′01.56″ W.; thence to 40°41′41.33″ N, 074°06′38.05″ W, thence along the shoreline to point of origin (NAD 83).

• *(h)(6) Anchorage Ground No. 39:* All waters bound by the following points: 40°43′20.60″ N, 074°07′11.06″ W.; thence to 40°42′51.41″ N, 074°07′16.10″ W.; thence to 40°42′27.93″ N, 074°07′08.10″ W.; thence to 40°42′43.70″ N, 074°06′56.08″ W.; thence to 40°43′08.81″ N, 074°06′24.24″ W.; thence along the shoreline to point of origin (NAD 83).

• *(j)(4) Anchorage Ground No. 46:* 40°29′52.19″ N, 074°15′01.76″ W.; thence to 40°29′48.88″ N, 074°15′10.76″ W. 40°30′34.63″ N, 074°11′25.01″ W.; thence to 40°30′02.74″ N, 074°09′03.10″ W.; thence to 40°31′44.04″ N, 074°09′19.73″ W.

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 regulatory action determination is based on the administrative nature of the rulemaking as it would not alter current navigational practices on the affected waterways.

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 or anchor within these waterways 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 the disestablishment of thirteen obsolete anchorage grounds and one obsolete SAA, and reduces the size of two anchorage grounds and combines them into one smaller anchorage ground. It is categorically excluded from further review under paragraph 34(f) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471; 1221 through 1236, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

§ 110.60 [Amended]

■ 2. In § 110.60—
■ a. Remove paragraph (d)(2) and redesignate paragraphs (d)(3) through (10) as paragraphs (d)(2) through (9), respectively.
■ b. Amend the note to newly redesignated paragraph (d)(2) by removing ''paragraph (d)(3)'' and adding ''paragraph (d)(2)'' in its place.
■ 3. In § 110.155—
■ a. Remove and reserve paragraph (a)(2), and remove paragraphs (a)(3) through (7),
■ b. Remove and reserve paragraph (b)(2);
■ c. Revise paragraph (f);
■ d. Remove and reserve paragraph (h);
■ e. Revise paragraph (j)(2), and
■ f. Remove paragraphs (j)(3) through (5).

The revisions read as follows:

§ 110.155 Port of New York.

* * * * *

(f) Lower Bay, Raritan Bay, Sandy Hook Bay, and Atlantic Ocean. (1) *Anchorage No. 26.* In Raritan and Sandy Hook Bays all waters bound by the following points: 40°30′06.74″ N., 074°10′04.96″ W.; thence to 40°28′59.44″ N., 074°05′00.00″ W.; thence to 40°28′44.94″ N., 074°05′00.00″ W.; thence to 40°29′05.02″ N., 074°07′30.56″ W.; thence to 40°29′17.49″ N., 074°10′16.50″ W.; thence to the point of origin (NAD 83).

(2) *Anchorage No. 27.* In the Atlantic Ocean all waters bound by the following points: 40°28′49.27″ N., 074°00′12.13″ W.; thence to 40°28′52.12″ N., 074°00′00.56″ W.; thence to 40°28′40.88″ N., 073°58′51.95″ W.; thence to 40°25′57.91″ N., 073°54′55.56″ W.; thence to 40°23′45.55″ N., 073°54′54.89″ W.; thence to 40°23′45.38″ N., 073°58′32.10″ W.; thence along the shoreline to the point of origin (NAD 83).

(3) *Anchorage No. 28.* In Lower Bay all waters bound by the following points: 40°30′02.30″ N., 074°08′52.69″ W.; thence to 40°29′10.10″ N., 074°04′59.65″ W.; thence to 40°29′09.99″ N., 074°02′57.75″ W.; thence to 40°31′52.89″ N., 074°02′39.89″ W.; thence to 40°31′59.72″ N., 074°03′25.13″ W.; thence to 40°31′28.57″ N., 074°03′40.70″ W.; thence to 40°30′26.24″ N., 074°05′11.46″ W.; thence to 40°30′19.01″ N., 074°06′21.37″ W.; thence to 40°30′21.53″ N., 074°08′46.19″ W.; thence to the point of origin (NAD 83).

* * * * *

(j) * * *

(2) Anchorage No. 45. West of the Raritan Bay Channel leading into Arthur Kill; north of the Raritan River Channel leading into Raritan River; and east of the Cutoff Channel between Raritan River and Arthur Kill, except that part of the said area occupied by Anchorage No. 44.

(i) Vessels must not anchor in the channel to Keyport Harbor west of lines ranging from Keyport Channel Buoy 1 to Keyport Channel Buoy 9, thence through Keyport Channel Buoys 11 and 13 to the northeast corner of the easterly steamboat wharf; and east of a line extending from a point 400 yards west of Keyport Channel Buoy 1 tangent to the west shore at the mouth of Matawan Creek.

(ii) [Reserved]

* * * * *

Dated: March 22, 2016.

L.L. Fagan,

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

[FR Doc. 2016–07307 Filed 3–30–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2015–0448; FRL–9943–19–Region 10]

Approval and Promulgation of Air Quality Implementation Plans; Washington; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Washington State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the Washington State Department of Ecology (Ecology) and approved by the EPA. In this action, the EPA is also notifying the public of corrections to typographical errors, minor formatting changes to the IBR tables, and correcting errors regarding the location of certain items in the tables. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective March 31, 2016.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 10, Office of Air, Waste, and Toxics (AWT–150), 1200 Sixth Avenue, Seattle, WA 98101, or 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.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, (206) 553–0256, *hunt.jeff@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, the EPA from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, the EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between the EPA and the Office of the Federal Register (OFR) (62 FR 27968). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On March 20, 2013, the EPA published a **Federal Register** beginning the new IBR procedure for Washington (78 FR 17108). On December 8, 2014, the EPA published an update to the IBR material for Washington (79 FR 72548).

Since the publication of the last IBR update, the EPA approved into the Washington SIP the changes listed below.

A. Added Regulations

Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction

- Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources, sections 173–400–131 (Issuance of Emission Reduction Credits), 173–400–136 (Use of Emission Reduction Credits (ERC)), 173–400–800 (Major Stationary Source and Major Modification in a Nonattainment Area), 173–400–810 (Major Stationary Source and Major Modification Definitions), 173–400–820 (Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements), 173–400–830 (Permitting Requirements), 173–400–840 (Emission Offset Requirements), 173–400–850 (Actual Emissions Plantwide Applicability Limitation (PAL)), and 173–400–860 (Public Involvement Procedures). For more information see 79 FR 66291 (November 7, 2014).
- Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources, sections 173–400–116 (Increment Protection), 173–400–117 (Special Protection Requirements for Federal Class I Areas), 173–400–700 (Review of Major Stationary Sources of Air Pollution), 173–400–710 (Definitions), 173–400–720 (Prevention of Significant Deterioration (PSD)), 173–400–730 (Prevention of Significant Deterioration Application Processing Procedures), 173–400–740 (PSD Permitting Public Involvement Requirements), and 173–400–750 (Revisions to PSD Permits). For more information see 80 FR 23721 (April 29, 2015).

Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction

- Benton Clean Air Agency, Regulation I, sections 1.01 (Name of Agency), 1.02 (Policy and Purpose), 1.03 (Applicability), 4.01A (Definitions—Fugitive Dust), 4.01 paragraph B (Definitions—Fugitive Emissions), 4.02 paragraph B (Particulate Matter Emissions—Fugitive Emissions), 4.02 paragraph C.1 (Particulate Matter Emissions—Fugitive Dust), and 4.02 paragraph C.3 (Particulate Matter Emissions—Fugitive Dust). For more information see 80 FR 71695 (November 17, 2015).
- Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources, sections 173–400–036 (Relocation of Portable Sources), 173–400–111 (Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources), 173–400–117 (Special Protection Requirements for Federal Class I Areas), 173–400–118 (Designation of Class I, II, and III Areas), 173–400–131 (Issuance of Emission Reduction Credits), 173–400–136 (Use of Emission Reduction Credits (ERC)), 173–400–175 (Public Information), 173–400–560 (General Order of Approval), 173–400–800 (Major Stationary Source and Major Modification in a Nonattainment Area), 173–400–810 (Major Stationary Source and Major Modification Definitions), 173–400–820 (Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements), 173–400–830 (Permitting Requirements), 173–400–840 (Emission Offset Requirements), 173–400–850 (Actual Emissions Plantwide Applicability Limitation (PAL)), and 173–400–860 (Public Involvement Procedures). For more information see 80 FR 71695 (November 17, 2015).

B. Revised Regulations

Table 1—Regulations Approved Statewide

- Washington Administrative Code, Chapter 173–422—Motor Vehicle Emission Inspection, sections 173–422–020 (Definitions), 173–422–030 (Vehicle Emission Inspection Requirement), 173–422–031 (Vehicle Emission Inspection Schedules), 173–422–060 (Gasoline Vehicle Emission Standards), 173–422–065 (Diesel Vehicle Exhaust Emission Standards), 173–422–070 (Gasoline Vehicle Exhaust Emission Testing Procedures), 173–422–075 (Diesel Vehicle Inspection Procedure), 173–422–160 (Fleet and Diesel Owner Vehicle Testing Requirements), 173–422–190 (Emission Specialist Authorization), and 173–422–195 (Listing of Authorized Emission Specialists). For more information see 80 FR 48033 (August 11, 2015).

Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction

• Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources, sections 173–400–036 (Relocation of Portable Sources), 173–400–111 (Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources), 173–400–112 (Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources), 173–400–113 (New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations), 173–400–171 (Public Notice and Opportunity for Public Comment), and 173–400–560 (General Order of Approval). For more information see 80 FR 23721 (April 29, 2015).

• Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources, section 173–400–111 (Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources). For more information see 80 FR 27102 (May 12, 2015).

Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction

• Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources, sections 173–400–030 (Definitions), 173–400–040 (General Standards for Maximum Emissions), 173–400–050 (Emission Standards for Combustion and Incineration Units), 173–400–060 (Emission Standards for General Process Units), 173–400–070 (Emission Standards for Certain Source Categories), 173–400–081 (Startup and Shutdown), 173–400–091 (Voluntary Limits on Emissions), 173–400–105 (Records, Monitoring and Reporting), 173–400–110 (New Source Review (NSR) for Sources and Portable Sources), 173–400–112 (Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations), 173–400–113 (New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations), 173–400–151 (Retrofit Requirements for Visibility Protection), 173–400–171 (Public Notice and Opportunity for Public Comment), and 173–400–200 (Creditable Stack Height & Dispersion Techniques). For more information see 80 FR 71695 (November 17, 2015).

Table 9—Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction

• Spokane Regional Clean Air Agency, Regulation I, Article VIII—Solid Fuel Burning Device Standards, sections 8.01 (Purpose), 8.02 (Applicability), 8.03 (Definitions), 8.04 (Emission Performance Standards), 8.05 (Opacity Standards), 8.06 (Prohibited Fuel Types), 8.07 (Curtailment (Burn Ban)), 8.08 (Exemptions), 8.09 (Procedure to Geographically Limit Solid Fuel Burning Devices) and 8.10 (Restrictions on Installation and Sales of Solid Fuel Burning Devices). For more information see 80 FR 58216 (September 28, 2015).

C. Removed Regulations

Table 1—Regulations Approved Statewide

• Washington Administrative Code, Chapter 173–422—Motor Vehicle Emission Inspection, section 173–422–130 (Inspection Fees). For more information see 80 FR 48033 (August 11, 2015). For more information see 80 FR 71695 (November 17, 2015).

Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction

• Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources, sections 173–400–010 (Policy and Purpose), 173–400–020 (Applicability), and 173–400–100 (Registration).

Table 9—Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction

• Spokane Regional Clean Air Agency, Regulation I, Article VIII—Solid Fuel Burning Device Standards, section 8.11 (Regulatory Actions and Penalties). For more information see 80 FR 58216 (September 28, 2015).

D. Revised Source-Specific Requirements

• BP Cherry Point Refinery, Administrative Order No. 7836, Revision 2. For more information see 81 FR 7710 (February 16, 2016).

II. EPA Action

In this action, the EPA is announcing the update to the IBR material as of February 19, 2016. The EPA is correcting minor typographical errors, including subsection 52.2470(c), table 2, entry 173–400–091, which incorrectly listed the state effective date as ''9/20/93'' rather than the correct date of ''4/1/11''. The EPA is also rearranging tables 5 through 10 in subsection 52.2470(c) to list the local clean air agency regulations at the top of the tables consistent with the EPA's recent final approval of the Benton Clean Air Agency general air quality regulations (80 FR 71698, November 17, 2015). The EPA is also rearranging and republishing the contents of subsection 52.2470(e) to organize the actions by pollutant and type for clarity. Finally, the EPA is moving the location of regulations relating to Washington's enforcement authority, appeals, and conflicts of interest, specifically, WAC 173–400–220 (Requirements for Board Members), WAC 173–400–230 (Regulatory Actions), WAC 173–400–240 (Criminal Penalties), WAC 173–400–250 (Appeals), and WAC 173–400–260 (Conflict of Interest). These regulations were inadvertently placed in subsection 52.2470 (c), Tables 2, 5, 6, 7, 8, 9, and 10, the regulations incorporated by reference. The EPA is moving these regulations to subsection 52.2470(e), the provisions that are approved but not incorporated by reference. For more information see 80 FR 71698 (November 17, 2015).

The EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

III. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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 this action does not involve technical standards; 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 in Washington except as specifically noted below and is also not approved to apply 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). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

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 Washington regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

The EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Washington SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Washington.

List of Subjects in 40 CFR Part 52

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

Dated: February 22, 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 for citation for part 52 continues to read as follows:

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

Subpart WW—Washington

■ 2. Section 52.2470 is amended by:
■ a. Revising paragraph (b);
■ b. Revising paragraph (c);
■ c. Revising paragraph (d);
■ d. Revising paragraph (e).

The revisions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed as incorporated by reference in paragraphs (c) and (d) of this section with an EPA approved date of February 19, 2016 was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material incorporated is as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after February 19, 2016 will be incorporated by reference in the next update to the SIP compilation.

(2)(i) EPA Region 10 certifies that the rules and regulations provided by the EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules and regulations which have been approved as part of the State Implementation Plan as of February 19, 2016.

(ii) EPA Region 10 certifies that the following source-specific requirements provided by the EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State source-specific requirements which have been approved as part of the State Implementation Plan as of February 19, 2016.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region 10 Office of Air, Waste and Toxics (AWT–150), 1200 Sixth Ave, Seattle, WA 98101; 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.*

(c) *EPA approved regulations.*

TABLE 1—REGULATIONS APPROVED STATEWIDE

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–405—Kraft Pulping Mills				
173–405–012	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578	
173–405–021	Definitions	3/22/91	1/15/93, 58 FR 4578	
173–405–040	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	Except sections (1)(b), (1)(c), (3)(b), (3)(c), (4), (7), (8) & (9).
173–405–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578	
173–405–061	More Restrictive Emission Standards.	3/22/91	1/15/93, 58 FR 4578	
173–405–072	Monitoring Requirements	3/22/91	1/15/93, 58 FR 4578	Except section (2).
173–405–077	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578	
173–405–078	Emission Inventory	3/22/91	1/15/93, 58 FR 4578	
173–405–086	New Source Review (NSR)	3/22/91	1/15/93, 58 FR 4578	
173–405–087	Prevention of Significant Deterioration (PSD).	3/22/91	1/15/93, 58 FR 4578	
173–405–091	Special Studies	3/22/91	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–410—Sulfite Pulping Mills				
173–410–012	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578	
173–410–021	Definitions	3/22/91	1/15/93, 58 FR 4578	
173–410–040	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	Except the exception provision in (3) & section (5).
173–410–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578	
173–410–062	Monitoring Requirements	3/22/91	1/15/93, 58 FR 4578	
173–410–067	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578	
173–410–071	Emission Inventory	3/22/91	1/15/93, 58 FR 4578	
173–410–086	New Source Review (NSR)	3/22/91	1/15/93, 58 FR 4578	
173–410–087	Prevention of Significant Deterioration (PSD).	3/22/91	1/15/93, 58 FR 4578	
173–410–100	Special Studies	3/22/91	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–415—Primary Aluminum Plants				
173–415–010	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578	
173–415–020	Definitions	3/22/91	1/15/93, 58 FR 4578	Except sections (1) & (2).
173–415–030	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	Except sections (1) & (3)(b).
173–415–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578	
173–415–050	New Source Review (NSR)	3/22/91	1/15/93, 58 FR 4578	
173–415–051	Prevention of Significant Deterioration (PSD).	3/22/91	1/15/93, 58 FR 4578	
173–415–060	Monitoring and Reporting	3/22/91	1/15/93, 58 FR 4578	Except sections (1)(a), (b), & (d).
173–415–070	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578	
173–415–080	Emission Inventory	3/22/91	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–422—Motor Vehicle Emission Inspection				
173–422–010	Purpose	6/3/93	9/25/96, 61 FR 50235	
173–422–020	Definitions	7/4/02	8/11/15, 80 FR 48033	
173–422–030	Vehicle Emission Inspection Requirement.	7/4/02	8/11/15, 80 FR 48033	
173–422–031	Vehicle Emission Inspection Schedules.	7/4/02	8/11/15, 80 FR 48033	
173–422–035	Registration Requirements	3/31/95	9/25/96, 61 FR 50235	
173–422–040	Noncompliance Areas	6/3/93	9/25/96, 61 FR 50235	
173–422–050	Emission Contributing Areas	11/9/96	5/19/97, 62 FR 27204	
173–422–060	Gasoline Vehicle Emission Standards.	7/4/02	8/11/15, 80 FR 48033	
173–422–065	Diesel Vehicle Exhaust Emission Standards.	7/4/02	8/11/15, 80 FR 48033	
173–422–070	Gasoline Vehicle Exhaust Emission Testing Procedures.	7/4/02	8/11/15, 80 FR 48033	

TABLE 1—REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–422–075	Diesel Vehicle Inspection Procedure.	7/4/02	8/11/15, 80 FR 48033	
173–422–090	Exhaust Gas Analyzer Specifications.	3/31/95	9/25/96, 61 FR 50235	
173–422–095	Exhaust Opacity Testing Equipment.	3/11/94	9/25/96, 61 FR 50235	
173–422–100	Testing Equipment Maintenance and Calibration.	3/31/95	9/25/96, 61 FR 50235	
173–422–120	Quality Assurance	3/31/95	9/25/96, 61 FR 50235	
173–422–145	Fraudulent Certificates of Compliance/Acceptance.	4/6/90	9/25/96, 61 FR 50235	
173–422–160	Fleet and Diesel Owner Vehicle Testing Requirements.	7/4/02	8/11/15, 80 FR 48033	Except: The part of 173–422–160(3) that says ''of twelve or less dollars''.
173–422–170	Exemptions	12/2/00	5/12/05, 70 FR 24491	
173–422–175	Fraudulent Exemptions	1/2/84	9/25/96, 61 FR 50235	
173–422–190	Emission Specialist Authorization	7/4/02	8/11/15, 80 FR 48033	
173–422–195	Listing of Authorized Emission Specialists.	7/4/02	8/11/15, 80 FR 48033	
Washington Administrative Code, Chapter 173–425—Open Burning				
173–425–010	Purpose	10/18/90	1/15/93, 58 FR 4578	
173–425–020	Applicability	10/18/90	1/15/93, 58 FR 4578	
173–425–030	Definitions	10/18/90	1/15/93, 58 FR 4578	
173–425–036	Curtailment During Episodes or Impaired Air Quality.	10/18/90	1/15/93, 58 FR 4578	
173–425–045	Prohibited Materials	1/3/89	1/15/93, 58 FR 4578	
173–425–055	Exceptions	10/18/90	1/15/93, 58 FR 4578	
173–425–065	Residential Open Burning	10/18/90	1/15/93, 58 FR 4578	
173–425–075	Commercial Open Burning	10/18/90	1/15/93, 58 FR 4578	
173–425–085	Agricultural Open Burning	10/18/90	1/15/93, 58 FR 4578	
173–425–095	No Burn Area Designation	10/18/90	1/15/93, 58 FR 4578	
173–425–100	Delegation of Agricultural Open Burning Program.	10/18/90	1/15/93, 58 FR 4578	
173–425–115	Land Clearing Projects	10/18/90	1/15/93, 58 FR 4578	
173–425–120	Department of Natural Resources Smoke Management Plan.	10/18/90	1/15/93, 58 FR 4578	
173–425–130	Notice of Violation	10/18/90	1/15/93, 58 FR 4578	
173–425–140	Remedies	10/18/90	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–430—Burning of Field and Forage and Turf Grasses Grown for Seed Open Burning				
173–430–010	Purpose	10/18/90	1/15/93, 58 FR 4578	
173–430–020	Definitions	10/18/90	1/15/93, 58 FR 4578	
173–430–030	Permits, Conditions, and Restrictions.	10/18/90	1/15/93, 58 FR 4578	
173–430–040	Mobile Field Burners	10/18/90	1/15/93, 58 FR 4578	
173–430–050	Other Approvals	10/18/90	1/15/93, 58 FR 4578	
173–430–060	Study of Alternatives	10/18/90	1/15/93, 58 FR 4578	
173–430–070	Fees	10/18/90	1/15/93, 58 FR 4578	
173–430–080	Certification of Alternatives	10/18/90	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–433—Solid Fuel Burning Device Standards				
173–433–010	Purpose	2/23/14	5/9/14, 79 FR 26628	
173–433–020	Applicability	12/16/87	1/15/93, 58 FR 4578	
173–433–030	Definitions	2/23/14	5/9/14, 79 FR 26628	
173–433–100	Emission Performance Standards	2/23/14	5/9/14, 79 FR 26628	
173–433–110	Opacity Standards	2/23/14	5/9/14, 79 FR 26628	
173–433–120	Prohibited Fuel Types	2/23/14	5/9/14, 79 FR 26628	
173–433–130	General Emission Standards	10/18/90	1/15/93, 58 FR 4578	
173–433–140	Criteria for Impaired Air Quality Burn Bans.	2/23/14	5/9/14, 79 FR 26628	
173–433–150	Restrictions on Operation of Solid Fuel Burning Devices.	2/23/14	5/9/14, 79 FR 26628	
173–433–155	Criteria for Prohibiting Solid Fuel Burning Devices That Are Not Certified.	2/23/14	5/9/14, 79 FR 26628	

TABLE 1—REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–434—Solid Waste Incinerator Facilities				
173–434–010	Purpose	10/18/90	1/15/93, 58 FR 4578	
173–434–020	Applicability and Compliance	1/22/04	8/4/05, 70 FR 44855	
173–434–030	Definitions	1/22/04	8/4/05, 70 FR 44855	
173–434–090	Operation and Maintenance Plan	10/18/90	1/15/93, 58 FR 4578	
173–434–110	Standards of Performance	1/22/04	8/4/05, 70 FR 44855	Except section (1)(a).
173–434–130	Emission Standards	1/22/04	8/4/05, 70 FR 44855	Except section (2).
173–434–160	Design and Operation	1/22/04	8/4/05, 70 FR 44855	
173–434–170	Monitoring and Reporting	1/22/04	8/4/05, 70 FR 44855	
173–434–190	Changes in Operation	1/22/04	8/4/05, 70 FR 44855	
173–434–200	Emission Inventory	1/22/04	8/4/05, 70 FR 44855	
173–434–210	Special Studies	10/18/90	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–435—Emergency Episode Plan				
173–435–010	Purpose	1/3/89	1/15/93, 58 FR 4578	
173–435–015	Significant Harm Levels	1/3/89	1/15/93, 58 FR 4578	
173–435–020	Definitions	1/3/89	1/15/93, 58 FR 4578	
173–435–030	Episode Stage Criteria	1/3/89	1/15/93, 58 FR 4578	
173–435–040	Source Emission Reduction Plans	1/3/89	1/15/93, 58 FR 4578	
173–435–050	Action Procedures	1/3/89	1/15/93, 58 FR 4578	
173–435–060	Enforcement	1/3/89	1/15/93, 58 FR 4578	
173–435–070	Sampling Sites, Equipment and Methods.	1/3/89	1/15/93, 58 FR 4578	Except section (1).
Washington Administrative Code, Chapter 173–476—Ambient Air Quality Standards				
173–476–010	Purpose	12/22/13	3/4/14, 79 FR 12077	
173–476–020	Applicability	12/22/13	3/4/14, 79 FR 12077	
173–476–030	Definitions	12/22/13	3/4/14, 79 FR 12077	
173–476–100	Ambient Air Quality Standard for PM–10.	12/22/13	3/4/14, 79 FR 12077	
173–476–110	Ambient Air Quality Standards for PM–2.5.	12/22/13	3/4/14, 79 FR 12077	
173–476–120	Ambient Air Quality Standard for Lead (Pb).	12/22/13	3/4/14, 79 FR 12077	
173–476–130	Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide).	12/22/13	3/4/14, 79 FR 12077	
173–476–140	Ambient Air Quality Standards for Nitrogen Oxides (Nitrogen Dioxide).	12/22/13	3/4/14, 79 FR 12077	
173–476–150	Ambient Air Quality Standard for Ozone.	12/22/13	3/4/14, 79 FR 12077	
173–476–160	Ambient Air Quality Standards for Carbon Monoxide.	12/22/13	3/4/14, 79 FR 12077	
173–476–170	Monitor Siting Criteria	12/22/13	3/4/14, 79 FR 12077	
173–476–180	Reference Conditions	12/22/13	3/4/14, 79 FR 12077	
173–476–900	Table of Standards	12/22/13	3/4/14, 79 FR 12077	
Washington Administrative Code, Chapter 173–490—Emission Standards and Controls for Sources Emitting Volatile Organic Compounds				
173–490–010	Policy and Purpose	3/22/91	7/12/93, 58 FR 37426	
173–490–020	Definitions	3/22/91	7/12/93, 58 FR 37426	
173–490–025	General Applicability	3/22/91	7/12/93, 58 FR 37426	
173–490–030	Registration and Reporting	3/22/91	7/12/93, 58 FR 37426	
173–490–040	Requirements	3/22/91	7/12/93, 58 FR 37426	
173–490–080	Exceptions and Alternative Methods.	3/22/91	7/12/93, 58 FR 37426	
173–490–090	New Source Review (NSR)	3/22/91	7/12/93, 58 FR 37426	
173–490–200	Petroleum Refinery Equipment Leaks.	3/22/91	7/12/93, 58 FR 37426	
173–490–201	Petroleum Liquid Storage in External Floating Roof Tanks.	3/22/91	7/12/93, 58 FR 37426	
173–490–202	Leaks from Gasoline Transport Tanks and Vapor Collection System.	3/22/91	7/12/93, 58 FR 37426	

TABLE 1—REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–490–203	Perchloroethylene Dry Cleaning Systems.	3/22/91	7/12/93, 58 FR 37426	
173–490–204	Graphic Arts System	3/22/91	7/12/93, 58 FR 37426	
173–490–205	Surface Coating of Miscellaneous Metal Parts and Products.	3/22/91	7/12/93, 58 FR 37426	
173–490–207	Surface Coating of Flatwood Paneling.	3/22/91	7/12/93, 58 FR 37426	
173–490–208	Aerospace Assembly and Component Coating Operations.	3/22/91	7/12/93, 58 FR 37426	
Washington Administrative Code, Chapter 173–492—Motor Fuel Specifications for Oxygenated Gasoline				
173–492–010	Policy and Purpose	10/19/96	4/30/97, 62 FR 23363	
173–492–020	Applicability	12/1/92	4/30/97, 62 FR 23363	
173–492–030	Definitions	12/1/92	4/30/97, 62 FR 23363	
173–492–040	Compliance Requirements	12/1/92	4/30/97, 62 FR 23363	
173–492–050	Registration Requirements	10/19/96	4/30/97, 62 FR 23363	
173–492–060	Labeling Requirements	12/1/92	4/30/97, 62 FR 23363	
173–492–070	Control Areas and Control Periods.	10/19/96	4/30/97, 62 FR 23363	
173–492–080	Enforcement and Compliance	12/1/92	4/30/97, 62 FR 23363	
173–492–090	Unplanned Conditions	12/1/92	4/30/97, 62 FR 23363	
173–492–100	Severability	12/1/92	4/30/97, 62 FR 23363	

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726	
173–400–020	Applicability	12/29/12	10/3/14, 79 FR 59653	
173–400–030	Definitions	12/29/12	10/3/14, 79 FR 59653	Except: 173–400–030(91).
173–400–036	Relocation of Portable Sources	12/29/12	4/29/15, 80 FR 23721	
173–400–040	General Standards for Maximum Emissions.	4/1/11	10/3/14, 79 FR 59653	Except: 173–400–040(2)(c); 173–400–040(2)(d); 173–400–040(3); 173–400–040(5); 173–400–040(7), second paragraph.
173–400–050	Emission Standards for Combustion and Incineration Units.	12/29/12	10/3/14, 79 FR 59653	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5).
173–400–060	Emission Standards for General Process Units.	2/10/05	10/3/14, 79 FR 59653	
173–400–070	Emission Standards for Certain Source Categories.	12/29/12	10/3/14, 79 FR 59653	Except: 173–400–070(7); 173–400–070(8).
173–400–081	Startup and Shutdown	4/1/11	10/3/14, 79 FR 59653	
173–400–091	Voluntary Limits on Emissions	4/1/11	10/3/14, 79 FR 59653	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–105	Records, Monitoring, and Reporting.	12/29/12	10/3/14, 79 FR 59653	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION—Continued

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	4/29/15, 80 FR 23721	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, • ''not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,''; The part of 400–110 (4)(e)(iii) that says, • ''where toxic air pollutants as defined in chapter 173–460 WAC are not emitted''; The part of 400–110(4)(e)(f)(i) that says, • ''that are not toxic air pollutants listed in chapter 173–460 WAC''; The part of 400–110(4)(h)(xviii) that says, • '', to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted''; The part of 400–110 (4)(h)(xxxiii) that says, • ''where no toxic air pollutants as listed under chapter 173–460 WAC are emitted''; The part of 400–110(4)(h)(xxxiv) that says, • '', or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; The part of 400–110(4)(h)(xxxv) that says, • ''or ≤1% (by weight) toxic air pollutants''; The part of 400–110(4)(h)(xxxvi) that says, • ''or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; 400–110(4)(h)(xl) , second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	12/29/12	5/12/15, 80 FR 27102	Except: 173–400–111(3)(h); The part of 173–400–111(8)(a)(v) that says, • ''and 173–460–040,''; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	4/29/15, 80 FR 23721	Except: 173–400–112(8).
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	4/29/15, 80 FR 23721	Except: 173–400–113(3), second sentence.
173–400–116	Increment Protection	9/10/11	4/29/15, 80 FR 23721	
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	4/29/15, 80 FR 23721	
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	10/3/14, 79 FR 59653	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	11/7/14, 79 FR 66291	
173–400–136	Use of Emission Reduction Credits (ERC).	4/1/11	11/7/14, 79 FR 66291	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	10/3/14, 79 FR 59653	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Notice and Opportunity for Public Comment.	12/29/12	4/29/15, 80 FR 23721	Except: The part of 173–400–171(3)(b) that says, • ''or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC''; 173–400–171(12).
173–400–175	Public Information	2/10/05	10/3/14, 79 FR 59653	

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION—Continued

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	10/3/14, 79 FR 59653	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726	
173–400–560	General Order of Approval	12/29/12	4/29/15, 80 FR 23721	Except: The part of 173–400–560(1)(f) that says, ''173–460 WAC''.
173–400–700	Review of Major Stationary Sources of Air Pollution.	4/1/11	4/29/15, 80 FR 23721	
173–400–710	Definitions	12/29/12	4/29/15, 80 FR 23721	
173–400–720	Prevention of Significant Deterioration (PSD).	12/29/12	4/29/15, 80 FR 23721	Except: 173–400–720(4)(a)(i through iv); 173–400–720(4)(b)(iii)(C); and 173–400–720(4)(a)(vi) with respect to the incorporation by reference of the text in 40 CFR 52.21(b)(49)(v), 52.21(i)(5)(i), and 52.21(k)(2).
173–400–730	Prevention of Significant Deterioration Application Processing Procedures.	12/29/12	4/29/15, 80 FR 23721	
173–400–740	PSD Permitting Public Involvement Requirements.	12/29/12	4/29/15, 80 FR 23721	
173–400–750	Revisions to PSD Permits	12/29/12	4/29/15, 80 FR 23721	Except: 173–400–750(2) second sentence.
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	11/7/14, 79 FR 66291	
173–400–810	Major Stationary Source and Major Modification Definitions.	12/29/12	11/7/14, 79 FR 66291	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	11/7/14, 79 FR 66291	
173–400–830	Permitting Requirements	12/29/12	11/7/14, 79 FR 66291	
173–400–840	Emission Offset Requirements	12/29/12	11/7/14, 79 FR 66291	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	12/29/12	11/7/14, 79 FR 66291	
173–400–860	Public Involvement Procedures	4/1/11	11/7/14, 79 FR 66291	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION

[See the SIP-approved provisions of WAC 463–39–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 463–39—General Regulations for Air Pollution Sources				
463–39–005	Adoption by Reference	9/21/95	5/23/96, 61 FR 25791	Except sections (2), (3) & (4).
463–39–010	Purpose	5/3/92	5/23/96, 61 FR 25791	
463–39–020	Applicability	9/21/95	5/23/96, 61 FR 25791	
463–39–030	Additional Definitions	9/21/95	5/23/96, 61 FR 25791	
463–39–095	Permit Issuance	9/21/95	5/23/96, 61 FR 25791	
463–39–100	Registration	12/11/93	5/23/96, 61 FR 25791	
463–39–120	Monitoring and Special Report	9/21/95	5/23/96, 61 FR 25791	
463–39–135	Criminal Penalties	8/6/79	5/23/96, 61 FR 25791	
463–39–170	Conflict of Interest	8/6/79	5/23/96, 61 FR 25791	
463–39–230	Regulatory Actions	8/26/94	5/23/96, 61 FR 25791	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Benton Clean Air Agency (BCAA) Regulations				
Regulation 1				
1.01	Name of Agency	12/11/14	11/17/15, 80 FR 71695	
1.02	Policy and Purpose	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–010.
1.03	Applicability	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–020.
4.01(A)	Definitions—Fugitive Dust	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–030(38).
4.01(B)	Definitions—Fugitive Emissions	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–030(39).
4.02(B)	Particulate Matter Emissions—Fugitive Emissions.	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–040(4).
4.02(C)(1)	Particulate Matter Emissions—Fugitive Dust.	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–040(9)(a).
4.02(C)(3)	Particulate Matter Emissions—Fugitive Dust.	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–040(9)(b).
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–030	Definitions	12/29/12	11/17/15, 80 FR 71695	Except: 173–400–030(38); 173–400–030(39); 173–400–030(91).
173–400–036	Relocation of Portable Sources	12/29/12	11/17/15, 80 FR 71695	
173–400–040	General Standards for Maximum Emissions.	4/1/11	11/17/15, 80 FR 71695	Except: 173–400–040(2)(c); 173–400–040(2)(d); 173–400–040(3); 173–400–040(4); 173–400–040(5); 173–400–040(7), second paragraph; 173–400–040(9)(a); 173–400–040(9)(b).
173–400–050	Emission Standards for Combustion and Incineration Units.	12/29/12	11/17/15, 80 FR 71695	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5).
173–400–060	Emission Standards for General Process Units.	2/10/05	11/17/15, 80 FR 71695	
173–400–070	Emission Standards for Certain Source Categories.	12/29/12	11/17/15, 80 FR 71695	Except: 173–400–070(7); 173–400–070(8).
173–400–081	Startup and Shutdown	4/1/11	11/17/15, 80 FR 71695	
173–400–091	Voluntary Limits on Emissions	4/1/11	11/17/15, 80 FR 71695	
173–400–105	Records, Monitoring and Reporting.	12/29/12	11/17/15, 80 FR 71695	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	11/17/15, 80 FR 71695	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); —The part of WAC 173–400–110(4)(b)(vi) that says, ''not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,''; —The part of 400–110(4)(e)(iii) that says, ''where toxic air pollutants as defined in chapter 173–460 WAC are not emitted''; The part of 400–110(4)(e)(f)(i) that says, ''that are not toxic air pollutants listed in chapter 173–460 WAC''; —The part of 400–110(4)(h)(xviii) that says, '', to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted''; —The part of 400–110(4)(h)(xxxiii) that says, ''where no toxic air pollutants as listed under chapter 173–460 WAC are emitted''; —The part of 400–110(4)(h)(xxxiv) that says, '', or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; The part of 400–110(4)(h)(xxxv) that says, ''or ≤1% (by weight) toxic air pollutants''; —The part of 400–110(4)(h)(xxxvi) that says, ''or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; 400–110(4)(h)(xl), second sentence; —The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	12/29/12	11/17/15, 80 FR 71695	Except: 173–400–111(3)(h); —The part of 173–400–111(8)(a)(v) that says, ''and 173–460–040,''; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	11/17/15, 80 FR 71695	Except: 173–400–112(8).
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	11/17/15, 80 FR 71695	Except: 173–400–113(3), second sentence.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	11/17/15, 80 FR 71695	Except facilities subject to the applicability provisions of WAC 173–400–700.
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	11/17/15, 80 FR 71695	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	11/17/15, 80 FR 71695	
173–400–136	Use of Emission Reduction Credits (ERC).	12/29/12	11/17/15, 80 FR 71695	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	11/17/15, 80 FR 71695	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Notice and Opportunity for Public Comment.	12/29/12	11/17/15, 80 FR 71695	Except: —The part of 173–400–171(3)(b) that says, ''or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC''; 173–400–171(12).
173–400–175	Public Information	2/10/05	11/17/15, 80 FR 71695	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–200	Creditable Stack Height & Dispersion Techniques.	2/10/05	11/17/15, 80 FR 71695	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726	
173–400–560	General Order of Approval	12/29/12	11/17/15, 80 FR 71695	Except: —The part of 173–400–560(1)(f) that says, ''173–460 WAC''.
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	11/17/15, 80 FR 71695	
173–400–810	Major Stationary Source and Major Modification Definitions.	12/29/12	11/17/15, 80 FR 71695	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	11/17/15, 80 FR 71695	
173–400–830	Permitting Requirements	12/29/12	11/17/15, 80 FR 71695	
173–400–840	Emission Offset Requirements	12/29/12	11/17/15, 80 FR 71695	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	12/29/12	11/17/15, 80 FR 71695	
173–400–860	Public Involvement Procedures	4/1/11	11/17/15, 80 FR 71695	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Northwest Clean Air Agency Regulations				
General Provisions				
100	Name of Authority	9/8/93	2/22/95, 60 FR 9778	
101	Short Title	9/8/93	2/22/95, 60 FR 9778	
102	Policy	9/8/93	2/22/95, 60 FR 9778	
103	Duties & Powers	9/8/93	2/22/95, 60 FR 9778	
104	Adoption of State/Federal Laws and Rules.	11/13/94	10/24/95, 60 FR 54439	Except section 104.2.
105	Separability	9/8/93	2/22/95, 60 FR 9778	
106	Public Records	9/8/93	2/22/95, 60 FR 9778	
110	Investigation and Studies	9/8/93	2/22/95, 60 FR 9778	
111	Interference or Obstruction	9/8/93	2/22/95, 60 FR 9778	
112	False and Misleading Oral Statements.	9/8/93	2/22/95, 60 FR 9778	
113	Service of Notice	9/8/93	2/22/95, 60 FR 9778	
114	Confidential Information	9/8/93	2/22/95, 60 FR 9778	
120	Hearings	9/8/93	2/22/95, 60 FR 9778	
121	Orders	9/8/93	2/22/95, 60 FR 9778	
122	Appeals from Orders or Violations	9/8/93	2/22/95, 60 FR 9778	
123	Status of Orders on Appeal	9/8/93	2/22/95, 60 FR 9778	
124	Display of Orders	9/8/93	2/22/95, 60 FR 9778	
130	Citations—Notices	9/8/93	2/22/95, 60 FR 9778	
131	Violations—Notices	9/8/93	2/22/95, 60 FR 9778	
132	Criminal Penalty	11/13/94	10/24/95, 60 FR 54439	
133	Civil Penalty	11/13/94	10/24/95, 60 FR 54439	
134	Restraining Orders—Injunction	9/8/93	2/22/95, 60 FR 9778	
135	Additional Enforcement—Compliance Schedules.	9/8/93	2/22/95, 60 FR 9778	
140	Reporting by Government Agencies.	9/8/93	2/22/95, 60 FR 9778	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
145	Motor Vehicle Owner Responsibility.	9/8/93	2/22/95, 60 FR 9778	
150	Pollutant Disclosure—Reporting by Air Containment Sources.	9/8/93	2/22/95, 60 FR 9778	
180	Sampling and Analytical Methods/References.	9/8/93	2/22/95, 60 FR 9778	
	Definitions			
200	Definitions	11/13/94	10/24/95, 60 FR 54439	
	Control Procedures			
300	Notice of Construction When Required.	11/13/94	10/24/95, 60 FR 54439	
301	Information Required for Notice of Construction & Application for Approval, Public Notice, Public Hearing.	11/13/94	10/24/95, 60 FR 54439	
302	Issuance of Approval or Order	11/13/94	10/24/95, 60 FR 54439	
303	Notice of Completion—Notice of Violation.	9/8/93	2/22/95, 60 FR 9778	
310	Approval to Operate Required	9/8/93	2/22/95, 60 FR 9778	
320	Registration Required	9/8/93	2/22/95, 60 FR 9778	
321	General Requirements for Registration.	9/8/93	2/22/95, 60 FR 9778	
322	Exemptions from Registration	11/13/94	10/24/95, 60 FR 54439	
323	Classes of Registration	9/8/93	2/22/95, 60 FR 9778	
324	Fees	11/13/94	10/24/95, 60 FR 54439	Except section 324.121.
325	Transfer	9/8/93	2/22/95, 60 FR 9778	
340	Report of Breakdown and Upset	11/13/94	10/24/95, 60 FR 54439	
341	Schedule Report of Shutdown or Start-Up.	9/8/93	2/22/95, 60 FR 9778	
342	Operation and Maintenance	9/8/93	2/22/95, 60 FR 9778	
360	Testing and Sampling	9/8/93	2/22/95, 60 FR 9778	
365	Monitoring	9/8/93	2/22/95, 60 FR 9778	
366	Instrument Calibration	9/8/93	2/22/95, 60 FR 9778	
	Standards			
400	Ambient Air Standards—Forward	9/8/93	2/22/95, 60 FR 9778	
401	Suspended Particulate Standards (PM–10).	9/8/93	2/22/95, 60 FR 9778	
410	Sulfur Oxide Standards	9/8/93	2/22/95, 60 FR 9778	
420	Carbon Monoxide Standards	9/8/93	2/22/95, 60 FR 9778	
422	Nitrogen Oxide Standards	9/8/93	2/22/95, 60 FR 9778	
424	Ozone Standards	9/8/93	2/22/95, 60 FR 9778	
450	Emission Standards—Forward	9/8/93	2/22/95, 60 FR 9778	
451	Emission of Air Contaminant—Visual Standards.	11/13/94	10/24/95, 60 FR 54439	
452	Motor Vehicle Visual Standards	9/8/93	2/22/95, 60 FR 9778	Except section 452.5.
455	Emission of Particulate Matter	9/8/93	2/22/95, 60 FR 9778	
458	Incinerators—Wood Waste Burners.	9/8/93	2/22/95, 60 FR 9778	
460	Weight/Heat Rate Standard—Emission of Sulfur Compounds.	9/8/93	2/22/95, 60 FR 9778	
462	Emission of Sulfur Compounds	11/13/94	10/24/95, 60 FR 54439	
466	Portland Cement Plants	9/8/93	2/22/95, 60 FR 9778	
	Regulated Activities and Prohibitions			
510	Incinerator Burning	9/8/93	2/22/95, 60 FR 9778	
520	Sulfur Compounds in Fuel	9/8/93	2/22/95, 60 FR 9778	
550	Particulate Matter from Becoming Airborne.	9/8/93	2/22/95, 60 FR 9778	
560	Storage of Organic Liquids	9/8/93	2/22/95, 60 FR 9778	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
580	Volatile Organic Compound Control (VOC).	11/13/94	10/24/95, 60 FR 54439	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726	
173–400–040	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units.	3/22/91	6/2/95, 60 FR 28726	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726	
173–400–091	Voluntary Limits on Emissions	9/20/93	6/2/95, 60 FR 28726	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726	
173–400–105	Records, Monitoring and Reporting.	9/20/93	6/2/95, 60 FR 28726	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection.	3/22/91	6/2/95, 60 FR 28726	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726	

TABLE 6—ADDITIONAL REGULATIONS APPROVED FOR THE OLYMPIC REGION CLEAN AIR AGENCY (ORCAA) JURISDICTION

[Applicable in Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Thurston counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Olympic Region Clean Air Agency Regulations				
Rule 6.2 Outdoor Burning				
6.2.3	No Residential or Land Clearing Burning.	2/4/12	10/3/13, 78 FR 61188	Only as it applies to the cities of Olympia, Lacey, and Tumwater.
6.2.6	Curtailment	3/18/11	10/3/13, 78 FR 61188	
6.2.7	Recreational Burning	3/18/11	10/3/13, 78 FR 61188	

TABLE 6—ADDITIONAL REGULATIONS APPROVED FOR THE OLYMPIC REGION CLEAN AIR AGENCY (ORCAA) JURISDICTION—Continued

[Applicable in Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Thurston counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Rule 8.1 Wood Heating				
8.1.1	Definitions	5/22/10	10/3/13, 78 FR 61188	
8.1.2(b) and (c)	General Emission Standards	5/22/10	10/3/13, 78 FR 61188	
8.1.3	Prohibited Fuel Types	5/22/10	10/3/13, 78 FR 61188	
8.1.4	Curtailment	5/22/10	10/3/13, 78 FR 61188	
8.1.5	Exceptions	5/22/10	10/3/13, 78 FR 61188	
8.1.7	Sale and Installation of Uncertified Woodstoves.	5/22/10	10/3/13, 78 FR 61188	
8.1.8	Disposal of Uncertified Woodstoves.	5/22/10	10/3/13, 78 FR 61188	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726	
173–400–040	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units.	3/22/91	6/2/95, 60 FR 28726	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726	
173–400–091	Voluntary Limits on Emissions	9/20/93	6/2/95, 60 FR 28726	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726	
173–400–105	Records, Monitoring and Reporting.	9/20/93	6/2/95, 60 FR 28726	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection.	3/22/91	6/2/95, 60 FR 28726	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Puget Sound Clean Air Agency Regulations				
Regulation I—Article 1: Policy, Short Title, and Definitions				
1.01	Policy	11/1/99	8/31/04, 69 FR 53007	
1.03	Name of Agency	11/1/99	8/31/04, 69 FR 53007	
1.05	Short Title	11/1/99	8/31/04, 69 FR 53007	
1.07	Definitions	5/19/94	6/29/95, 60 FR 33734	
Regulation I—Article 3: General Provisions				
3.04	Reasonably Available Control Technology.	4/17/99	8/31/04, 69 FR 53007	Except (e).
3.06	Credible Evidence	11/14/98	8/31/04, 69 FR 53007	
Regulation I—Article 5: Registration				
5.02	Applicability and Purpose of the Registration Program.	11/1/96	8/6/97, 62 FR 42216	
5.03	Registration Required	8/13/99	8/31/04, 69 FR 53007	Except (a)(5).
5.05	General Reporting Requirements for Registration.	11/1/98	8/31/04, 69 FR 53007	
Regulation I—Article 6: New Source Review				
6.03	Notice of Construction	11/1/96	8/6/97, 62 FR 42216	
6.04	Notice of Construction Review Fees.	11/1/97	4/21/98, 63 FR 19658	
6.06	Public Notice	5/19/94	6/29/95, 60 FR 33734	
6.07	Order of Approval—Order to Prevent Construction.	5/19/94	6/29/95, 60 FR 33734	
6.08	Emission Reduction Credit Banking.	1/1/93	8/29/94, 59 FR 44324	
6.09	Notice of Completion	5/19/94	6/29/95, 60 FR 33734	
6.10	Work Done without an Approval	11/1/97	4/21/98, 63 FR 19658	
Regulation I—Article 7: Operating Permits				
7.09	General Reporting Requirements for Operating Permits.	11/1/98	8/31/04, 69 FR 53007	
Regulation I—Article 8: Outdoor Burning				
8.04	General Conditions for Outdoor Burning.	1/1/01	8/31/04, 69 FR 53007	
8.05	Agricultural Burning	1/1/01	8/31/04, 69 FR 53007	
8.06	Outdoor Burning Ozone Contingency Measure.	1/23/03	8/5/04, 69 FR 47364	
8.09	Description of King County No-Burn Area.	1/1/01	8/31/04, 69 FR 53007	
8.10	Description of Pierce County No-Burn Area.	1/1/01	8/31/04, 69 FR 53007	
8.11	Description of Snohomish County No-Burn Area.	1/1/01	8/31/04, 69 FR 53007	
8.12	Description of Kitsap County No-Burn Area.	11/30/02	8/31/04, 69 FR 53007	
Regulation I—Article 9: Emission Standards				
9.03	Emission of Air Contaminant: Visual Standard.	4/17/99	8/31/04, 69 FR 53007	Except (e).
9.04	Opacity Standards for Equipment with Continuous Opacity Monitoring Systems.	6/1/98	8/31/04, 69 FR 53007	Except (d)(2) & (f).
9.05	Refuse Burning	1/13/94	6/29/95, 60 FR 33734	
9.07	Sulfur Dioxide Emission Standard	5/19/94	6/29/95, 60 FR 33734	
9.08	Fuel Oil Standards	5/19/94	6/29/95, 60 FR 33734	
9.09	Particulate Matter Emission Standards.	6/1/98	8/31/04, 69 FR 53007	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION—Continued

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
9.15	Fugitive Dust Control Measures	4/17/99	8/31/04, 69 FR 53007	
9.16	Spray-Coating Operations	9/1/01	8/31/04, 69 FR 53007	
9.20	Maintenance of Equipment	6/9/88	8/29/94, 59 FR 44324	
Regulation I—Article 12: Standards of Performance for Continuous Emission Monitoring Systems				
12.01	Applicability	6/1/98	8/31/04, 69 FR 53007	
12.03	Continuous Emission Monitoring Systems.	11/1/04	9/17/13, 78 FR 57073	
Regulation I—Article 13: Solid Fuel Burning Device Standards				
13.01	Policy and Purpose	12/01/12	5/29/13, 78 FR 32131	
13.02	Definitions	12/01/12	5/29/13, 78 FR 32131	
13.03	Opacity Standards	12/01/12	5/29/13, 78 FR 32131	
13.04	Prohibited Fuel Types	12/01/12	5/29/13, 78 FR 32131	
13.05	Curtailment	12/01/12	5/29/13, 78 FR 32131	
13.06	Emission Performance Standards	12/01/12	5/29/13, 78 FR 32131	
13.07	Contingency Plan	12/01/12	5/29/13, 78 FR 32131	
Regulation II—Article 1: Purpose, Policy, Short Title, and Definitions				
1.01	Purpose	11/1/99	8/31/04, 69 FR 53007	
1.02	Policy	11/1/99	8/31/04, 69 FR 53007	
1.03	Short Title	11/1/99	8/31/04, 69 FR 53007	
1.04	General Definitions	12/11/80	2/28/83, 48 FR 8273	
1.05	Special Definitions	9/1/03	9/17/13, 78 FR 57073	
Regulation II—Article 2: Gasoline Marketing Emission Standards				
2.01	Definitions	8/13/99	8/31/04, 69 FR 53007	
2.03	Petroleum Refineries	7/15/91	8/29/94, 59 FR 44324	
2.05	Gasoline Loading Terminals	1/13/94	6/29/95, 60 FR 33734	
2.06	Bulk Gasoline Plants	7/15/91	8/29/94, 59 FR 44324	
2.07	Gasoline Stations	1/10/00	8/31/04, 69 FR 53007	
2.08	Gasoline Transport Tanks	8/13/99	8/31/04, 69 FR 53007	
2.09	Oxygenated Gasoline Carbon Monoxide Contingency Measure and Fee Schedule.	1/23/03	8/5/04, 69 FR 47365	
2.10	Gasoline Station Ozone Contingency Measure.	1/23/03	8/5/04, 69 FR 47365	
Regulation II—Article 3: Miscellaneous Volatile Organic Compound Emission Standards				
3.01	Cutback Asphalt Paving	7/15/91	8/29/94, 59 FR 44324	
3.02	Volatile Organic Compound Storage Tanks.	8/13/99	8/31/04, 69 FR 53007	
3.03	Can and Paper Coating Operations.	3/17/94	6/29/95, 60 FR 33734	
3.04	Motor Vehicle and Mobile Equipment Coating Operations.	9/1/03	9/17/13, 78 FR 57073	
3.05	Graphic Arts Systems	1/13/94	6/29/95, 60 FR 33734	
3.08	Polyester, Vinylester, Gelcoat, and Resin Operations.	1/13/94	6/29/95, 60 FR 33734	
3.09	Aerospace Component Coating Operations.	1/13/94	6/29/95, 60 FR 33734	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726	
173–400–040	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION—Continued

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units.	3/22/91	6/2/95, 60 FR 28726	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726	
173–400–091	Voluntary Limits on Emissions	9/20/93	6/2/95, 60 FR 28726	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995). issued pursuant to this section.
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726	
173–400–105	Records, Monitoring and Reporting.	9/20/93	6/2/95, 60 FR 28726	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection.	3/22/91	6/2/95, 60 FR 28726	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Southwest Clean Air Agency Regulations				
General Regulations for Air Pollution Sources				
400–010	Policy and Purpose	9/21/95	2/26/97, 62 FR 8624	
400–020	Applicability	9/21/95	2/26/97, 62 FR 8624	
400–030	Definitions	11/21/96	5/19/97, 62 FR 27204	Except 2nd sentence in two subsections (14) & (49), subsection (84).
400–040	General Standards for Maximum Emissions.	9/21/95	2/26/97, 62 FR 8624	Except (1)(c), and (1)(d), (2), (4), and the exception provision of (6)(a).
400–050	Emission Standards for Combustion and Incineration Units.	9/21/95	2/26/97, 62 FR 8624	Except the exception provision in (3).
400–052	Stack Sampling of Major Combustion Sources.	9/21/95	2/26/97, 62 FR 8624	
400–060	Emission Standards for General Process Units.	9/21/95	2/26/97, 62 FR 8624	
400–070	Emission Standards for Certain Source Categories.	9/21/95	2/26/97, 62 FR 8624	Except (5).
400–074	Gasoline Transport Tankers	9/21/95	2/26/97, 62 FR 8624	
400–081	Startup and Shutdown	9/21/95	2/26/97, 62 FR 8624	
400–090	Voluntary Limits on Emissions	11/8/93	5/3/95, 60 FR 21703	
400–091	Voluntary Limits on Emissions	9/21/95	2/26/97, 62 FR 8624	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
400–100	Registration and Operating Permits.	9/21/95	2/26/97, 62 FR 8624	Except the first sentence of (3)(a)(iv) & (4).
400–101	Sources Exempt from Registration Requirements.	11/21/96	5/19/97, 62 FR 27204	
400–105	Records, Monitoring and Reporting.	9/21/95	2/26/97, 62 FR 8624	
400–107	Excess Emissions	9/21/95	2/26/97, 62 FR 8624	
400–109	Notice of Construction Application	11/21/96	5/19/97, 62 FR 27204	Except subsections (3)(b), (3)(c), (3)(g), (3)(h), (3)(i).
400–110	New Source Review	11/21/96	5/19/97, 62 FR 27204	
400–111	Requirements for Sources in a Maintenance Plan Area.	11/21/96	5/19/97, 62 FR 27204	
400–112	Requirements for New Sources in Nonattainment Areas.	11/21/96	5/19/97, 62 FR 27204	
400–113	Requirements for New Sources in Attainment or Nonclassifiable Areas.	11/21/96	5/19/97, 62 FR 27204	
400–114	Requirements for Replacement or Substantial Alteration for Emission Control Technology at an Existing Stationary Source.	11/21/96	5/19/97, 62 FR 27204	
400–116	Maintenance of Equipment	11/21/96	5/19/97, 62 FR 27204	
400–151	Retrofit Requirements for Visibility Protection.	9/21/95	2/26/97, 62 FR 8624	
400–161	Compliance Schedules	9/21/95	2/26/97, 62 FR 8624	
400–171	Public Involvement	9/21/95	2/26/97, 62 FR 8624	
400–190	Requirements for Nonattainment Areas.	11/21/96	5/19/97, 62 FR 27204	
400–200	Creditable Stack Height & Dispersion Techniques.	9/21/95	2/26/97, 62 FR 8624	
400–205	Adjustment for Atmospheric Conditions.	9/21/95	2/26/97, 62 FR 8624	
400–210	Emission Requirements of Prior Jurisdictions.	9/21/95	2/26/97, 62 FR 8624	
400–220	Requirements for Board Members	9/21/95	2/26/97, 62 FR 8624	
400–230	Regulatory Actions & Civil Penalties.	9/21/95	2/26/97, 62 FR 8624	
400–240	Criminal Penalties	9/21/95	2/26/97, 62 FR 8624	
400–250	Appeals	9/21/95	2/26/97, 62 FR 8624	
400–260	Conflict of Interest	9/21/95	2/26/97, 62 FR 8624	
400–270	Confidentiality of Records & Information.	9/21/95	2/26/97, 62 FR 8624	
400–280	Powers of Authority	9/21/95	2/26/97, 62 FR 8624	
Emission Standards and Controls for Sources Emitting Volatile Organic Compounds				
490–010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204	
490–020	Definitions	11/21/96	5/19/97, 62 FR 27204	
490–025	General Applicability	11/21/96	5/19/97, 62 FR 27204	
490–030	Registration and Reporting	11/21/96	5/19/97, 62 FR 27204	
490–040	Requirements	11/21/96	5/19/97, 62 FR 27204	
490–080	Exceptions & Alternative Methods	11/21/96	5/19/97, 62 FR 27204	
490–090	New Source Review	11/21/96	5/19/97, 62 FR 27204	
490–200	Petroleum Refinery Equipment Leaks.	11/21/96	5/19/97, 62 FR 27204	
490–201	Petroleum Liquid Storage in External Floating Roof Tanks.	11/21/96	5/19/97, 62 FR 27204	
490–202	Leaks from Gasoline Transport Tanks and Vapor Collection Systems.	11/21/96	5/19/97, 62 FR 27204	
490–203	Perchloroethylene Dry Cleaning Systems.	11/21/96	5/19/97, 62 FR 27204	
490–204	Graphic Arts Systems	11/21/96	5/19/97, 62 FR 27204	
490–205	Surface Coating of Miscellaneous Metal Parts and Products.	11/21/96	5/19/97, 62 FR 27204	
490–207	Surface Coating of Flatwood Paneling.	11/21/96	5/19/97, 62 FR 27204	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
490–208	Aerospace Assembly & Component Coating Operations.	11/21/96	5/19/97, 62 FR 27204	
Emissions Standards and Controls for Sources Emitting Gasoline Vapors				
491–010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204	
491–015	Applicability	11/21/96	5/19/97, 62 FR 27204	
491–020	Definitions	11/21/96	5/19/97, 62 FR 27204	
491–030	Registration	11/21/96	5/19/97, 62 FR 27204	
491–040	Gasoline Vapor Control Requirements.	11/21/96	5/19/97, 62 FR 27204	
491–050	Failures, Certification, Testing & Recordkeeping.	11/21/96	5/19/97, 62 FR 27204	
491–060	Severability	11/21/96	5/19/97, 62 FR 27204	
Oxygenated Fuels				
492–010	Policy and Purpose	11/21/96	4/30/97, 62 FR 23363	
492–020	Applicability	11/21/96	4/30/97, 62 FR 23363	
492–030	Definitions	11/21/96	4/30/97, 62 FR 23363	
492–040	Compliance Requirements	11/21/96	4/30/97, 62 FR 23363	
492–050	Registration Requirements	11/21/96	4/30/97, 62 FR 23363	
492–060	Labeling Requirements	11/21/96	4/30/97, 62 FR 23363	
492–070	Control Area and Control Period ..	11/21/96	4/30/97, 62 FR 23363	
492–080	Enforcement and Compliance	11/21/96	4/30/97, 62 FR 23363	
492–090	Unplanned Conditions	11/21/96	4/30/97, 62 FR 23363	
492–100	Severability	11/21/96	4/30/97, 62 FR 23363	
VOC Area Source Rules				
493–100	Consumer Products (Reserved) ...	05/26/96	5/19/97, 62 FR 27204	
493–200–010	Applicability	05/26/96	5/19/97, 62 FR 27204	
493–200–020	Definitions	05/26/96	5/19/97, 62 FR 27204	
493–200–030	Spray Paint Standards & Exemptions.	05/26/96	5/19/97, 62 FR 27204	
493–200–040	Requirements for Manufacture, Sale and Use of Spray Paint.	05/26/96	5/19/97, 62 FR 27204	
493–200–050	Recordkeeping & Reporting Requirements.	05/26/96	5/19/97, 62 FR 27204	
493–200–060	Inspection and Testing Requirements.	05/26/96	5/19/97, 62 FR 27204	
493–300–010	Applicability	05/26/96	5/19/97, 62 FR 27204	
493–300–020	Definitions	05/26/96	5/19/97, 62 FR 27204	
493–300–030	Standards	05/26/96	5/19/97, 62 FR 27204	
493–300–040	Requirements for Manufacture, Sale and Use of Architectural Coatings.	05/26/96	5/19/97, 62 FR 27204	
493–300–050	Recordkeeping & Reporting Requirements.	05/26/96	5/19/97, 62 FR 27204	
493–300–060	Inspection and Testing Requirements.	05/26/96	5/19/97, 62 FR 27204	
493–400–010	Applicability	05/26/96	5/19/97, 62 FR 27204	
493–400–020	Definitions	05/26/96	5/19/97, 62 FR 27204	
493–400–030	Coating Standards & Exemptions	05/26/96	5/19/97, 62 FR 27204	
493–400–040	Requirements for Manufacture & Sale of Coating.	05/26/96	5/19/97, 62 FR 27204	
493–400–050	Requirements for Motor Vehicle Refinishing in Vancouver AQMA.	05/26/96	5/19/97, 62 FR 27204	
493–400–060	Recordkeeping and Reporting Requirements.	05/26/96	5/19/97, 62 FR 27204	
493–400–070	Inspection & Testing Requirements.	05/26/96	5/19/97, 62 FR 27204	
493–500–010	Applicability	05/26/96	5/19/97, 62 FR 27204	
493–500–020	Compliance Extensions	05/26/96	5/19/97, 62 FR 27204	
493–500–030	Exemption from Disclosure to the Public.	05/26/96	5/19/97, 62 FR 27204	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
493–500–040	Future Review	05/26/96	5/19/97, 62 FR 27204	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	03/22/91	6/2/95, 60 FR 28726	
173–400–020	Applicability	03/22/91	6/2/95, 60 FR 28726	
173–400–030	Definitions	03/22/91	6/2/95, 60 FR 28726	
173–400–040	General Standards for Maximum Emissions.	03/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	03/22/91	6/2/95, 60 FR 28726	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units.	03/22/91	6/2/95, 60 FR 28726	
173–400–070	Emission Standards for Certain Source Categories.	03/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	09/20/93	6/2/95, 60 FR 28726	
173–400–091	Voluntary Limits on Emissions	09/20/93	6/2/95, 60 FR 28726	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–100	Registration	09/20/93	6/2/95, 60 FR 28726	
173–400–105	Records, Monitoring and Reporting.	09/20/93	6/2/95, 60 FR 28726	
173–400–107	Excess Emissions	09/20/93	6/2/95, 60 FR 28726	
173–400–110	New Source Review (NSR)	09/20/93	6/2/95, 60 FR 28726	
173–400–112	Requirements for New Sources in Nonattainment Areas.	09/20/93	6/2/95, 60 FR 28726	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	09/20/93	6/2/95, 60 FR 28726	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection.	03/22/91	6/2/95, 60 FR 28726	
173–400–161	Compliance Schedules	03/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Involvement	09/20/93	6/2/95, 60 FR 28726	
173–400–190	Requirements for Nonattainment Areas.	03/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height & Dispersion Techniques.	03/22/91	6/2/95, 60 FR 28726	
173–400–205	Adjustment for Atmospheric Conditions.	03/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions.	03/22/91	6/2/95, 60 FR 28726	

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION

[Applicable in Spokane County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Spokane Regional Clean Air Agency Regulations				
Regulation I—Article VI—Emissions Prohibited				
6.05	Particulate Matter & Preventing Particulate Matter from becoming Airborne.	11/12/93	1/27/97, 62 FR 3800	
6.14	Standards for Control of Particulate Matter on Paved Surfaces.	2/13/99	4/12/99, 64 FR 17545	

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION—Continued

[Applicable in Spokane County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/Local citation	Title/Subject	State/Local effective date	EPA Approval date	Explanations
6.15	Standards for Control of Particulate Matter on Unpaved Roads.	2/13/99	4/12/99, 64 FR 17545	
6.16	Motor Fuel Specifications for Oxygenated Gasoline.	7/6/95	9/22/97, 62 FR 49442 *	* correction: 12/31/97, 62 FR 68187.
Regulation I—Article VIII—Solid Fuel Burning Device Standards				
8.01	Purpose	9/02/14	9/28/15, 80 FR 58216	
8.02	Applicability	9/02/14	9/28/15, 80 FR 58216	
8.03	Definitions	9/02/14	9/28/15, 80 FR 58216	
8.04	Emission Performance Standards.	9/02/14	9/28/15, 80 FR 58216	Except the incorporation by reference of WAC 173–433–130, 173–433–170, and 173–433–200.
8.05	Opacity Standards	9/02/14	9/28/15, 80 FR 58216	
8.06	Prohibited Fuel Types	9/02/14	9/28/15, 80 FR 58216	
8.07	Curtailment	9/02/14	9/28/15, 80 FR 58216	
8.08	Exemptions	9/02/14	9/28/15, 80 FR 58216	
8.09	Procedure to Geographically Limit Solid Fuel Burning Devices.	9/02/14	9/28/15, 80 FR 58216	
8.10	Restrictions on Installation of Solid Fuel Burning Devices.	9/02/14	9/28/15, 80 FR 58216	
Regulation II—Article IV—Emissions Prohibited				
4.01	Particulate Emissions—Grain Loading Restrictions.	4/26/79	6/5/80, 45 FR 37821	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726	
173–400–040	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units.	3/22/91	6/2/95, 60 FR 28726	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7)
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726	
173–400–091	Voluntary Limits on Emissions	9/20/93	6/2/95, 60 FR 28726	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants See 60 FR 28726 (June 2, 1995).
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726	
173–400–105	Records, Monitoring and Reporting.	9/20/93	6/2/95, 60 FR 28726	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection.	3/22/91	6/2/95, 60 FR 28726	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726	

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION—Continued

[Applicable in Spokane County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/Local citation	Title/Subject	State/Local effective date	EPA Approval date	Explanations
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726	

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA) JURISDICTION

[Applicable in Yakima County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Yakima Regional Clean Air Agency Regulations				
Article I—Policy, Short Title and Definitions				
1.01	Policy	12/15/95	2/2/98, 63 FR 5269	
1.02	Short Title	11/18/93	2/2/98, 63 FR 5269	
1.03	Definitions	12/15/95	2/2/98, 63 FR 5269	
Article II—General Provisions				
2.02	Control Officer—Powers & Duties	11/18/93	2/2/98, 63 FR 5269	
2.03	Miscellaneous Provisions	11/18/93	2/2/98, 63 FR 5269	
2.04	Confidentiality	11/18/93	2/2/98, 63 FR 5269	
2.05	Advisory Council	11/18/93	2/2/98, 63 FR 5269	
Article III—Violations—Orders and Hearings				
3.01	Notice of Violation—Corrective Action Hearings.	11/18/93	2/2/98, 63 FR 5269	
3.02	Finality of Order	11/18/93	2/2/98, 63 FR 5269	
3.03	Stay of Order Pending Appeal	11/18/93	2/2/98, 63 FR 5269	
3.04	Voluntary Compliance	11/18/93	2/2/98, 63 FR 5269	
Article IV—Registration and Notice of Construction				
4.01	Registration	12/15/95	2/2/98, 63 FR 5269	
4.02	Notice of Construction	12/15/95	2/2/98, 63 FR 5269	
4.03	Exceptions to Article 4	11/18/93	2/2/98, 63 FR 5269	
Article V—Emissions Standards and Preventative Measures				
5.01	Outdoor Burning	12/15/95	2/2/98, 63 FR 5269	
5.02	Regulations Applicable to all Outdoor Burning.	12/15/95	2/2/98, 63 FR 5269	
5.03	Regulations Applicable to all Outdoor Burning within Jurisdiction of the Yakima County Clean Air Authority, Local Cities, Towns, Fire Protection Districts and Conservation Districts.	12/15/95	2/2/98, 63 FR 5269	
5.04	Regulations Applicable to Permits Issued by the Yakima County Clean Air Authority for all Other Outdoor Burning.	12/15/95	2/2/98, 63 FR 5269	
5.05	Additional Restrictions on Outdoor Burning.	12/15/95	2/2/98, 63 FR 5269	
5.06	General Standards for Maximum Permissible Emissions.	12/15/95	2/2/98, 63 FR 5269	

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA) JURISDICTION—Continued

[Applicable in Yakima County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
5.07	Minimum Emission Standards for Combustion and Incineration Sources.	12/15/95	2/2/98, 63 FR 5269	
5.08	Minimum Emissions Standards for General Process Sources.	12/15/95	2/2/98, 63 FR 5269	
5.10	Sensitive Area Designation	6/20/94	2/2/98, 63 FR 5269	
5.11	Monitoring and Special Reporting	12/15/95	2/2/98, 63 FR 5269	
5.12	Preventive Measures	11/18/93	2/2/98, 63 FR 5269	
Article VIII—Penalty and Severability				
8.01	Penalty for Violation	11/18/93	2/2/98, 63 FR 5269	
8.02	Additional/Alternative Penalties	12/15/95	2/2/98, 63 FR 5269	
8.03	Assurance of Discontinuance	11/18/93	2/2/98, 63 FR 5269	
8.04	Restraining Order—Injunctions	11/18/93	2/2/98, 63 FR 5269	
8.05	Severability	12/15/95	2/2/98, 63 FR 5269	
Article IX—Woodstoves and Fireplaces				
9.01	Policy	11/18/93	2/2/98, 63 FR 5269	
9.02	Opacity	11/18/93	2/2/98, 63 FR 5269	
9.03	Prohibitive Fuel Types	11/18/93	2/2/98, 63 FR 5269	
9.04	Limitations of Sales of Solid Fuel Burning Devices.	11/18/93	2/2/98, 63 FR 5269	
9.05	Prohibition of Visible Emissions During Air Pollution Episodes.	12/15/95	2/2/98, 63 FR 5269	
Article XII—Adoption of State and Federal Regulations				
12.01	State Regulations	12/15/95	2/2/98, 63 FR 5269	
Article XIII—Fee Schedules and Other Charges				
13.01	Registration and Fee Schedule	1/13/94	2/2/98, 63 FR 5269	
13.02	Notice of Construction Fee Schedule.	6/20/94	2/2/98, 63 FR 5269	
13.03	Outdoor Burning Permit Fees	6/20/94	2/2/98, 63 FR 5269	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726	
173–400–040	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units.	3/22/91	6/2/95, 60 FR 28726	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726	
173–400–091	Voluntary Limits on Emissions	9/20/93	6/2/95, 60 FR 28726	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726	
173–400–105	Records, Monitoring and Reporting.	9/20/93	6/2/95, 60 FR 28726	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726	Except (8).

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA) JURISDICTION—Continued

[Applicable in Yakima County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection.	3/22/91	6/2/95, 60 FR 28726	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726	

(d) *EPA-Approved State Source-Specific Requirements.*

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS [1]

Name of source	Order/permit No.	State effective date	EPA approval date	Explanations
IBP (now known as Tyson Foods, Inc.).	02AQER–5074	12/6/02	5/2/05, 70 FR 22597	Except finding number 4 (T–BACT) & 3.3 of approval condition #3 (Emission Limits & Test Methods).
Boise White Paper LLC Permit ..	000369–7	12/1/04	5/2/05, 70 FR 22597	Following condition only: 1.Q.1 of item Q.
Boise Cascade, Wallula Mill	1614–AQ04	9/15/04	5/2/05, 70 FR 22597	Following conditions only: No. 1 (Approval Conditions) & Appendix A.
Fugitive Dust Control Plan for Simplot Feeders Limited Partnership.	.....	12/1/03	5/2/05, 70 FR 22597	
Emission Limits for Significant Stack Sources.	various orders	various dates	10/26/95, 60 FR 54812	
Honam, Inc., Ideal Division (now known as LaFarge North America, Inc.).	#5183	2/9/94	8/31/04, 69 FR 53007	
Saint Gobain Containers LLC	#8244	9/9/99	8/31/04, 69 FR 53007	
Kaiser Order—Alternate Opacity Limit.	91–01	12/12/91	1/27/97, 62 FR 3800	
Kaiser Order—Limiting Potential-to-Emit.	96–03	10/4/00	7/1/05, 70 FR 38029	
Kaiser Order—Limiting Potential-to-Emit.	96–04	4/24/96	1/27/97, 62 FR 3800	
Kaiser Order—Limiting Potential-to-Emit.	96–05	10/4/00	7/1/05, 70 FR 38029	
Kaiser Order—Limiting Potential-to-Emit.	96–06	10/19/00	7/1/05, 70 FR 38029	
Kaiser Order	DE 01 AQIS–3285 ...	10/24/01	5/12/05, 70 FR 24991	
Kaiser Order Amendment #1	DE 01 AQIS–3285 ...	4/9/03	5/12/05, 70 FR 24991	
RACT Limits for Centralia Power Plant.	#97–2057R1	2/26/98	6/11/03, 68 FR 34821	
TransAlta Centralia BART	#6426	12/13/11	12/6/12, 77 FR 72742	Except the undesignated introductory text, the section titled ''Findings,'' and the undesignated text following condition 13.

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS [1]—Continued

Name of source	Order/permit No.	State effective date	EPA approval date	Explanations
BP Cherry Point Refinery	Administrative Order No. 7836, Revision 2.	5/13/15	2/16/16, 81 FR 7710	The following conditions: 1.1, 1.1.1, 1.2, 1.2.1, 1.2.2, 2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.2, 2.2.1, 2.2.2, 2.3, 2.3.1, 2.3.2, 2.4, 2.4.1, 2.4.2, 2.4.2.1, 2.5, 2.5.1, 2.5.1.1, 2.5.1.2, 2.5.2, 2.5.3, 2.5.4, 2.6, 2.6.1, 2.6.2, 2.6.3, 2.7, 2.7.1, 2.7.2, 2.7.3, 2.7.4, 2.8, 2.8.1, 2.8.2, 2.8.3, 2.8.4, 2.8.5, 2.8.6, 3, 3.1, 3.1.1, 3.1.2, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, 4, 4.1, 4.1.1, 4.1.1.1, 4.1.1.2, 4.1.1.3, 4.1.1.4, 5, 5.1, 5.2, 6, 6.1, 6.2, 6.3, 7, 9.
Alcoa Intalco Works	Administrative Order No. 7837, Revision 1.	11/15/10	6/11/14, 79 FR 33438	The following conditions: 1, 2, 2.1, 3, 4, 4.1, Attachment A conditions: A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14.
Tesoro Refining and Marketing Company.	Administrative Order 7838.	7/7/10	6/11/14, 79 FR 33438	The following conditions: 1, 1.1, 1.1.1, 1.1.2, 1.2, 1.3, 1.4, 1.5, 1.5.1, 1.5.1.1, 1.5.1.2, 1.5.1.3, 1.5.2, 1.5.3, 1.5.4, 1.5.5, 1.5.6, 2, 2.1, 2.1.1, 2.1.1.1, 2.1.2, 2.1.3, 2.2, 2.2.1, 3, 3.1, 3.1.1, 3.1.2, 3.1.2.1, 3.1.2.2, 3.1.2.3, 3.2, 3.2.1, 3.2.1.1, 3.2.1.2, 3.2.1.3, 3.2.1.4, 3.2.1.4.1, 3.2.1.4.2, 3.2.1.4.3, 3.2.1.4.4, 3.2.1.4.5, 3.3, 3.3.1, 3.4, 3.4.1, 3.4.2, 4, 4.1, 5, 5.1, 6, 6.1, 6.1.1, 6.1.2, 6.1.3, 6.1.4, 7, 7.1, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.5, 7.2, 7.2.1, 7.2.2, 7.2.3, 7.2.4, 8, 8.1, 8.1.1, 8.1.2, 8.2, 8.2.1, 8.2.2, 8.2.3, 8.3, 8.3.1, 8.3.2, 9, 9.1, 9.1.1, 9.1.2, 9.2, 9.2.1, 9.3, 9.3.1, 9.3.2, 9.3.3, 9.4, 9.4.1, 9.4.2, 9.4.3, 9.4.5, 9.4.6, 9.5, 10, 11, 12, 13, 13.1, 13.2, 13.3, 13.4, 13.5, 13.6.
Port Townsend Paper Corporation.	Administrative Order No. 7839, Revision 1.	10/20/10	6/11/14, 79 FR 33438	The following Conditions: 1, 1.1, 1.2, 1.3, 2, 2.1, 3, 3.1, 4.
Lafarge North America, Inc. Seattle, Wa.	Administrative Revised Order No. 7841.	7/28/10	6/11/14, 79 FR 33438	The following Conditions: 1, 1.1, 1.2, 2, 2.1, 2.1.1, 2.1.2, 2.2, 2.3, 3, 3.1, 3.1.1, 3.1.2, 3.1.3, 3.2, 3.3, 4, 4.1, 5, 5.1, 5.1.1, 5.1.2, 5.2, 5.3, 6, 6.1, 7, 7.1, 7.2, 7.3, 7.4, 7.5, 8, 8.1, 8.2, 8.3, 8.4, 8.5, 9, 10, 11, 12.
Weyerhaeuser Corporation, Longview, Wa.	Administrative Order No. 7840.	7/7/10	6/11/14, 79 FR 33438	The following Conditions: 1, 1.1, 1.1.1, 1.1.2, 1.1.3, 1.2, 1.2.1, 1.2.2, 1.2.3, 1.3, 1.3.1, 1.4, 2, 2.1, 3, 3.1, 4, 4.1.

[1] The EPA does not have the authority to remove these source-specific requirements in the absence of a demonstration that their removal would not interfere with attainment or maintenance of the NAAQS, violate any prevention of significant deterioration increment or result in visibility impairment. Washington Department of Ecology may request removal by submitting such a demonstration to the EPA as a SIP revision.

(e) *EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures.*

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Washington Department of Ecology Regulations				
173–400–220	Requirements for Board Members	3/22/91	6/2/95, 60 FR 28726	
173–400–230	Regulatory Actions	3/20/93	6/2/95, 60 FR 28726	
173–400–240	Criminal Penalties	3/22/91	6/2/95, 60 FR 28726	
173–400–250	Appeals	9/20/93	6/2/95, 60 FR 28726	
173–400–260	Conflict of Interest	3/22/91	6/2/95, 60 FR 28726	
173–433–200	Regulatory Actions and Penalties	10/18/90	1/15/93, 58 FR 4578	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Benton Clean Air Agency Regulations				
2.01	Powers and Duties of the Benton Clean Air Agency (BCAA).	12/11/14	11/17/15, 80 FR 71695	
2.02	Requirements for Board of Directors Members.	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–220.
2.03	Powers and Duties of the Board of Directors.	12/11/14	11/17/15, 80 FR 71695	
2.04	Powers and Duties of the Control Officer.	12/11/14	11/17/15, 80 FR 71695	
2.05	Severability	12/11/14	11/17/15, 80 FR 71695	
2.06	Confidentiality of Records and Information.	12/11/14	11/17/15, 80 FR 71695	
Olympic Region Clean Air Agency Regulations				
8.1.6	Penalties	5/22/10	10/3/13, 78 FR 61188	
Spokane Regional Clean Air Agency Regulations				
8.11	Regulatory Actions and Penalties	09/02/14	09/28/15, 80 FR 58216	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanations
Attainment and Maintenance Planning—Carbon Monoxide				
Carbon Monoxide Attainment Plan.	Yakima	4/27/79	6/5/80, 45 FR 37821	
Carbon Monoxide Attainment Plan.	Puget Sound	1/22/93	1/20/94, 59 FR 2994	
Carbon Monoxide Attainment Plan.	Spokane	1/22/93	1/20/94, 59 FR 2994	
Carbon Monoxide Attainment Plan.	Vancouver	1/22/93	1/20/94, 59 FR 2994	
Carbon Monoxide Attainment Plan—Contingency Measure.	Vancouver	11/10/93	10/31/94, 59 FR 54419	
Carbon Monoxide Attainment Plan—VMT Supplement.	Puget Sound	1/22/93	8/23/95, 60 FR 43710	
Carbon Monoxide Maintenance Plan.	Puget Sound	2/29/96	10/11/96, 61 FR 53323	
Carbon Monoxide Maintenance Plan.	Vancouver	3/19/96	10/21/96, 61 FR 54560	
Carbon Monoxide Attainment Plan—Revisions.	Spokane	9/14/93 and 4/30/96	9/22/97, 62 FR 49442	
Carbon Monoxide Attainment Plan—Correction.	Spokane		12/31/97, 62 FR 68187	
Carbon Monoxide Maintenance Plan.	Yakima	9/26/01	11/01/02, 67 FR 66555	
Carbon Monoxide Maintenance Plan 10-Year Update.	Puget Sound	12/17/03	8/5/04, 69 FR 47365	
Carbon Monoxide Attainment Plan—Including Kaiser Orders.	Spokane	9/20/01 and 11/22/04	5/12/05, 70 FR 24991	
Carbon Monoxide Maintenance Plan.	Spokane	11/29/04	6/29/05, 70 FR 37269	
Carbon Monoxide Maintenance Plan 10-Year Update.	Vancouver	4/25/07	6/27/08, 73 FR 36439	
Attainment and Maintenance Planning—Lead (Pb)				
Lead Attainment Plan	Seattle	9/27/84	1/29/85, 50 FR 3907	
Attainment and Maintenance Planning—Ozone				
Ozone Attainment Plan	Vancouver	7/16/82	12/17/82, 47 FR 56497	
Ozone Attainment Plan	Seattle-Tacoma	7/16/82	2/28/83, 48 FR 8273	
Ozone Attainment Plan—VOC RACT.	Seattle-Tacoma	5/14/91	7/12/93, 58 FR 37426	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS—Continued

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanations
Ozone Attainment Plan—VOC RACT.	Vancouver	5/14/91	7/12/93, 58 FR 37426	
Ozone Attainment Plan—Emission Statement Program.	Seattle-Tacoma	1/28/93	9/12/94, 59 FR 46764	
Ozone Attainment Plan—Emission Statement Program.	Vancouver	1/28/93	9/12/94, 59 FR 46764	
Ozone Maintenance Plan	Seattle-Tacoma	3/4/96	9/26/96, 21 FR 50438	
Ozone Maintenance Plan	Vancouver	6/13/96	5/19/97, 62 FR 27204	
Ozone Maintenance Plan 10-Year Update.	Seattle-Tacoma	12/17/03	8/5/04, 69 FR 47365	
8-Hour Ozone 110(a)(1) Maintenance Plan.	Seattle-Tacoma	2/5/08	5/2/14, 79 FR 25010	
8-Hour Ozone 110(a)(1) Maintenance Plan.	Vancouver	1/17/2007	8/11/15, 80 FR 48033	
Attainment and Maintenance Planning—Particulate Matter (PM_{10})				
Particulate Matter (PM_{10}) Attainment Plan.	Kent	11/15/91	7/27/93, 58 FR 40059	
Particulate Matter (PM_{10}) Attainment Plan.	Thurston County	2/17/89 and 11/15/91	7/27/93, 58 FR 40056	
Particulate Matter (PM_{10}) Attainment Plan.	Tacoma	5/2/95	10/25/95, 60 FR 54559	
Particulate Matter (PM_{10}) Attainment Plan.	Seattle	2/21/95	10/26/95, 60 FR 54812	
Particulate Matter (PM_{10}) Attainment Plan.	Spokane	12/9/94	1/27/97, 62 FR 3800	
Particulate Matter (PM_{10}) Attainment Plan.	Wallula	11/13/91	1/27/97, 62 FR 3800	
Particulate Matter (PM_{10}) Attainment Plan.	Yakima	3/24/89	2/2/98, 63 FR 5269	
Particulate Matter (PM_{10}) Maintenance Plan.	Thurston County	8/16/99	10/4/00, 65 FR 59128	
Particulate Matter (PM_{10}) Maintenance Plan.	Kent	8/23/99	3/13/01, 66 FR 14492	
Particulate Matter (PM_{10}) Maintenance Plan.	Seattle	8/23/99	3/13/01, 66 FR 14492	
Particulate Matter (PM_{10}) Maintenance Plan.	Tacoma	8/23/99	3/13/01, 66 FR 14492	
Particulate Matter (PM_{10}) Maintenance Plan.	Yakima	7/8/04	2/8/05, 70 FR 6591	
Particulate Matter (PM_{10}) Attainment Plan—Revision.	Wallula	11/30/04	5/2/05, 70 FR 22597	
Particulate Matter (PM_{10}) Maintenance Plan.	Spokane	11/30/04	7/1/05, 70 FR 38029	
Particulate Matter (PM_{10}) Maintenance Plan.	Wallula	3/29/05	8/26/05, 70 FR 50212	
Particulate Matter (PM_{10}) 2nd 10-year Limited Maintenance Plan.	Thurston County	7/1/13	10/3/13, 78 FR 61188	
Particulate Matter (PM_{10}) 2nd 10-Year Limited Maintenance Plan.	Kent, Seattle, and Tacoma.	11/29/13	8/20/14, 79 FR 49244	
Attainment and Maintenance Planning—Particulate Matter ($PM_{2.5}$)				
Particulate Matter ($PM_{2.5}$) Clean Data Determination.	Tacoma, Pierce County.	05/22/12	09/04/12, 77 FR 53772	
Particulate Matter ($PM_{2.5}$) 2008 Baseline Emissions Inventory and SIP Strengthening Rules.	Tacoma, Pierce County.	11/28/12	5/29/13, 78 FR 32131	
Approval of Motor Vehicle Emission Budgets and Determination of Attainment for the 2006 24-Hour Fine Particulate Standard ($PM_{2.5}$).	Tacoma, Pierce County.	11/28/12	9/19/13, 78 FR 57503	
Particulate Matter ($PM_{2.5}$) Maintenance Plan.	Tacoma, Pierce County.	11/03/14	2/10/15, 80 FR 7347	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS—Continued

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanations
Visibility and Regional Haze Plans				
Visibility New Source Review (NSR) for non-attainment areas for Washington.	Statewide		6/26/86, 51 FR 23228	
Washington State Visibility Protection Program.	Statewide	11/5/99	6/11/03, 68 FR 34821	
Regional Haze State Implementation Plan—TransAlta BART.	Statewide	12/29/11	12/6/12, 77 FR 72742	
Regional Haze SIP	Statewide	12/22/10	6/11/14, 79 FR 33438	The Regional Haze SIP including those provisions relating to BART incorporated by reference in § 52.2470 'Identification of plan' with the exception of the BART provisions that are replaced with a BART FIP in § 52.2498 Visibility protection., § 52.2500 Best available retrofit technology requirements for the Intalco Aluminum Corporation (Intalco Works) primary aluminum plant—Better than BART Alternative., § 52.2501 Best available retrofit technology (BART) requirement for the Tesoro Refining and Marketing Company oil refinery—Better than BART Alternative., § 52.2502 Best available retrofit technology requirements for the Alcoa Inc.—Wenatchee Works primary aluminum smelter.
Regional Haze SIP—Technical Correction.	Statewide	12/22/10	11/24/14, 79 FR 69767	
Regional Haze State Implementation Plan—BP Cherry Point Refinery BART Revision..	Statewide	5/14/15	2/16/16, 81 FR 7710	
110(a)(2) Infrastructure and Interstate Transport				
Interstate Transport for the 1997 8-Hour Ozone and $PM_{2.5}$ NAAQS.	Statewide	1/17/07	1/13/09, 74 FR 1591	
110(a)(2) Infrastructure Requirements—1997 Ozone Standard.	Statewide	1/24/12	5/24/12, 77 FR 30902	
110(a)(2) Infrastructure Requirements—2008 Lead Standard.	Statewide	4/14/14	7/23/14, 79 FR 42685	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
110(a)(2) Infrastructure Requirements—2008 Ozone and 2010 Nitrogen Dioxide Standards.	Statewide	9/22/14	1/14/15, 80 FR 1849	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
110(a)(2) Infrastructure Requirements—1997, 2006, and 2012 Fine Particulate Matter ($PM_{2.5}$) Standards.	Statewide	9/22/14	5/12/15, 80 FR 27102	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
Interstate Transport for the 2008 Pb and 2010 NO_2 NAAQS.	Statewide	5/11/15	7/16/15, 80 FR 42042	This action addresses CAA 110(a)(2)(D)(i)(I).
Interstate Transport for the 2006 24-hour $PM_{2.5}$ NAAQS.	Statewide	5/11/15	7/30/15, 80 FR 45429	This action addresses CAA 110(a)(2)(D)(i)(I).
Interstate Transport for the 2008 Ozone NAAQS.	Statewide	5/11/15	12/15/15, 80 FR 77580	This action addresses CAA 110(a)(2)(D)(i)(I).
Other Federally Mandated Plans				
Oxygenated Gasoline Program ..		1/22/93	1/20/94, 59 FR 2994	
Business Assistance Program ...		11/16/92	3/8/95, 60 FR 12685	
Motor Vehicle Inspection & Maintenance Program.		8/21/95	9/25/96, 61 FR 50235	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS—Continued

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanations
Supplementary Documents				
Air Quality Monitoring, Data Reporting and Surveillance Provisions.	.....	4/15/81		
Energy Facilities Site Evaluation Council (EFSEC) Memorandum of Agreement.	.....	2/23/82		
Recently Approved Plans				

[FR Doc. 2016–07175 Filed 3–30–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0397; FRL–9943–79]

Pendimethalin; Tolerance Exemptions; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of December 21, 2015, concerning the addition of certain commodities to 40 CFR 180.361. Nut, tree group 14–12 was inadvertently omitted. This document corrects that omission.

DATES: This final rule correction is effective March 31, 2016.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0397, 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.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

The Agency included in the December 21, 2015 final rule a list of those who may be potentially affected by this action.

II. What does this technical correction do?

EPA issued a final rule in the **Federal Register** of December 21, 2015 (80 FR 79267) (FRL–9937–18) that was adding commodities including Nut, tree group 14–12 to 40 CFR 180.361(a)(1). EPA inadvertently omitted the language in the codified text, which would have added Nut, tree group.

III. Why is this correction issued as a final rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, because this is correcting a typographical error. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do any of the statutory and executive order reviews apply to this action?

No. For a detailed discussion concerning the statutory and executive order review, refer to Unit VI of the December 21, 2015 final rule.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 24, 2016.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.361(a)(1), add alphabetically the entry Nut, tree, group 14–12 to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Nut, tree, group 14–12	0.10
* * * * *	

* * * * *

[FR Doc. 2016–07310 Filed 3–30–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171 and 173

[Docket No. PHMSA–2011–0143 (HM–253)]

RIN 2137–AE81

Hazardous Materials: Reverse Logistics (RRR)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, the Pipeline and Hazardous Materials Safety Administration (PHMSA) is adopting regulatory amendments applicable to the reverse logistics shipments of certain hazardous materials by highway transportation. This final rule revises the Hazardous Materials Regulations (HMR) to include a definition of ''reverse logistics'' and provides appropriate provisions for hazardous materials within the scope of this definition. This final rule also expands a previously existing exception for return shipments of used automobile batteries transported between a retail facility and a recycling center. The PHMSA incorporated recommendations from petitions for rulemaking and public comment into this rulemaking.

DATES: *Effective:* March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Steven Andrews, (202) 366–8553, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents of Supplementary Information

I. Executive Summary

This final rule creates a new section (§ 173.157) in the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) with provisions specific to reverse logistics (*e.g.,* returning shipments from retail stores to a product's manufacturer, supplier, or distribution facility) by highway transportation. The PHMSA believes that the requirements adopted in this final rule will benefit retail operators by establishing a regulatory framework targeted to a distinct and limited segment of the supply chain that is associated with retail stores. In this rule, the PHMSA codifies a definition for the ''reverse logistics'' of hazardous materials as ''the process of offering for transport or transporting by motor vehicle goods from a retail store for return to its manufacturer, supplier, or distribution facility for the purpose of capturing value (*e.g.,* to receive manufacturer's credit), recall, replacement, recycling, or similar reason.'' The PHMSA is also addressing the reverse logistics transportation of used automobile batteries to recycling centers. This change to the HMR will address the concerns of stakeholders pertaining to the consolidation of shipments of lead-acid batteries for recycling.

II. Background

As noted in its petition (P–1528), the Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA) and the PHMSA entered into a partnership agreement in November 2006 for the purpose of enhancing hazardous materials transportation safety involving the return of consumer products to a manufacturer or distributor (referred to in the petition as ''reverse logistics''). In an effort to reduce undeclared hazardous materials shipments and raise awareness of applicable regulations, COSTHA worked with the PHMSA to develop and disseminate outreach materials, training programs, and other resources.

Consequently, COSTHA engaged stakeholders in meetings, forums, and other communications to address the challenges posed by reverse logistics shipments. A product of this engagement was the development of COSTHA's 2008 petition for rulemaking. In its petition, COSTHA notes that its organization ''identified an unquantifiable exposure to risk presented through undeclared hazmat, specifically from retail operations that unknowingly return articles containing hazmat to the product manufacturer or a distributor.'' [1]

This petition also notes that many reverse logistics shipments of hazardous materials were eligible (at the time the petition was drafted) to be classified as Other Regulated Material (ORM–D) and could be shipped under the ''Consumer Commodity'' proper shipping name.[2] COSTHA also notes that equipment powered by internal combustion engines may be returned to retail outlets after being used and may contain residual fuel, therefore posing a risk in transportation. As a result, such articles transported in forward logistics may not be initially regulated as hazardous materials, but once used, the same article transported in reverse logistics may be regulated as a hazardous material.

COSTHA's petition requested that the PHMSA include a definition in § 171.8 for ''reverse logistics'' and add a new § 173.157 to outline the general requirements and exceptions for hazardous materials shipped in reverse logistics. In addition, the petitioner also requested regulatory relief from certain training, packaging, segregation, hazard communication, and other baseline provisions in the HMR.

After the acceptance of this petition, the PHMSA published a final rule: *Hazardous Materials: Harmonization With the United Nations Recommendations, the International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air;* PHMSA–2009–0126 (HM–215K) [76 FR 3308].[3] HM–215K implemented a system for the shipment of limited quantities of hazardous materials consistent with the requirements in the United Nations Model Regulations.[4] By

[1] P–1528, Page 2. *http://www.regulations.gov/#!docketDetail;D=PHMSA-2008-0249.*

[2] *Consumer commodity* means a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for purposes of personal care or household use. This term also includes drugs and medicines. 49 CFR 171.8.

[3] 76 FR 3308.

[4] *Limited quantity,* when specified as such in a section applicable to a particular material, means the maximum amount of a hazardous material for which there is a specific labeling or packaging exception. 49 CFR 171.8.

harmonizing the HMR with international standards, a common, internationally recognized mark was adopted.[5] In making this change, HM–215K (as appealed) phased out the ORM–D classification and the use of packagings marked ''Consumer commodity, ORM–D'' in surface transportation after December 31, 2020. The majority of shipments in reverse logistics are within the scope and quantity limits of the HMR's limited quantity provisions.

The PHMSA also received a petition for rulemaking (P–1561) from the Battery Council International (BCI) addressing return shipments of used lead-acid batteries. In its petition, the BCI requested that the PHMSA authorize the shipment of used batteries from multiple shippers on a single transport vehicle under the exception provided in § 173.159(e). The BCI noted in its petition that it is unclear whether the current exception in § 173.159(e) authorizes the shipment of used batteries from multiple shippers for the purposes of recycling.

This rule advances government-wide efforts to clarify, streamline, and allow for flexibility in regulations when possible. Accordingly, this final rule is part of the DOT's Retrospective Regulatory Review (RRR) designed to identify ways to improve the HMR. There are three (3) Executive Orders that make up the RRR review process: Executive Order 13563 (''Improving Regulation and Regulatory Review''), Executive Order 12866 (''Regulatory Planning and Review''), and Executive Order 13610 (''Identifying and Reducing Regulatory Burden''). Executive Order 13563 specifically requires agencies to: (1) Involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) identify and consider regulatory approaches that reduce burden and maintain flexibility; (4) ensure the objectivity of any scientific or technological information used to support regulatory action; and (5) consider how to best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome. Executive Order 13563 supplements and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866 issued on September 30, 1993. Furthermore, Executive Order 13610 urges agencies to conduct retrospective analyses of existing rules to examine whether they remain justified or whether they should be modified or streamlined in light of changed circumstances, including the rise of new technologies. The PHMSA's review of the reverse logistics process determined that current regulations could better account for what is a distinct and limited segment of the supply chain associated with the return shipment of consumer items containing hazardous materials from retail store for return to its manufacturer, supplier, or distribution facility. Therefore, consistent with the DOT's RRR efforts, this final rule is intended to clarify, streamline, and allow for flexibility in the regulatory requirements with regards to reverse logistics.

As a result of investigative activities conducted by its field operations staff, the PHMSA identified a need to consider regulatory amendments to specifically address the unique issues encountered by this distinct and limited segment of the supply chain. Some of the unique problems that can occur during the reverse logistics of hazmat are:

- The lack of knowledge regarding the risks of transporting certain products;
- The lack of hazmat training by employees at a retail store;
- The difficulty in applying hazmat regulations to reverse logistics shipments;
- The different packaging(s) other than the original packaging being used to ship the material;
- The potential for hazmat to be subject to Environmental Protection Agency (EPA) waste manifest rules;
- The inclusion of items once classified as consumer commodities that no longer meet the ''consumer commodity'' definition.

In order to reduce undeclared, misdeclared, or improperly packaged hazmat from being offered and transported in commerce, we are amending the HMR to better address the reverse logistics supply chain. Specifically, we are seeking to ensure retail employers properly identify hazardous materials in the reverse logistics chain and ensure that their employees have clear instructions to safely offer such shipments. Even when intended for ground transportation, the complex transportation network in the U.S. means that these shipments could inadvertently enter into air transportation—a mode of transportation where clear hazard communications is essential. Clear and correct hazard communication allows air carriers to manage the risk in their system by either rejecting, or properly accepting, handling, and segregating hazardous materials.

The PHMSA believes that the reverse logistics of hazmat will continue to rise with the increased consumption of goods in a growing economy. By adopting, in part, petitions P–1528 and P–1561, the PHMSA is seeking to account for the distinct challenges associated with this issue.

A. Advance Notice of Proposed Rulemaking

On July 5, 2012 [77 FR 39662], the PHMSA published an Advance Notice of Proposed Rulemaking (ANPRM) to request comments on reverse logistics. Specifically, we requested comments on regulatory changes intended to address retail operations that ship consumer products containing hazmat in the reverse logistics supply chain. We presented targeted questions in the ANPRM in order to evaluate reverse logistics shipments by highway, rail, and vessel, as these types of shipments are not intended for transportation by air. The PHMSA used the data collected by the ANPRM in its development of the NPRM.

B. Notice of Proposed Rulemaking

On August 11, 2014 [79 FR 46748], the PHMSA published a Notice of Proposed Rulemaking (NPRM) to request comments on a proposed new section of the regulations for reverse logistics shipments. In response to the NPRM, the PHMSA received comments from the following entities:

Advanced Auto Parts	*http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0056.*
Airline Pilots Association (APA)	*http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0049.*
Alaska Airlines	*http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0043.*
American Coatings Association (ACA)	*http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0060.*
American Pyrotechnics Association	*http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0070.*
American Trucking Association (ATA)	*http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0055.*
Anonymous	*http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0050.*

[5] See 49 CFR 172.315(a)(1).

Anonymous	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0039.
Association of HAZMAT Shippers (AHS)	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0061.
Battery Council International (BCI)	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0065.
Billy Puk	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0052.
C&S Wholesale Grocers	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0068.
Council on the Safe Transportation of Hazardous Articles (COSTHA).	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0064.
Crazy Cracker	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0042.
Dangerous Goods Advisory Council (DGAC)	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0063.
Federal Express (FedEx)	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0053.
g2 Revolution	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0044.
Giant Cement Holding, Inc	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0073.
Graylin Presbury	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0051.
Heritage Environmental Services	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0059.
Inmar Inc	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0045.
Kellner's Fireworks Inc	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0046.
National Association of Manufactures	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0071.
National Fireworks Association	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0047.
Orion Safety Products	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0062.
Rechargeable Battery Association (PRBA)	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0074.
Retail Industry Leaders Association (RILA)	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0058.
RSR Corporation	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0066.
Siemens Healthcare	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0072.
Sporting Arms and Ammunition Manufacturers' Institute (SAAMI)	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0069.
Stephen Charles	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0040.
United Parcel Service (UPS)	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0057.
Wal-Mart	http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0143-0048.

III. Review of Amendments and Response to Comments

With regard to providing clarity and concise hazmat transport regulations for reverse logistics shipments, the PHMSA considered petitions for rulemaking submitted by the regulated community, input from the PHMSA's enforcement division, and comments submitted to both the July 5, 2012 ANPRM and the August 11, 2014 NPRM. The PHMSA received 34 comments to the ANPRM and 33 comments to the NPRM. As a result, in this final rule, the PHMSA is amending the HMR to:

- Define the term ''reverse logistics'';
- Establish a new section in the HMR specifically for the reverse logistics shipment of hazmat;
- Ensure employees have knowledge and familiarity in preparing hazardous materials shipments subject to the reverse logistics shipments;
- Define the authorized packaging for reverse logistics shipments;
- Allow more flexibility in the transportation of lead-acid batteries;
- Authorize certain materials to be offered in accordance with the new reverse logistics requirements when transported by private carrier.

A. Definition of ''Reverse Logistics'' and Applicability and Hazard Classes

Definition of ''Reverse Logistics''

In the NPRM, we proposed to define ''reverse logistics'' as ''the process of moving goods from their final destination for the purpose of capturing value, recall, replacement, proper disposal, or similar reason.'' We received several comments pertaining to this definition from the regulated community.

The American Coatings Association (ACA) supports a definition for ''reverse logistics'' provided the definition is broad enough to capture recycling, business-to-business transactions, and return scenarios that exist in the marketplace. While the PHMSA appreciates ACA's comments, this rule is more focused on the specific relationship between retail stores and distribution facilities, and not business-to-business operations. However, the PHMSA agrees with ACA's comment pertaining to recycling and is adding the term ''recycling'' to the definition for ''reverse logistics'' in § 171.8 of the HMR. In addition, the Retail Industry Leaders Association (RILA) suggests adding ''such as a retail store'' to the definition of ''reverse logistics'' to provide an example of a final destination. The PHMSA agrees with the intent of this comment and, in the final rule, has amended the definition of ''reverse logistics'' by removing the term ''final destination'' to clarify that, for the purposes of this rulemaking, reverse logistics applies solely to shipments of hazardous materials returned to their manufacturer, supplier, or distribution facility.

The American Trucking Association (ATA) and COSTHA are concerned that the proposed definition for ''reverse logistics'' did not include carriers. COSTHA asserts that the term ''moving'' is not appropriate and instead suggests adding the language ''offering for transport or transporting'' to include carriers in the reverse logistics definition. The PHMSA agrees and is addressing COSTHA's comment by modifying the definition of ''reverse logistics'' to include both the process of offering hazmat for transport and the transport of hazmat.

The Dangerous Goods Advisory Council (DGAC) suggests limiting the carrier scenarios proposed in § 173.157(b)(1)(ii) and (iii) of the NPRM to only private or dedicated carriers. The DGAC is aware that contract and common carriers have significant concerns with aspects of this rulemaking, whereas private or dedicated carriers are supportive. It is DGAC's view that while exceptions are necessary, the shipper, as appropriate, should retain responsibility for the transportation of hazmat shipments and the responsibility without control should not be placed on contract or common carriers. The PHMSA agrees and is adopting revisions in this final rule so that reverse logistics shipments by non-private carriers are consistent with the HMR's marking requirements for limited quantity shipments. It should be noted that training requirements are an exception to this alignment. This issue is discussed later in this final rule (see heading ''Training.'') We also note that certain types of hazmat proposed in the NPRM, such as retail fireworks, would not be appropriate for shipment as reverse logistics by non-private carriers. Therefore, we are limiting those hazard classes to private carriers only. For the purposes of this final rule, a non-private

carrier is anyone who does not own or operate its own fleet of vehicles.

The ACA asked for clarification of ''capturing value'' in the definition for ''reverse logistics.'' The PHMSA intended ''capturing value'' to be a way for retailers to return consumer products containing hazmat to their manufacturer, supplier, or distribution facility to receive manufacturer's credit, be resold, or be donated, etc. This final rule seeks to clarify this term within the definition.

Several commenters, including Mr. Billy Puk and the ACA, raise concerns about the use of the term ''proper disposal'' in the definition of ''reverse logistics.'' These commenters express concern about potential overlaps with EPA rules for the Federal regulation of hazardous waste. In order to avoid confusion, the PHMSA is removing the term ''proper disposal'' and adding language to the general section in § 173.157 that specifically excludes hazardous waste as defined in § 171.8 as a material eligible for shipment under the reverse logistics section. By eliminating the term ''proper disposal'' from the definition, the PHMSA is avoiding any potential inconsistencies with EPA hazardous waste regulations. Furthermore, the PHMSA notes there is nothing in this final rule that supersedes EPA's Resource Conservation and Recovery Act (RCRA) regulations related to when a material is considered a solid or hazardous waste. The PHMSA is therefore clarifying in §§ 171.8 and 173.157 that hazardous waste is outside the scope of this rulemaking.

As previously stated, the PHMSA is also clarifying that the definition of ''reverse logistics'' applies only to the return of hazardous materials from a retail store to the product's manufacturer, supplier, or distribution facility. Therefore, in this final rule, the definition for ''reverse logistics'' has been revised to read, ''Means the process of offering for transport or transporting by motor vehicle goods from a retail store for return to its manufacturer, supplier, or distribution facility for the purpose of capturing value (*e.g.* to receive manufacturer's credit), recall, replacement, recycling, or similar reason.'' In addition, the PHMSA notes that individual consumers are not considered hazmat employees under § 171.8 of the HMR and, therefore, would not be directly affected by the new requirements in this rulemaking.

Applicability and Hazard Classes

In the NPRM, we proposed hazard classes and quantities of hazmat authorized for reverse logistics shipments. We also proposed to limit shipments under the reverse logistics to highway transportation only. Several commenters request that the PHMSA extend the applicability to rail and vessel transportation. These commenters believe the rule should authorize the use of domestic vessel and rail shipments where such modes of transportation are used as part of the reverse logistics process. Commenters express that without an extension of the proposed rule to cover domestic vessel and rail shipments utilized during reverse logistics, some retailers may have to create two reverse logistics processes, which will add complexity, confusion, and ultimately, difficulty in execution. Since additional modes were not proposed in the NPRM, these comments are beyond the scope of this rulemaking, and the PHMSA is not adding these modes to the applicability section of this final rule.

Heritage Environmental Services notes that the PHMSA already provides limited quantity provisions in Part 173 of the HMR for retail products that would typically be shipped under the reverse logistics section. The PHMSA agrees and notes that the hazmat classes and quantities addressed in this final rule are consistent with existing limited quantity provisions when using non-private carriers. One exception is that the final rule authorizes the transportation by private carrier of certain Division 2.1 and 2.2 cylinders without the cylinders being tested for pressure. This exception would authorize retail stores to offer certain returned cylinders as a hazardous material when they may no longer meet the definition of a Division 2.1 or Division 2.2 hazardous material. Other deviations from the limited quantities approach, which would allow for the shipment of 1.4G (fireworks and flares), Division 2.1 and 2.2 cylinders (that do not qualify as limited quantity shipments) sold as retail products, and the return of equipment powered by flammable liquids or flammable gases, are permitted under this section only when offered and transported by private carrier. As discussed later in this final rule, the PHMSA also revised employee training requirements for the shipments under the reverse logistics section.

Comments submitted by FedEx seek clarification on the methodology used to develop the authorized hazard classes for this rulemaking. The list of hazardous classes eligible for the reverse logistics section in the NPRM was developed based on information provided in petitions, comments to the ANPRM, and the initial regulatory analysis. However, in response to comments to the NPRM, the PHMSA has revised this final rule to be consistent (with exception of the deviations noted in the previous paragraph) with the hazard classes and quantity limitations found in the applicable corresponding limited quantities sections of the HMR.

In the NPRM, we proposed to limit applicable Division 1.4 hazmat to consumer fireworks and ammunition. The PHMSA received comments from the American Pyrotechnics Association, Kellner's Fireworks, the National Fireworks Association, and Greyland Presbury supporting the inclusion of 1.4S and 1.4G fireworks in the final rule. COSTHA commented that the PHMSA should implement a quantity-per-package limit for Division 1.4 hazmat and does not believe that the PHMSA demonstrated an adequate safety analysis to justify including flares and fireworks. The DGAC commented that Division 1.4 materials should not be limited to fireworks and flares and proposed a tiered approach to regulating Division 1.4 hazmat. United Parcel Service (UPS) indicates that Division 1.4 hazmat should not be included as part of this rulemaking since there are already applicable limited quantity provisions.

We agree. Therefore, in response to the comments, the PHMSA has revised the proposed language to include Division 1.4 materials in the final rule with certain limitations. For the purposes of fireworks and flares, the reverse logistics transportation of these materials will be limited to consumer grade fireworks sold at retail facilities. In addition, the PHMSA is requiring consumer grade fireworks to be packaged as required by the approval assigned to those fireworks. This will help to ensure that fireworks packages are shipped in an equivalent manner to when they were originally shipped in the forward logistics chain. In response to comments discussed later, the PHMSA has also added language that limits all reverse logistics shipment of Division 1.4 materials to 30 kg (66 pounds) per package. This is consistent with what is required for limited quantities shipments in the forward logistics chain. Also, in response to UPS and other commenters, the PHMSA is limiting the shipment of 1.4S and 1.4G fireworks and flares to transportation by private carrier when shipped as reverse logistics. By authorizing the shipment of these materials as limited quantities by private carrier, the PHMSA is providing an exception from existing limited quantity provisions to authorize for transportation the shipment of consumer fireworks and flares as reverse

logistics. However, we believe that the proposed controls coupled with limitation to private carrier-only appropriately balances any safety concerns.

With the exception pertaining to 1.4S and 1.4G fireworks and flares as noted above, explosive materials authorized under § 173.157 for non-private carrier will be consistent with the types of 1.4S (ammunition-related) materials authorized to be shipped as limited quantities. Specifically, the PHMSA is authorizing 1.4S hazardous materials that are allowed for shipment as a limited quantity under § 173.63(b) to be allowed for both private and non-private carrier transport of reverse logistics shipments. By ensuring consistent hazard communications for non-private carrier shipments under reverse logistics, air carrier employees will be better able to recognize and reject shipments not authorized for air transportation.

The PHMSA received several comments regarding other hazard classes proposed in the applicability section of the NPRM. Several commenters present concerns with including hazard Divisions of 5.2 (organic peroxides), 6.1 (toxic materials), and 6.2 (infectious substances). Specifically, ATA and COSTHA question the inclusion of Division 6.1 hazmat that is also toxic-by-inhalation (TIH). In addition to noting that these materials are inherently dangerous in transport and are not permitted to be shipped as limited quantities, COSTHA asserts its belief that it would be prudent to also prohibit these materials from being offered as reverse logistics shipments. Further, ATA notes its concern with the inclusion of Division 6.2 materials and adds that a shipper with limited training could ship Ebola, for example, under the proposed exception. FedEx and UPS also comment that Division 6.1 and 6.2 materials should not be included in the final rule. Specifically, FedEx contends that even when transported in limited quantities, Division 6.2 hazardous materials may pose a risk to health, safety, and property when transported under the scope of ''reverse logistics.'' Further, UPS notes that including Division 6.2 materials could conflict with various state regulations involving the transportation of medical waste. UPS adds that under the limited quantities section, Division 6.1 hazmat is limited to Packaging Groups (PG) II and III.

We agree. Therefore, based on these comments, the PHMSA has determined that Division 5.2 and 6.2 materials would not be appropriate for reverse logistics shipments. Therefore, we are removing the applicability of this rule to Division 5.2 and 6.2 hazardous materials. In addition, the PHMSA is also excluding Division 4.1 materials that are also self-reactive as these materials present a similar risk as Division 5.2 materials. With regards to Division 6.1 materials, the PHMSA notes that there are consumer products found in retail outlets (such as rat poison), that would meet the definition of Division 6.1 and be appropriate for reverse logistics shipments. Additionally, the PHMSA agrees with UPS that these materials should be limited to PG II and III in order to remain consistent with the limited quantities provisions of the HMR. The PHMSA also agrees that TIH materials should not be included and is clarifying in this final rule that Division 6.1 materials which also meet the definition of a TIH material cannot be transported as a reverse logistics shipment. Therefore, in this final rule we are limiting Division 6.1 materials (excluding TIH materials) to PG II and III only.

The DGAC suggested that the PHMSA should not include any materials found in Table 1 of the § 172.504 general placarding requirements as part of this rulemaking. Hazardous materials found in Table 1 of § 172.504 must display appropriate placards when any quantity of a material is being transported. We agree. Therefore, we are not including any materials found in Table 1 of the § 172.504 general placarding requirements as part of this rulemaking. In addition, we are also limiting this rulemaking to only a portion of materials found in Table 2 of § 172.504.

Wal-Mart requests that the PHMSA extend the applicability to Class 7 (radioactive) materials, which would include retail products such as smoke detectors. Since the PHMSA did not propose to include Class 7 materials as part of the NPRM, the comment is beyond the scope of this rulemaking, and we are not able to accommodate the change it as part of this rulemaking.

The ATA expresses concern about the inclusion of Division 4.3 (dangerous when wet) materials and notes that these substances can flare when exposed to water, thus causing issues for emergency responders. COSTHA adds that the PHMSA should consider limits on Division 4.3 materials. We agree. Therefore, based on comments received the PHMSA is no longer considering Division 4.3 materials for this rulemaking and is removing it from the applicability section. Similarly, the PHMSA believes that Class 8 and Class 5, PG I materials are not typically sold as retail products and are otherwise inappropriate due to their risk profile. Therefore, the PHMSA is limiting Class 8 and Class 5 materials to PG II and III, which will also be consistent with the hazard classes authorized under the limited quantity provisions.

The PHMSA is not authorizing the shipment of lithium batteries as reverse logistics as the current exceptions for the shipment of lithium batteries in § 173.185 already provide a means for the return of these products. Specifically, § 173.185(d) authorizes the shipment of lithium cells and batteries (including lithium cells and batteries contained in equipment) for disposal and recycling. Section 173.185(f) authorizes the shipment of lithium cells and batteries that are damaged, defective, or recalled. Particularly with the international supply chain associated with these products, establishing a new, alternative, and domestic-only hazard communication requirement for these shipments would be duplicative and would not be in the interests of safety.

In summary, after careful review and consideration of the comments to the NPRM, the PHMSA is including certain consumer products in Classes 3, 8 (PG II and III), and 9 (except lithium batteries); certain Division 1.4S materials; and Divisions 2.1, 2.2, 4.1 (excluding self-reactive materials), 5.1 (PG II and III), and 6.1 (excluding TIH and PG I), within the scope of reverse logistics under this final rule.

The PHMSA believes, based on comments and petitions, that these hazard classes and divisions cover much of the hazmat in the reverse logistics process, and the risk presented by the quantities of such hazmat used in consumer products can be managed within the reverse logistics provisions established under this rule. In order to codify these hazmat and quantities, the PHMSA is providing an exception for reverse logistics shipments in each of the applicable sections for each hazard class or division that is included as a part of this rulemaking: For example, § 173.150 provides exceptions for flammable liquids. The PHMSA is adding new paragraph (h) to § 173.150 to authorize reverse logistics shipments that meet the limited quantity provision of § 173.150(b), the requirements in the new reverse logistics definition in § 171.8, and the new reverse logistics section in § 173.157. Similar language is being codified to the exceptions section for each hazard class or division included as a part of this rulemaking. However, we note that not all hazmat authorized under the limited quantity

provisions is authorized under the reverse logistics section.

B. Packaging

General Packaging

In the NPRM, the PHMSA proposed a set of packaging standards under the reverse logistics exception to ensure consistent and safe packaging requirements for low hazard items. The proposed standard included requiring the use of the original packaging or a packaging of equivalent strength or integrity. The NPRM also proposed to require that inner packagings be leak-proof for liquids and sift-proof for solids. Further, for liquids that require an outer packaging, enough absorbent material to contain a spill from the inner packagings must be present. The proposed exception also required shippers to secure products in cages, carts, or bins to prevent shifting during transport.

In response to this proposal, ATA suggests that the PHMSA redraft the packaging requirement to read ''each material must be packaged in the manufacturer's original packaging, if available, and in substantially similar condition to when it left the manufacturer, or a packaging of strength and integrity commensurate to the manufacturer's original packaging.'' The ACA states its belief that use of original packaging or one of equivalent strength containing absorbent material is problematic; the Airline Pilots Association supports the packaging standards proposed in the NPRM; and Siemens Healthcare suggests the packaging standards should only apply when original packaging is unavailable. FedEx adds that the PHMSA should require original packaging, and if one is not available, the PHMSA should require salvage drums for consolidation, asserting that it is unreasonable to expect minimally-trained employees to put damaged materials in packaging of equal strength. G2 Revolution expresses its concern that this section will interfere with the ''salvage drums'' requirements under § 173.3(c) of the HMR. UPS expresses concern pertaining to the reliance on fiberboard packages that could result in structural failures of the packagings. Giant Cement Holding, Inc. (Giant Cement) asks the PHMSA to clarify what constitutes a ''packaging of equal or greater strength and integrity.'' Wal-Mart seeks clarification on what items require an outer packaging and whether ''receptacles'' are the same as an ''inner packaging.''

After consideration of the aforementioned comments, the PHMSA is modifying the packaging requirements as proposed in the NPRM. The PHMSA disagrees with FedEx that salvage drums are necessary for the shipment of consumer-type products that are placed in a package of equal or greater strength and integrity. However, the PHMSA notes that packages that are leaking or damaged would not be in compliance with limited quantity provisions. The PHMSA believes that the consumer products that are authorized under this rulemaking are consistent with what is authorized under the limited quantities sections. As written, consumer-type products shipped under this final rule should not be in such a damaged state that a salvage drum would always be required. The PHMSA agrees with the language suggested by ATA and is adding this language to the packaging section for clarification that packages should be in the original packaging or a package of similar strength and integrity. Especially for transport by non-private carrier, it is the PHMSA's intent is to ensure that hazmat shipped under the reverse logistics section will be transported in packages that are the same as what would be required under the limited quantities sections of the HMR.

The ACA suggests amending proposed § 173.157(a)(2)(ii) to incorporate Special Provision 149 in § 172.102 to authorizes inner packagings not exceeding 5 L (1.3 gallons) for PG III materials, further adding that there should be some consideration of increasing the capacity threshold for Class 3, PG III materials to authorize the return of 5-gallon pails of paint.

As the PHMSA did not propose to expand the quantities for PG III materials, the ACA's comment is beyond the scope of this rulemaking, and therefore, we are not adopting such a revision in this final rule. However, if the ACA believes that revision of the threshold quantities for certain materials authorized under ''reverse logistics'' is justified, the PHMSA suggests they submit a petition for rulemaking providing justification.

Several commenters from the regulated community express concern that there is no size limitation on the packages used in the reverse logistics process. COSTHA suggests implementing a 30 kg (66 pounds) limit on reverse logistics shipments. Conversely, Giant Cement suggests Large Gaylord boxes (large corrugated boxes) should be allowed as a strong outside package. The PHMSA agrees with the majority of commenters that there should be a limit on the size per package of shipments made under the reverses logistics section. As there is a size limit of 30 kg (66 pounds) per package for hazmat shipped as limited quantities under Part 173 of the HMR, the types of packages shipped under the reverse logistics will be consistent with those products shipped as limited quantities. Otherwise, packages shipped under the reverse logistics section would be shipped in sizes larger than what is authorized by the limited quantities sections. Therefore, in this final rule, the PHMSA is setting a 30 kg (66 pound) limit for each package shipped under the reverse logistics section.

Giant Cement expresses concern that shippers will add absorbent material even when there is no damage to the products shipped under the reverse logistics section. Inmar Inc. suggests mandating absorbent materials is unnecessary and suggests that leak-proof cardboard boxes should be adequate for reverse logistics shipments. Inmar Inc. adds that the term ''compromised receptacle'' is unnecessarily vague and not needed in the provisions, therefore suggesting that the PHMSA clarify what types of receptacles would be considered compromised. In this final rule, the PHMSA is removing the language proposed in § 173.157(b)(2) and (b)(3) related to leaking products containing hazmat, as well as aligning the reverse logistics section with the limited quantities section of the HMR. Therefore, only packages that would be suitable for shipment under the limited quantities section would be eligible for shipment under this section.

Inmar Inc. also notes that the section in the NPRM discussing equipment with batteries needs clarification as to what type of products this section addresses. For clarification, the PHMSA is specifying that only equipment containing non-lithium batteries may be shipped as reverse logistics. Lithium cells or batteries, as well as products containing lithium cells or batteries, must be offered in accordance with the requirements in § 173.185 and are not within the scope of this final rule.

The RILA asks the PHMSA to clarify if there is a difference between ''leak-proof'' and ''leak-tight,'' with UPS and Wal-Mart stating that the PHMSA should clarify what is considered ''leak-proof'' or ''sift-proof.'' In addition, RILA suggests the PHMSA include a definition for ''leak-proof,'' while Wal-Mart expresses concern that there is neither a definition of ''leak-proof'' nor ''leak-tight.''

For the purposes of packagings shipped under the reverse logistics requirements, the PHMSA is only requiring that the reverse logistics packages are closed in a manner that

leakage will not occur under normal conditions of transportation. This means transporting retail items in their original packaging or a packaging of equal or greater strength if the original packaging is unavailable. The PHMSA does not believe it is necessary to define ''leak-proof'' or ''leak-tight'' for the purposes of this rulemaking.

Cylinders and Aerosols

The ATA notes that the proposed rule extends to cylinders shipped as single packages. In addition, ATA comments that carriers' hazmat training programs teach drivers to demand shipping papers, placards, etc. when receiving cylinder shipments and asserts that allowing cylinders to be shipped as reverse logistics hazmat without these documents undermines carriers' overall hazmat training programs for their drivers. UPS also expresses concern that allowing the transport of Division 2.1 and 2.2 materials without a shipping paper could cause confusion concerning standard procedures that carriers use for the shipment of cylinders.

The PHMSA disagrees that shipments of cylinders returned from retail facilities to distribution centers in accordance with this rule would compromise safety. The cylinders shipped under this section are retail consumer products representing a low hazard and are limited to the return of products from the retail facility to the manufacturer, supplier, or distribution facility. Cylinders offered to non-private carriers must be in full compliance with existing limited quantity provisions—including existing hazard communications requirements. Cylinder or aerosols containing hazardous materials that are not limited quantities that weigh less than 66 pounds, and that are intended for retail sale are restricted to transportation by private carriers.

In the NPRM, the PHMSA proposed that aerosols shipped under this section must have caps and closures. Several commenters raise questions pertaining to the preparation of aerosols (see § 171.8 of the HMR for the definition of ''aerosol'') for reverse logistics shipments. Giant Cement requests clarification that aerosols are not liquids for shipping purposes and, therefore, are not required to be shipped with absorbent material. The Association of Hazmat Shippers (AHS) and Inmar Inc. suggest that the stem of an aerosol should be allowed to be removed, while C&S Wholesale Grocers and Wal-Mart suggest that the PHMSA allow caps other than the original cap for the aerosol can. Inmar Inc. asks if receptacles include aerosols, and if so, it suggests the PHMSA consider size limitation on the entire package.

The HMR currently authorizes the shipment of aerosol cans as consumer commodities in § 173.306. The PHMSA believes the provisions in § 173.306 are adequate to address the transportation of aerosol cans as reverse logistics shipments. Therefore, based on our intent to align the reverse logistics section with the limited quantity provisions, shipments of aerosol cans transported as reverse logistics shipments should be packaged in accordance with the limited quantity provisions specified in § 173.306.

Internal Combustion Powered Equipment

In the NPRM, the PHMSA proposed to authorize the transport of equipment powered by an internal combustion engine containing a flammable liquid under the reverse logistics section provided the flammable liquid source was drained and all shut-off devices were in the closed position. These products are unique in that they did not contain hazardous materials at the time of purchase but could become regulated by the HMR as return shipments. In its comments, DGAC seeks clarification from the PHMSA about whether equipment powered by an internal combustion engine (with either flammable liquid or gas fuel) and equipment powered by electric storage batteries are excepted from the packaging requirement in § 173.157(b)(2) as proposed. Inmar Inc. notes that the proposed § 173.157(c) requirements for internal combustion powered equipment (*i.e.,* lawn mowers, weed trimmers) seem more stringent than § 173.220, which authorizes gasoline to remain in equipment. Inmar Inc. believes these requirements should match what is currently required in § 173.220. Wal-Mart supports the proposal to allow reverse logistics shipment of items with a fuel tank provided they are drained with closures securely in place.

The PHMSA agrees with Inmar Inc. that the requirements for reverse logistics shipments of internal combustion powered equipment should align with what is currently allowed by highway in § 173.220(b)(4). Therefore, the PHMSA is allowing the return of internal combustion powered equipment by motor vehicle provided the fuel tank remains securely closed. The PHMSA is also restricting the allowances proposed in the NPRM for flammable liquid-powered equipment, flammable gas-powered equipment, and other equipment powered by flammable gas to transportation by private carrier.

Other Comments

The Rechargeable Battery Association (PRBA) suggests revising § 172.102 Special Provision 130 to allow for batteries utilizing different chemistries. Except for lead-acid batteries and lithium batteries, the PHMSA did not propose in the NPRM to authorize batteries utilizing different chemistries for reverse logistics shipments. Expanding these provisions in this final rule would be beyond the scope of this rulemaking. Therefore, we are unable to accommodate PRBA's comments in this final rule.

C. Hazard Communication

In the NPRM, the PHMSA proposed that packages shipped under reverse logistics be marked with the common names or proper shipping names of the hazmat contained within the package. The PHMSA received several comments expressing safety concerns with this proposed requirement. For example, ATA notes that a common name could be as uninformative as ''lawn care product'' or ''expired cosmetics,'' further adding that a common name might also be a brand name, such as ''Dutch Boy'' to represent a flammable paint. Therefore, ATA suggests the PHMSA require the use of a ''REVERSE LOGISTICS—HIGHWAY TRANSPORT ONLY'' marking similar to other marking requirements in the HMR. C&S Wholesale Grocers suggests the PHMSA require a sticker advising that the box may contain limited amounts of hazmat. The DGAC adds that shipments made under reverse logistics should require a marking, contending that a marking would alert drivers and carriers to the presence of hazmat being transported under the reverse logistics section. The DGAC further suggests that the marking read, ''This package conforms to 49 CFR 173.4 for domestic highway or rail transport only,'' or, more preferably, that there be a pictogram to indicate a reverse logistics shipment.

FedEx and other commenters express concern that only requiring a common name on a package and not a hazmat marking could lead to reverse logistics shipments on aircraft. COSTHA comments that requiring the common name or shipping name of items in the package would not provide much value. Instead, COSTHA suggests requiring the marking, ''This package conforms to the requirements of § 173.157 for domestic surface transport only.'' Alaska Airlines comments that packages need more information on the outside regarding the contents and supports a marking similar to what ATA and COSTHA suggest. UPS states a lack of communication on

packages will result in difficulty when reporting spills of hazmat, such as is required by some states. Conversely, both Wal-Mart and Advanced Auto Parts suggested not requiring an additional marking when an outer packaging is already required.

After consideration of all the comments, the PHMSA agrees with the majority of the commenters that a more informative and recognizable marking is needed and that it is necessary to modify the marking requirement for packages shipped under the reverse logistics. Therefore, the PHMSA is replacing the proposed common name or proper shipping name marking requirement with the marking ''REVERSE LOGISTICS—HIGHWAY TRANSPORT ONLY—UNDER 49 CFR 173.157.'' Moreover, this marking would only be permissible for shipments offered to and transported by private carriers. Conversely, as shipments made by non-private carriers meet all limited quantity conditions except for training, the limited quantity marking found in § 172.315(a)(1) will be required. We note that the limited quantity marking is well-recognized in both ground and air modes. This familiarity will help to ensure that air carriers are better able to identify shipments offered for non-private carrier transportation under the reverse logistics section of the HMR, thus safeguarding that hazmat shipments are even more readily recognized and, therefore, more easily rejected from inadvertent air transportation. This revision is intended to address the concerns of air carriers and other commenters that these shipments could enter into transportation modes other than highway.

Advance Auto Parts states its belief that the requirement to notify the driver of the presence of hazmat needs clarification or should be removed; FedEx and Inmar Inc. are not sure how the PHMSA expects the requirement to notify the driver of the presence of hazmat to be satisfied; and DGAC notes that a marking on the package would alert drivers and carriers to the presence of hazmat under the reverse logistics section.

We agree. Therefore, in this final rule, the PHMSA is removing the proposed requirement to notify drivers of the presence of hazmat with a reverse logistics shipment. The PHMSA believes that the revised reverse logistics marking on packages is sufficient to indicate the presence of a reverse logistics shipment is present and negates the need for driver notification.

D. Training

In the NPRM, the PHMSA proposed that retail employees who prepare hazmat shipments for return from retail facilities to the distribution centers be excepted from comprehensive training requirements. A central element of this training is the employee's knowledge of the types of materials that are being returned to manufacturers, suppliers, or distribution facilities. As proposed, for reverse logistics shipments, employees must be able to recognize hazmat and prepare the shipments in accordance with the requirements specified in the reverse logistics section—including adherence to the clear instructions provided by manufacturers, suppliers, or distribution facilities. This approach was considered acceptable in light of the wide array of hazmat common to many retail stores and the limited public exposure such shipments will have in the overall transport system. Moreover, consumer products in the retail industry are generally lower risk and easier to package than industrial-type hazardous materials.

The PHMSA received a range of comments pertaining to the reduced training requirements. The Airline Pilots Association and FedEx express their disagreement with the reduced training requirement: The Airline Pilots Association notes that currently there are occurrences of undeclared hazmat in the air mode, and it is concerned that a reduction in training will increase the opportunity for these shipments to be loaded onto an aircraft. FedEx also expresses concern about whether relaxed training requirements as proposed will provide an adequate level of safety. COSTHA adds that the PHMSA should better define who requires training and should eliminate the recordkeeping requirement for training under the reverse logistics section. C&S Wholesale Grocery, DGAC, ACA, and Kellner's Fireworks expressed support of the reduced training requirements. Giant Cement notes it should be made clear that management and supervisors should not be excepted from the full training requirements. G2 Revolution believes that the PHMSA is underestimating the savings with the reduced training requirement but did not quantify by how much.

The PHMSA considered and agreed in principle with commenters pertaining to training requirements and is simplifying these requirements in this final rule. Specifically, the PHMSA is clarifying that retail employees shipping hazardous materials as reverse logistics shipments must be familiar with the reverse logistics requirements adopted in this final rule. Retail employees must also document that returned shipments of hazardous materials authorized in this final rule are done so in a manner that is consistent with instructions provided by the manufacturer, supplier, or distribution facility. For example, instructions could be emailed, retrieved from a Web site, or retained in hard copy with instructions on how to return certain hazardous materials as instructed by the manufacturer, supplier, or distribution facility. The PHMSA believes that these requirements, in conjunction with the requirement that retail employees have knowledge of the types of materials that are being returned, would be sufficient to properly prepare hazmat for reverse logistics shipments.

We recognize that hazmat employees of manufacturers, suppliers, or original distributors who have already been trained in accordance with the training requirements in § 172.704 of the HMR will assist in ensuring that a majority of shipments are being shipped in appropriate packaging. In this final rule, the PHMSA is clarifying that when performing hazmat functions for the purpose of transporting reverse logistics shipments, employees are subject only to those training requirements specified in this final rule for reverse logistics.

E. Segregation

In the NPRM, the PHMSA proposed to authorize the mixing of various hazard classes and divisions provided the contents of the packages are not leaking. The ATA suggests that parties offering shipments comprised of both traditional and ''reverse logistics'' hazmat be required to manifest all hazmat on the load's shipping papers, including hazmat moving under the reverse logistics exception. COSTHA adds that reverse logistics shipments transported with traditional hazardous materials should comply with all segregation, shipping paper, placarding, etc. requirements, unless some portion of the hazmat qualifies for a demonstrably safe exemption from these requirements, such as the limited quantity regulations. FedEx suggests that the segregation requirement should be re-worded to say, ''Hazardous materials that may react dangerously with one another may not be offered for transportation in the same outer package.'' Inmar Inc. comments that the PHMSA should provide a table to make it easier for industry to know what types of materials would react dangerously and also suggests that the requirement for hazmat to be ''adequately separated'' is vague and needs clarification. COSTHA supports the proposed segregation language for

outer packages but notes that it is impractical for carriers to know if various outer packages meet the segregation requirement. Further, for simplicity, COSTHA suggests that the PHMSA include the reverse logistics segregation requirements in the reverse logistics exception section.

The PHMSA is aligning the reverse logistics section for transportation on non-private carriers with the requirements specified in the limited quantities section of the HMR. Therefore, for non-private carriers, no additional or specific language on segregation requirements is required under this rule. The PHMSA notes, however, that segregation requirements will apply for reverse logistics shipments of 1.4S and 1.4G fireworks and flares, which this final rule authorize for transport by private carrier only.

F. Incident Reporting

In the NPRM, the PHMSA proposed to limit incident reporting to those outlined in § 171.15 for shipments made under the reverse logistics requirements. In response to this proposal, the ACA suggests that incident reporting should not be required for reverse logistics shipments since incident reports are not required for materials of trade (MOTs) transport or limited quantities shipments. COSTHA suggests that the written report requirements of § 171.16 should not apply to the reverse logistics section and that this requirement poses difficulties for carriers, as much of the information required to be reported on a DOT–5800.1 will not be available. The ATA recommends either treating reverse logistics hazmat releases as if the carrier discovered undeclared hazmat under § 171.16(a)(4) or treating these releases as being exempt from incident reporting requirements under § 171.16(d). The ATA adds that filling out an incident form for a reverse logistics shipment will be impossible without shipping papers and other hazard communication (*e.g.,* proper shipping name marking). FedEx asks how the PHMSA expects carriers to comply with incident reporting when there is little to no hazard communication required.

As noted in the hazard communication discussion above, the PHMSA believes that requiring a marking that indicates a shipment contains hazmat under the reverse logistics section provides the necessary information for carriers to report a hazmat release in accordance with the reporting requirements in § 171.15. For non-private carriers, the PHMSA has aligned with limited quantity provisions, thus subjecting these shipments to the current incident reporting requirements and exceptions.

G. Battery Recycling

In the NPRM, the PHMSA proposed to revise § 173.159(e) to authorize the pick-up of used automobile batteries (*i.e.,* electric storage batteries) from multiple shipper locations. The PHMSA received comments from DGAC, BCI, and the National Association of Manufactures in support of modifying the battery exception in § 173.159(e) to authorize the pick-up of used automobile batteries from multiple shipper locations. However, RSR Corporation opposes the change and urges the PHMSA to keep the single shipper provision intact, further specifying that the removal of the provision would lead to an increase in incidents involving the transportation of used lead-acid batteries. The BCI and DGAC seek clarification on what the PHMSA meant by the language in this section that reads ''pallets should be built.''

The PHMSA does not believe that allowing a battery recycler to pick up batteries from multiple shipping locations will lead to an increase in incidents involving the transportation of used automobile batteries. Rather, it is the PHMSA's position that because § 173.159(e) requires batteries to be loaded or braced to prevent damage and short circuits in transit, the likelihood of an incident is minimal Allowing the collection of lead-acid batteries from multiple locations, as the BCI notes, will result in fewer miles traveled to accomplish battery collection activities. Therefore, this will reduce the number of highway miles traveled, the risk of highway accidents, and the impact on the environment. For these reasons, the PHMSA is revising § 173.159(e)(4) to authorize the pick-up of used automotive batteries from multiple retail locations for the purposes of recycling, provided those batteries are consolidated on pallets and loaded so as to not cause damage to the batteries during transportation.

When the PHMSA used the term ''should be built'' in the proposed revision to § 173.159(e)(4), we were referring to how the batteries were stacked on the pallet, not the construction of the pallet itself. In this final rule, the PHMSA is revising this language to clarify our intention. In addition, the PHMSA is requiring incident reporting for a spill that occurs while transporting under the revised battery exception. It should be noted that EPA export requirements (*i.e.,* 40 CFR part 266, subpart G and 40 CFR part 273), such as notice and consent and annual reporting, apply even if spent lead-acid batteries (SLABs) are recycled.

IV. Regulatory Review and Notices

A. Statutory Authority

Federal Hazardous Materials Transportation Law (49 U.S.C. 5101–5128) authorizes the Secretary of Transportation (Secretary) to ''prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.'' The Secretary delegated this authority to the PHMSA in 49 CFR 1.97(b). The PHMSA is responsible for overseeing a hazardous materials safety program that minimizes the risks to life and property inherent in the transportation of hazardous materials in commerce. Annually, the HMR provides safety and security requirements for transport of more than 2.5 billion tons of hazardous materials (hazmat), valued at about $2.3 trillion, accounting for 307 billion miles traveled on the nation's interconnected transportation network. In addition, the HMR includes operational requirements applicable to each mode of transportation.

This final rule is published under the authority of the Federal Hazardous Materials Transportation Law, 49 U.S.C. 5101 *et seq.* Section 5103(b) authorizes the Secretary to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. This final rule provides regulations for the transport of hazardous consumer products in the reverse logistics process.

B. Executive Order 12866, Executive Order 13563, Executive Order 13610, and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action within the meaning of Executive Order 12866 (''Regulatory Planning and Review'') and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

Executive Order 13563 (''Improving Regulation and Regulatory Review'') is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866 of September 30, 1993. Executive Order 13563, issued January 18, 2011, notes that our nation's current regulatory system must not only protect public health, welfare, safety, and our environment but also promote economic growth, innovation, competitiveness,

and job creation.[6] Further, this Executive Order urges government agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. In addition, Federal agencies were directed to periodically review existing significant regulations, retrospectively analyze rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and modify, streamline, expand, or repeal regulatory requirements in accordance with what has been learned.

Executive Order 13610 (''Identifying and Reducing Regulatory Burdens''), issued May 10, 2012, urges agencies to conduct retrospective analyses of existing rules to examine whether they remain justified or whether they should be modified or streamlined in light of changed circumstances, including the rise of new technologies.[7]

These three Executive Orders act together to require agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.''

Additionally, Executive Orders 12866, 13563, and 13610 require agencies to provide a meaningful opportunity for public participation. Accordingly, the PHMSA invited public comment twice (ANRPM published on July 5, 2012 [77 FR 39662]; NPRM published on August 11, 2014 [79 FR 46748]) on these considerations, including any cost or benefit figures or factors, alternative approaches, and relevant scientific, technical and economic data. These comments aided the PHMSA in the evaluation of the proposed requirements. The PHMSA has since revised our evaluation and analysis to address the public comments received.

The PHMSA has evaluated the HMR with respect to reverse logistics and identified areas that could be modified to increase flexibility for the regulated community. In this final rule, the amendments are an optional means to comply with the HMR and will not impose increased compliance costs on the regulated industry. By proposing to add a new § 173.157 to the HMR for items shipped in the reverse logistics supply chain, the PHMSA will increase flexibility to industry. The PHMSA believes that the implementation of a regulatory approach addressing a distinct segment of the supply that transports consumer-type goods, coupled with outreach, will create a framework that will allow for the safe transportation of dangerous goods.

In addition to providing a new reverse logistics section for transporting specifically authorized hazmat, this rulemaking expands an existing exception for exclusive shipments of used automobile batteries. This exception is typically used for shipment of these batteries from a retail facility to a recycling center. This change to the HMR will allow the regulated community to consolidate shipments of automotive batteries (*i.e.,* lead-acid batteries) for recycling.

A summary of the Regulatory Evaluation used to support the requirements presented in this final rule are discussed below, and a complete copy of the Regulatory Evaluation for this rulemaking is available at *http://www.regulations.gov* under Docket No. PHMSA–2011–0143.

Regulatory Evaluation

The PHMSA assumes that this rulemaking would reduce shipping paper preparation costs for shipments involving certain quantities of commodities. The packages will, however, require a marking indicating that the materials are being shipped in accordance with § 173.157 or the existing limited quantity marking. Transport vehicles carrying packages affected by the rule will no longer require placarding. Additionally, the training requirements are amended to reflect a distinct segment of the supply chain which transports consumer-type hazardous materials as return shipments from retail stores. Finally, the PHMSA is relaxing the requirements for exclusive use shipment of wet batteries (*i.e.,* lead-acid batteries). This change will reduce the transportation costs associated with shipment for the recycling of lead-acid batteries. A table identifying the benefits associated with this final rule is provided below:

BENEFITS OF THE FINAL RULE (REDUCED COMPLIANCE COSTS)

Relevant HMR citation	Category	Amount of annual savings
§ 173.157	Training	$4–8 million.
§ 173.157	Shipment Preparation	$0–1 million.
§ 173.159	Transportation Costs—Battery Recycling	$1–2 million.

Note that the numbers above represent an upper bound on the expected savings from this final rule. In this final rule, the PHMSA did remove some hazard classes from the applicability and reduced the size limit on packages to 30 kg (66 pounds). The hazard classes in this final rule represent a vast majority of the consumer-type products containing hazardous materials. In addition, the 30 kg (66 pound) package limit is consistent with limited quantity shipments used for these products in the forward logistics chain. Therefore, the PHMSA believes the above numbers are a general representation of the savings expected form this final rule. The PHMSA does not expect any additional cost to the regulated community because of these changes.

C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism'') and the President's memorandum on (''Preemption'') published in the **Federal Register** on May 22, 2009 (74 FR 24693). This final rule will preempt State, local, and tribal government requirements but does not propose any regulation that has substantial direct effects on the states, the relationship between the Federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal Hazardous Materials Transportation Law, 49 U.S.C. 5101–5128, contains an express preemption provision, 49 U.S.C. 5125 (b), that preempts State, local, and tribal government requirements on the following subjects:

[6] See *http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order.*

[7] See *http://www.gpo.gov/fdsys/pkg/FR-2012-05-14/pdf/2012-11798.pdf.*

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material;

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses all the covered subject areas above. This final rule will preempt any State, local, or tribal requirements concerning these subjects unless the non-Federal requirements are ''substantively the same'' as the Federal requirements. Furthermore, this final rule is necessary to update, clarify, and provide relief from regulatory requirements.

Federal Hazardous Materials Transportation Law provides at § 5125(b)(2) that, if the DOT issues a regulation concerning any of the covered subjects, the DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. The PHMSA has determined that the effective date of Federal preemption for these requirements will be one year from the date of publication of the final rule in the **Federal Register**.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). The PHMSA did not receive any comments from or requests for consultation and coordination with tribal governments related to this rulemaking action. Because this final rule does not significantly or uniquely affect the communities of tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. The primary costs to small entities include ensuring that reverse logistics shipments are shipped properly under § 173.157 and ensuring that its employees have access to the minimal training requirements as required under this new section.

The PHMSA expects this rule to have little or no impact on small entities since these entities are already subject to hazmat shipping requirements and this rule will provide an optional alternative to current regulations. The estimated benefits and costs figures discussed below should be viewed as upper bounds, both of which will be reduced by the extent of current practice.

Retail, trucking, and other industries potentially affected by this final rule all have substantial numbers of small entities. The impacts of the final rule are expected to be favorable because of the new flexibility for the preparation and transport of certain hazmat within the scope of reverse logistics. However, the PHMSA does not expect that the impacts will be significant. A typical small entity would save roughly $60 per affected new employee in training costs and $0.17–$2 per affected package in shipment preparation costs.

This rule applies to all shippers and carriers of hazardous materials, to the extent that they (1) are involved in reverse logistics movements and (2) choose to avail of the proposed new regulations rather than the existing HMR. Key affected industries are specialized freight trucking (NAICS 484200), general freight trucking (NAICS 484100), electronics and home furnishing retail (NAICS 442000), and health and personal care stores (NAICS 446000). The PHMSA does not have detailed data on the number of potentially affected entities by industry or their distribution by entity size; however, based on hazmat registration data, roughly 10,785 registered shippers are small entities (75 percent of the total) and 11,131 registered carriers are small businesses (85 percent of the total). Not all of these offer or transport materials in reverse logistics.

Based upon the above estimates and assumptions, the PHMSA certifies that the amendments in this final rule will not have a significant economic impact on a substantial number of small entities. Further information on the estimates and assumptions used to evaluate the potential impacts to small entities is available in the Regulatory Evaluation, which is available in the public docket for this rulemaking. This rule has been developed in accordance with Executive Order 13272 (''Proper Consideration of Small Entities in Agency Rulemaking'') and the DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of rules on small entities are properly considered. More information can be found in the Initial Regulatory Flexibility Act (IFRA) that is included in the Regulatory Evaluation document.

F. Paperwork Reduction Act

The PHMSA currently has an approved information collection under OMB Control Number 2137–0034, entitled ''Hazardous Materials Shipping Papers & Emergency Response Information,'' with an expiration date of May 30, 2016. This final rule will result in a decrease in the annual burden and cost to OMB Control Number 2137–0034 due to the decrease in the number of shipments subject to the shipping paper requirements.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Section 1320.8(d), title 5, Code of Federal Regulations requires that the PHMSA provide interested members of the public and affected agencies an opportunity to comment on information and recordkeeping requests.

The PHMSA received no comments on the information collection portion of this rulemaking. This final rule identifies revised information collection requests that the PHMSA will submit to OMB for approval based on the requirements in this final rule. The PHMSA has developed burden estimates to reflect changes in this final rule and approximates that the information collection and recordkeeping burdens will be revised as follows:

OMB Control No. 2137–0034:

Decrease in Annual Number of Respondents: 12,600.

Decrease in Annual Responses: 630,000.

Decrease in Annual Burden Hours: 210,000.

Decrease in Annual Burden Costs: $5,250,000.

Requests for a copy of this information collection should be

directed to Steven Andrews or T. Glenn Foster, (202) 366–8553, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and it is the least burdensome alternative that achieves the objective of the rule.

I. Environmental Assessment

The National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* (NEPA) requires that Federal agencies consider the environmental effects of final rule in their decision making process. In accordance with the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), which implement NEPA, an agency may prepare an Environmental Assessment (EA) when it does not anticipate that the final action will have significant environmental effects. An EA must provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact and include: (1) The need for the action; (2) alternatives to the action; (3) environmental impacts of the action and alternatives; and (4) a list of the agencies and persons consulted during the consideration process [*See* 40 CFR 1508.9(b)].

1. Purpose and Need

The purpose of this rulemaking is to provide an exception in the HMR for the shipment of low hazard items in the reverse logistics supply chain. The PHMSA is revising the HMR to provide requirements that are more tailored to a consumer or retail environment. Further, the PHMSA is providing more flexibility for exclusive use shipments of wet batteries (*i.e.,* lead-acid batteries) in order to promote recycling and to allow carriers to consolidate shipments of batteries from multiple shippers on a single transport vehicle.

2. Alternatives

The alternatives considered in this Environmental Assessment include the following:

Alternative 1: A final rule providing regulatory flexibility to allow low hazard consumer products to be returned to points of origination under a new section of the HMR. This action, Alternative 1, provides a mechanism for the regulated community to safely transport low hazard items back to distribution centers, for example, in the reverse logistics supply chain. The PHMSA believes that the incorporation of this section will address the unique aspects of reverse logistics in the retail sector.

Alternative 2: The ''no action'' alternative, meaning that the regulatory scheme will stay the same and the final rule would not be promulgated. This action, Alternative 2, results in no change to the HMR, which requires full regulation for low hazard items shipped to distribution facilities via the reverse logistics supply chain. While this alternative would not impose any new cost or change any environmental impacts, neither would it account for the compliance obstacles and regulatory concerns raised by retailers and shared by the PHMSA.

3. Environmental Impacts of Selected Action

When developing potential regulatory requirements, the PHMSA evaluates those requirements to consider the environmental impact of each amendment. Specifically, the PHMSA evaluates the following: The risk of release of hazmat and resulting environmental impact; the risk to human safety, including any risk to first responders; the longevity of the packaging; and the circumstances in which the regulations would be carried out (*i.e.,* the defined geographic area, the resources, any sensitive areas) and how they could thus be impacted.

Of the regulatory changes in Alternative 1, none has negative environmental impacts. The revision of the exclusive use shipment of automobile batteries in § 173.159 promote and simplify the recycling of used automobile batteries. This revision will result in more consolidated shipments of such batteries from multiple shippers and, in turn, will reduce the number of highway shippers on the road. Currently, the HMR limits transport of these batteries to one shipper, but by reducing the number of shipments by highway, this will result in lower emissions and fuel consumption. This change will also likely increase the lead-acid battery-recycling rate, thus reducing the number of these batteries that end up in landfills. This reduction in shipments will reduce the likelihood that hazmat is spilled into the environment. Overall, all of these impacts will have a net positive impact on the environment. The PHMSA does not believe that these environmental impacts will be significant.

Alternative 2, the ''no-action alternative,'' would not lead to any environmental costs or benefits.

4. Discussion of Environmental Impacts in Response to Comments

The PHMSA did not receive any comments on the environmental impact of this rulemaking. However, the PHMSA did receive comments from the EPA that were unrelated to the potential impact to the environment. These comments were related to inclusion of the word ''disposal'' in the definition of ''reverse logistics.''

5. Federal Agencies Consulted and Public Participation

In an effort to ensure all appropriate Federal stakeholders are provided a chance to provide input on potential rulemaking actions, the PHMSA, as part of its rulemaking development, consults other Federal agencies that this rule could affect. In developing this rulemaking action, the PHMSA consulted the Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), and the Consumer Products Safety Commission (CPSC).

6. Conclusion

The provisions of this rule build on current regulatory requirements and are modeled after existing regulatory exceptions for low hazard materials. The PHMSA has calculated that this rulemaking will not increase the current risk of release of hazardous materials into the environment. Therefore, the PHMSA finds that there are no significant environmental impacts associated with this final rule.

J. Privacy Act

In accordance with 5 U.S.C. 553(c), the DOT solicits comments from the public to better inform its rulemaking process. The 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.*

K. Executive Order 13609 and International Trade Analysis

Under Executive Order 13609 (''Promoting International Regulatory Cooperation''), agencies must consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or if they may impair the ability of American business to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or will be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Similarly, the Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The PHMSA participates in the establishment of international standards in order to protect the safety of the American public. We have assessed the effects of the final rule and have found that this domestic exception for the return of hazardous consumer products through the reverse logistics supply chain will not cause unnecessary obstacles to foreign trade. Accordingly, this rulemaking is consistent with Executive Order 13609 and the PHMSA's obligations under the Trade Agreement Act, as amended.

L. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs Federal agencies to use voluntary consensus standards in their regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specification of materials, test methods, or performance requirements) that are developed or adopted by voluntary consensus standard bodies. This final rule does not involve voluntary consensus standards.

List of Subjects

49 CFR Part 171

Administrative practice and procedure, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 171—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410, section 4 (28 U.S.C. 2461 note); Pub. L. 104–121, sections 212–213; Pub. L. 104–134, section 31001; 49 CFR 1.81 and 1.97.

■ 2. In § 171.8, a definition for ''Reverse logistics'' is added in alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Reverse logistics means the process of offering for transport or transporting by motor vehicle goods from a retail store for return to its manufacturer, supplier, or distribution facility for the purpose of capturing value (*e.g.,* to receive manufacturer's credit), recall, replacement, recycling, or similar reason. This definition does not include materials that meet the definition of a hazardous waste as defined in this section.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 3. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

■ 4. In § 173.63, add paragraph (d) to read as follows:

§ 173.63 Packaging exceptions.

* * * * *

(d) *Reverse logistics.* Hazardous materials meeting the definition of ''reverse logistics'' under § 171.8 of this subchapter and in compliance with paragraph (b) of this section may be offered for transport and transported in highway transportation in accordance with § 173.157.

* * * * *

■ 5. In § 173.150, add paragraph (i) to read as follows:

§ 173.150 Exceptions for Class 3 (flammable and combustible liquids).

* * * * *

(i) *Reverse logistics.* Hazardous materials meeting the definition of ''reverse logistics'' under § 171.8 of this subchapter and in compliance with paragraph (b) of this section may be offered for transport and transported in highway transportation in accordance with § 173.157.

■ 6. In § 173.151, add paragraph (f) to read as follows:

§ 173.151 Exceptions for Class 4.

* * * * *

(f) *Reverse logistics.* Except for Division 4.2 hazardous materials and self-reactive materials, hazardous materials meeting the definition of ''reverse logistics'' under § 171.8 of this subchapter and in compliance with paragraph (b) of this section may be offered for transport and transported in highway transportation in accordance with § 173.157.

■ 7. In § 173.152, add paragraph (d) to read as follows:

§ 173.152 Exceptions for Division 5.1 (oxidizers) and Division 5.2 (organic peroxides).

* * * * *

(d) *Reverse logistics.* Except for Division 5.2 hazardous materials, hazardous materials meeting the definition of ''reverse logistics'' under § 171.8 of this subchapter and in compliance with paragraph (b) of this section may be offered for transport and transported in highway transportation in accordance with § 173.157.

■ 8. In § 173.153, add paragraph (d) to read as follows:

§ 173.153 Exceptions for Division 6.1 (poisonous materials).

* * * * *

(d) *Reverse logistics.* Hazardous materials meeting the definition of ''reverse logistics'' under § 171.8 of this subchapter and in compliance with paragraph (b) of this section may be offered for transport and transported in highway transportation in accordance with § 173.157.

■ 9. In § 173.154, add paragraph (e) to read as follows:

§ 173.154 Exceptions for Class 8 (corrosive materials).

* * * * *

(e) *Reverse logistics.* Hazardous materials meeting the definition of ''reverse logistics'' under § 171.8 of this subchapter and in compliance with paragraph (b) of this section may be offered for transport and transported in highway transportation in accordance with § 173.157.

■ 10. In § 173.155, add paragraph (d) to read as follows:

§ 173.155 Exceptions for Class 9 (miscellaneous hazardous materials).

* * * * *

(d) *Reverse logistics.* Except for Lithium batteries, hazardous materials meeting the definition of ''reverse logistics'' under § 171.8 of this subchapter and in compliance with paragraph (b) of this section may be offered for transport and transported in highway transportation in accordance with § 173.157.

■ 11. Add § 173.157 to subpart D to read as follows:

§ 173.157 Reverse logistics—General requirements and exceptions for reverse logistics.

(a) *Authorized hazardous materials.* Hazardous materials may be offered for transport and transported in highway transportation under this section when they meet the definition of reverse logistics as defined under § 171.8 of this subchapter. However, hazardous materials that meet the definition of a hazardous waste as defined in § 171.8 of this subchapter are not permitted to be offered for transport or transported under this section. Hazardous materials authorized for transport according to a special permit as defined in § 171.8 of this subchapter must be offered for transportation and transported as authorized by the special permit.

(b) *When offered for transport or transported by non-private carrier.* Hazardous materials must be both authorized for limited quantity provisions as well as explicitly authorized for reverse logistics transportation under their applicable limited quantities section. Except for alternative training provisions authorized under paragraph (e) of this section, all hazardous materials must otherwise meet the requirements for a limited quantity shipment.

(c) *When offered for transport or transported by private carrier.* Hazardous materials are authorized under paragraph (b) of this section or are subject to the following limitations:

(1) Division 1.4G materials offered for transport and transported in accordance with § 173.65 of this subchapter.

(2) When sold in retail facilities; Division 1.4G or 1.4S fireworks, Division 1.4G ammunition, or Division 1.4G or 1.4S flares. Shipments offered for transport or transported under this subparagraph are limited to 30 kg (66 pounds) per package. All explosive materials subject to an approval must meet the terms of the approval, including packaging required by the approval.

(3) Equipment powered by flammable liquids or flammable gases.

(i) *Flammable liquid-powered equipment.* The fuel tank and fuel lines of equipment powered by an internal combustion engine must be in the closed position, and all fuel tank caps or closures must be securely in place.

(ii) *Flammable gas-powered equipment.* A combustion engine using flammable gas fuel or other devices using flammable gas fuel (such as camping equipment, lighting devices, and torch kits) must have the flammable gas source disconnected and all shut-off devices in the closed position.

(4) Division 2.1 or 2.2 compressed gases weighing less than 66 pounds and sold as retail products. For the purposes of this section a cylinder or aerosol container may be assumed to meet the definition of a Division 2.1 or 2.2 materials, respectively, even if the exact pressure is unknown.

(5) Materials shipped under this paragraph (c) must also comply with the segregation requirements as required in § 177.848.

(6) Shipments made under this section are subject to the incident reporting requirements in § 171.15.

(d) *Hazard communication.* Hazardous materials offered for transportation and transported by private carrier in accordance with paragraph (c) of this section may use the marking ''REVERSE LOGISTICS—HIGHWAY TRANSPORT ONLY—UNDER 49 CFR 173.157'' as an alternative to the surface limited quantity marking found under § 172.315(a). Size marking requirements found in § 172.301(a)(1) apply.

(e) *Training* (1) Any person preparing a shipment under this section must have clear instructions on preparing the reverse logistics shipment to the supplier, manufacturer, or distributor from the retail store. This includes information to properly classify, package, mark, offer, and transport. These instructions must be provided by the supplier, manufacturer, or distributor to ensure the shipment is correctly prepared for transportation or through training requirements prescribed under part 172 Subpart H of this subchapter.

(2) Employers who do not provide training under part 172 Subpart H of this subchapter must:

(i) Identify hazardous materials subject to the provisions of this section, verify compliance with the appropriate conditions and limitations, as well as ensure clear instructions from the manufacturer, supplier, or distributor associated with product's origination or destination;

(ii) Ensure clear instructions provided are known and accessible to the employee at the time they are preparing the shipment; and

(iii) Document that employees are familiar with the requirements of this section as well as the specific return instructions for the products offered under this section. Documentation must be retained while the employee is employed and 60-days thereafter. Alternatively, recordkeeping requirements under part 172 Subpart H may be used.

■ 12. In § 173.159, revise paragraphs (e)(3) and (4) and add paragraph (e)(5) to read as follows:

§ 173.159 Batteries, wet.

* * * * *

(e) * * *

(3) Any other material loaded in the same vehicle must be blocked, braced, or otherwise secured to prevent contact with or damage to the batteries. In addition, batteries on pallets, must be stacked to not cause damage to another pallet in transportation;

(4) A carrier may accept shipments of batteries from multiple locations for the purpose of consolidating shipments of batteries for recycling; and

(5) Shipments made under this paragraph are subject to the incident reporting requirements in § 171.15.

* * * * *

■ 13. In § 173.306, add paragraph (m) to read as follows:

§ 173.306 Limited quantities of compressed gases.

* * * * *

(m) *Reverse logistics.* Hazardous materials meeting the definition of ''reverse logistics'' under § 171.8 of this subchapter and in compliance with this section may be offered for transport and transported in highway transportation in accordance with § 173.157. For the purposes of this paragraph a cylinder or aerosol container may be assumed to meet the definition of a Division 2.1 or 2.2 material, respectively, even if the exact pressure is unknown.

Issued in Washington, DC on, March 25, 2016, under the authority delegated in 49 CFR 1.97.

Marie Therese Dominguez,

Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2016–07199 Filed 3–30–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130403320–4891–02]

RIN 0648–XE542

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; 2016–2017 Recreational Fishing Season for Black Sea Bass

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

ACTION: Temporary rule; recreational season length.

SUMMARY: NMFS announces that the length of the recreational season for black sea bass in the exclusive economic zone (EEZ) of the South Atlantic will extend throughout the 2016–2017 fishing year. Announcing the length of recreational season for black sea bass is one of the accountability measures (AMs) for the recreational sector. This announcement allows recreational fishermen to maximize their opportunity to harvest the recreational annual catch limit (ACL) for black sea bass during the fishing season while managing harvest to protect the black sea bass resource.

DATES: This rule is effective from 12:01 a.m., local time, April 1, 2016, until 12:01 a.m., local time, April 1, 2017, unless changed by subsequent notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery includes black sea bass in the South Atlantic and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council prepared the FMP and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The final rule implementing Regulatory Amendment 14 to the FMP changed the recreational fishing season for black sea bass from June 1 through May 31 to April 1 through March 31 (79 FR 66316, November 7, 2014). The final rule also revised the recreational AMs for black sea bass. Prior to the start of each recreational fishing year on April 1, NMFS will project the length of the recreational fishing season based on when NMFS projects the recreational ACL to be met and will announce the recreational season end date in the **Federal Register** (50 CFR 622.193(e)(2)). The purpose of this revised AM is to implement a more predictable recreational season length while still constraining harvest at or below the recreational ACL to protect the stock from experiencing adverse biological consequences.

The recreational ACL for the 2016–2017 fishing year is 848,455 lb (384,853 kg), gutted weight, 1,001,177 lb (454,126 kg), round weight, and was established through the final rule for Regulatory Amendment 19 to the FMP on September 23, 2013 (78 FR 58249). In the 2015–2016 fishing year, harvest levels of black sea bass were not close to reaching the recreational ACL of 876,254 lb (397,462 kg), gutted weight, 1,033,980 lb (469,005 kg) round weight, and based on landings from the 2013–2014 through 2015–2016 fishing years, NMFS therefore estimates that the recreational ACL will not be met in the 2016–2017 fishing year. Accordingly, the recreational sector for black sea bass is not expected to close as a result of reaching its ACL, and the season end date for recreational fishing for black sea bass in the South Atlantic EEZ is the end of the current fishing year, March 31, 2017.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic black sea bass and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(e)(2) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement the recreational season length constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary. Such procedures are unnecessary, because the rule establishing the AM has already been subject to notice and comment, and all that remains is to notify the public of the recreational season length.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: March 28, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–07292 Filed 3–28–16; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150413357–5999–02]

RIN 0648–XE531

Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Shark and Hammerhead Shark Management Group Retention Limit Adjustment

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS is adjusting the commercial aggregated large coastal shark (LCS) and hammerhead shark management group retention limit for directed shark limited access permit holders in the Atlantic region from 36 LCS other than sandbar sharks per vessel per trip to 3 LCS other than sandbar sharks per vessel per trip. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments. The retention limit will remain at 3 LCS other than sandbar sharks per vessel per trip in the Atlantic region through the rest of the 2016 fishing season or until NMFS announces via a notice in the

Federal Register another adjustment to the retention limit or a fishery closure is warranted. This retention limit adjustment will affect anyone with a directed shark limited access permit fishing for LCS in the Atlantic region.

DATES: This retention limit adjustment is effective at 11:30 p.m. local time April 2, 2016, through the end of the 2016 fishing season on December 31, 2016, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

FOR FURTHER INFORMATION CONTACT: Guý DuBeck or Karyl Brewster-Geisz, 301–427–8503; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: Atlantic shark fisheries are managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.24(a)(8), NMFS may adjust the commercial retention limit in the shark fisheries during the fishing season. Before making any adjustment, NMFS must consider specified regulatory criteria and other relevant factors (see § 635.24(a)(8)(i)–(vi)). After considering these criteria as discussed below, we have concluded that reducing the retention limit of the Atlantic aggregated LCS and hammerhead management groups for directed shark limited access permit holders will slow the fishery catch rates to allow the fishery throughout the Atlantic region to remain open for the rest of the year. Since landings have exceeded 20 percent of the quota and are projected to reach 80 percent before the end of the 2016 fishing season, we are reducing the commercial Atlantic aggregated LCS and hammerhead shark retention limit from 36 to 3 LCS other than sandbar per vessel per trip.

We considered the inseason retention limit adjustment criteria listed in § 635.24(a)(8), which includes:

(i) The amount of remaining shark quota in the relevant area, region, or sub-region, to date, based on dealer reports.

Based on dealer reports, 6.6 mt dw or 24 percent of the 27.1 mt dw shark quota for the hammerhead management group has already been harvested in the Atlantic region. This means that approximately 76 percent of the quota remains. These levels so early in the season indicate that the quota is being harvested too quickly and unless action is taken to slow harvest, fishermen in the Atlantic region may not have an opportunity to fish in the region for the remainder of the year.

(ii) The catch rates of the relevant shark species/complexes in the region or sub-region, to date, based on dealer reports;

Based on the average catch rate of landings data from dealer reports, the amount of hammerhead sharks harvested on a daily basis is high. While fishermen are landing sharks within their per-trip limit of 36 fish per trip on a given day, they are making multiple trips a day that overall result in high numbers of hammerheads being caught rapidly throughout the fishery. This daily average catch rate means that hammerhead sharks are being harvested too quickly to ensure fair fishing opportunities throughout the season. If the per trip limit is left unchanged, hammerhead sharks would likely be harvested at such a high rate that there would not be enough hammerhead shark quota remaining to keep the fishery open year-round, precluding equitable fishing opportunities for the entire Atlantic region.

(iii) Estimated date of fishery closure based on when the landings are projected to reach 80 percent of the quota given the realized catch rates;

Once the landings reach 80 percent of the quota, we would have to close the hammerhead management group as well as any other management group with ''linked quotas'' such as the Atlantic aggregated LCS management group. Current catch rates would likely result in hitting this limit by mid-May. A closure so early in the year would preclude fishing opportunities in the Atlantic region for the remainder of the year.

(iv) Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments;

Reducing the retention limit for the aggregated LCS and hammerhead management group from 36 to 3 LCS per trip would allow for fishing opportunities later in the year consistent with the FMP's objectives to ensure equitable fishing opportunities throughout the fishing season and to limit bycatch and discards.

(v) Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge;

The directed shark fisheries in the Atlantic region exhibit a mixed species composition, with a high abundance of aggregated LCS caught in conjunction with hammerhead sharks. As a result, by slowing the harvest and reducing landings on a per-trip basis, both fisheries could remain open for the remainder of the year.

(vi) Effects of catch rates in one part of a region or sub-region precluding vessels in another part of that region or sub-region from having a reasonable opportunity to harvest a portion of the relevant quota.

Based on dealer reports, and given NMFS' notice to the regulated community (80 FR 74999) that a goal of this year's fishery was to ensure fishing opportunities throughout the fishing season, we have concluded that the hammerhead shark quota is being harvested too quickly to meet conservation and management goals for the fishery. If the harvest of these species is not slowed down, we estimate that the fishery would close in mid-May. Closing the fishery so early would prevent fishermen from other parts of the Atlantic region from having the same opportunities to harvest the hammerhead shark quota later in the year.

On December 1, 2015 (80 FR 74999), we announced that the aggregated LCS and hammerhead shark fisheries management groups for the Atlantic region would open on January 1 with a quota of 168.9 metric tons (mt) dressed weight (dw) (372,552 lb dw) and 27.1 mt dw (59,736 lb dw), respectively. In that final rule, NMFS also announced that if it appeared that the quota is being harvested too quickly, precluding fishing opportunities throughout the entire region (*e.g.,* if approximately 20 percent of the quota is caught at the beginning of the year), we would reduce the commercial retention limit to 3 LCS other than sandbar sharks. Dealer reports through March 18, 2016, indicate that 6.6 mt dw or 24 percent of the available quota for the hammerhead shark fishery has been harvested. If the average catch rate indicated by these reports continues, the landings could reach 80 percent of the quota by mid-May. Once the landings reach 80 percent of the quota, consistent with § 635.28(b)(3) (''linked quotas''), NMFS would close any species and/or management group of a linked group.

Accordingly, as of 11:30 p.m. local time April 4, 2016, NMFS is reducing the retention limit for the commercial aggregated LCS and hammerhead shark management groups in the Atlantic region for directed shark limited access permit holders from 36 LCS other than sandbar sharks per vessel per trip to 3 LCS other than sandbar sharks per vessel per trip. If the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks

and ''no sale'' provisions apply (§ 635.22(a) and (c)), or if the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard, then they are exempted from the retention limit adjustment.

All other retention limits and shark fisheries in the Atlantic region remain unchanged. This retention limit will remain at 3 LCS other than sandbar sharks per vessel per trip for the rest of the 2016 fishing season, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure, is warranted.

The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4′ N. lat, proceeding due east. Any water and land to the north and east of that boundary is considered, for the purposes of quota monitoring and setting of quotas, to be within the Atlantic region.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (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 impracticable and contrary to the public interest. Providing prior notice and an opportunity for comment is impracticable because the catch and landings that need to be reduced are ongoing and must be reduced immediately to meet conservation and management objectives for the fishery. Continued fishing at those levels during the time that notice and comment takes place would result in the much of the quota being landed and could result in a very early closure of the fishery, contrary to the objectives of the existing conservation and management measures in place for those species. These objectives include ensuring that fishing opportunities are equitable and that bycatch and discards are minimized. Allowing fishing to continue at the existing rates even for a limited time is contrary to these objectives and would thus be impracticable. It would also be contrary to the public interest because, if the quota continues to be caught at the current levels the quota will not last throughout the remainder of the fishing season and a larger number of fishermen will essentially be denied the opportunity to land sharks from the quota. Furthermore, continued catch at the current rates, even for a limited period, could result in eventual quota overharvests, since it is still so early in the fishing year. The AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3) for the same reasons. This action is required under § 635.28(b)(2) and is exempt from review under Executive Order 12866. We have concluded that reducing the retention limit of the Atlantic aggregated LCS and hammerhead management groups for directed shark limited access permit holders will slow the fishery catch rates to allow the fishery throughout the Atlantic region to remain open for the rest of the year

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

Dated: March 28, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–07294 Filed 3–28–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 62
Thursday, March 31, 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.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 41, 48, and 145

[REG–103380–05]

RIN 1545–BE31

Excise Tax; Tractors, Trailers, Trucks, and Tires; Definition of Highway Vehicle

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the excise taxes imposed on the sale of highway tractors, trailers, trucks, and tires; the use of heavy vehicles on the highway; and the definition of highway vehicle related to these and other taxes. These proposed regulations reflect legislative changes and court decisions regarding these topics. These proposed regulations affect manufacturers, producers, importers, dealers, retailers, and users of certain highway tractors, trailers, trucks, and tires.

DATES: Written and electronic comments and requests for a public hearing must be received by June 29, 2016.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–103380–05), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to: CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–103380–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–1103380–05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Celia Gabrysh, at (202) 317–6855; concerning submissions of comments or a request for a hearing Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by May 31, 2016. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collections of information in these proposed regulations are in § 48.4051–1(e)(8), describing the certificate the seller of an incomplete chassis cab must have to substantiate a tax-free sale; § 48.4051–1(f)(3)(ii), describing the record of gross vehicle weight (GVW) a seller of a truck, trailer, or tractor must maintain to substantiate taxable and nontaxable sales; § 48.4051–1(f)(4)(ii), describing the record of gross combination weight (GCW) a seller of a tractor must maintain to substantiate taxable and nontaxable sales; § 48.4052–1(c), describing the certificate a seller of a truck, trailer, or tractor for resale or long term leasing must have to substantiate a tax-free sale; § 48.4052–2(b), describing the certificate a seller of a trailer must have to avoid the four percent price markup for resale within six months; § 48.4073–1(c), describing the certificate a taxable tire manufacturer must have to make a tax-free sale to the Department of Defense or the Coast Guard; § 48.4221–7(c), describing the certificate a manufacturer must have to make a tax-free sale of a taxable tire when sold for use or in connection with the sale of another article manufactured by the purchaser and sold by the purchaser in a sale that meets the requirements of section 4221(e)(2); and § 48.4221–8(c), describing the certificate a taxable tire manufacturer must have to make a tax-free sale of taxable tires for intercity, local and school buses. This information is required to obtain a tax benefit and meet a taxpayer's recordkeeping obligations under section 6001. This information will be used by the IRS to substantiate claims for tax benefits. The likely recordkeepers are businesses.

Estimated total annual reporting and/or recordkeeping burden: 750 hours.

Estimated average annual burden hours per respondent and/or recordkeeper varies from .10 hour to .40 hours, depending on individual circumstances, with an estimated average of .25 hours.

Estimated number respondents and/or recordkeepers: 3,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to the Highway Use Tax Regulations (26 CFR part 41), the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48), and the Temporary Excise Tax Regulations Under The Highway Revenue Act of 1982 (Pub. L. 97–424) (26 CFR part 145).

Tractors, Trailers, and Trucks

Before April 1, 1983, section 4061 imposed a tax on the manufacturer's sale of certain highway-type tractors, chassis, and bodies for highway-type trailers and trucks, and related parts and accessories for these articles. The Highway Revenue Act of 1982, Public Law 97–424 (96 Stat. 2097) (the 1982 Act), changed this tax to a 12 percent tax under section 4051(a)(1) on the first retail sale of certain highway-type tractors and chassis and bodies for highway-type trailers and trucks. In addition, the 1982 Act replaced the tax on the manufacturer's sale of related parts and accessories with a tax on the installation of parts and accessories on a vehicle containing a taxable article within six months after the vehicle was first placed in service (unless the aggregate price of the parts and the cost of installation was less than $200). Section 4051(a)(5) provides that the sale of a truck, truck trailer, or semitrailer is to be considered as the sale of a chassis and of a body.

Under the 1982 Act, a chassis or body suitable for use with (1) a truck with a GVW of 33,000 pounds or less or (2) a trailer with a GVW of 26,000 pounds or less is generally exempt from tax. All tractors of the kind chiefly used for highway transportation in connection with trailers and semitrailers were taxable under the 1982 Act regardless of their GVW.

On April 4, 1983, temporary regulations were published in the **Federal Register** (48 FR 14361; TD 7882) to implement this new retail tax. Subsequent amendments to these regulations were published in the **Federal Register** on September 13, 1985 (50 FR 37350; TD 8050); May 12, 1988 (53 FR 16867; TD 8200); and July 1, 1998 (63 FR 35799; TD 8774). Collectively, these regulations are referred to in this preamble as ''the temporary regulations.''

One provision in the temporary regulations provided that tax was not imposed on tractors, chassis, and bodies when they were sold for resale or long-term lease if the buyer was registered by the IRS. Section 1434(b)(2) of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788) (the 1997 Act), provided that IRS registration could not be a prerequisite for these tax-free sales. Subsequently, the temporary regulations were amended to reflect this statutory provision on March 31, 2000 (65 FR 17149; TD 8879). The 1997 Act also increased from $200 to $1,000 the aggregate dollar value of parts and accessories that may be installed on section 4051 articles without incurring a tax liability.

Section 11112 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA), Public Law 109–59 (119 Stat. 1144), added new section 4051(a)(4), that provides an exemption for small tractors from the tax on tractors.

Tires

Before January 1, 1984, section 4071 imposed a tax on the manufacturer's sale of highway and nonhighway tires, tubes, and tread rubber. Effective that date, the 1982 Act repealed most of these taxes but retained a tax on certain heavy highway-type tires based on the weight of the tires.

Section 869 of the American Jobs Creation Act of 2004, Public Law 108–357 (118 Stat. 1418) (2004 Act), changed section 4071 from a tax based on the weight of a tire to a tax based on the maximum rated load capacity of a tire in excess of 3,500 pounds. A special rate of tax was provided for super single tires. A super single tire was defined as a single tire greater than 13 inches in cross-section width designed to replace two tires in a dual fitment.

Section 1364(a) of the Energy Policy Act of 2005, Public Law 109–58 (119 Stat. 594), amended the definition of a super single tire to exclude any tire designed for steering.

Definition of Highway Vehicle

Generally, section 4051 imposes a tax only on components of highway vehicles. Similarly, the tax imposed by section 4481 on the use of certain heavy vehicles applies only to highway vehicles. Sections 6421 and 6427 allow a credit or payment related to the tax imposed on fuel (including gasoline or diesel fuel) in many cases if the fuel is used other than as a fuel in a highway vehicle.

Existing regulations define *highway vehicle* with exceptions provided for (1) certain specially-designed mobile machinery for nontransportation functions, (2) certain vehicles specially designed for off-highway transportation, and (3) certain trailers and semitrailers specially designed to perform nontransportation functions off the public highway. Section 851 of the 2004 Act generally codified the regulatory exception for item (1) and codified, with substantial changes, the regulatory definitions of items (2) and (3).

Reason for These Regulations

Many of the existing regulations relating to tractors, trailers, trucks, and tires do not reflect current law. These proposed regulations reflect changes to the Internal Revenue Code since 1982, address several court decisions, remove numerous obsolete regulations, and also afford the public the opportunity to comment on those provisions of the temporary regulations that are restated and unchanged.

Explanation of Provisions

Definition of Highway Vehicle

Proposed § 48.0–5 defines a *highway vehicle* as any self-propelled vehicle, or any truck trailer or semitrailer, designed to perform a function of transporting a load over public highways. This proposed section also provides exceptions for specified mobile machinery, off-highway vehicles, and non-transportation trailers and semitrailers for purposes of the tax on the sale of heavy vehicles (section 4051), the highway use tax (section 4481), and the credits and payments allowed for certain nontaxable uses (sections 6421 and 6427). The exception for mobile machinery restates section 4053(8) (as added by the 2004 Act) and the exceptions for off-highway vehicles and non-transportation trailers and semitrailers restate section 7701(a)(48)(A) and (B) (as added by the 2004 Act). Also, Notice 2005–4, 2005–1 C.B. 289, announced that existing regulations regarding certain vehicles specially designed for off-highway transportation would be revised so that they will not apply to calendar quarters beginning after October 22, 2004. These proposed regulations make that change.

The proposed regulations provide two examples that illustrate the definition of highway vehicle. The first example concerns the off-highway vehicle exception and characterizes an asphalt semitrailer similar to the trailers and semitrailers described in *Flow Boy, Inc.* v. *United States,* 83–1 U.S.T.C. ¶16,395, *aff'd,* 54 A.F.T.R.2d 84–6545, 84–1 U.S.T.C. ¶16,418 (10th Cir. 1984), and *Gateway Equip. Corp.* v. *United States,* 247 F. Supp. 2d 299 (W.D.N.Y. 2003), as a highway vehicle. Relying on the then-existing regulations, the *Flow Boy* and *Gateway* courts held that the asphalt trailers and semitrailers in question were not highway vehicles. In 2004, Congress added section 7701(a)(48) to the Code, which provides a statutory definition of the term ''off-highway vehicles.'' Under section 7701(a)(48)(A), a vehicle is not treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load over the public highway and because of this special design, such vehicle's capability to transport a load over the

public highway is substantially limited or impaired. The enactment of section 7701(a)(48) effectively disqualified an asphalt semitrailer similar to the ones described in *Flow Boy* and *Gateway* from the off-highway exception because its special design does not substantially limit or impair its capability to transport a load over a public highway. The example in the proposed regulations illustrates the analysis of whether a vehicle is a highway vehicle under section 7701(a)(48).

The second example concerns the mobile machinery exception and reflects the decision in *Florida Power & Light Co.* v. *United States,* 375 F.3d 1119 (Fed. Cir. 2004), which holds that a vehicle that can perform more than one transportation function is not specially designed to serve ''only'' as a mobile carriage and mount. See also *Schlumberger Technology Corp. and Subsidiaries* v. *United States,* 55 Fed. Cl. 203 (2003).

Retail Tax on Tractors, Trailers, and Trucks

The proposed regulations reorganize and partially restate the temporary regulations that address the retail tax on tractors, trailers, and trucks. Proposed § 48.4051–1(e) revises the definitions of *tractor* and *truck* and provides a model certificate for a seller to establish the tax status of an incomplete chassis cab. If the buyer of an incomplete chassis cab certifies to the seller that the buyer will not complete the incomplete chassis cab as a taxable tractor, the seller may treat the sale of the incomplete chassis cab as the sale of a truck or small tractor. Consequently, no tax is imposed on the sale of an incomplete chassis cab when accompanied by a qualifying certificate. In the absence of this certificate, the seller must treat the sale of an incomplete chassis cab as the sale of a taxable tractor. This rule generally restates § 145.4051–1(e)(1) and is consistent with the interpretation of the existing rule in *Freightliner of Grand Rapids, Inc.* v. *United States,* 351 F. Supp. 2d 718, 723 (2004).

Consistent with the temporary regulations, the proposed regulations define the terms tractor and truck by reference to the primary design of a vehicle. For purposes of determining whether a vehicle is ''primarily designed'' as a tractor or a truck, proposed § 48.4051–1(g) also includes an example and reflects Rev. Rul. 2004–80 (2004–2 CB 164), which applied the primarily designed test to determine whether a vehicle was a tractor or a truck.

The definition of *truck trailer* in proposed § 48.4051–1(e)(4)(ii) would include any manufactured home on a frame that has axles and wheels. This definition classifies a manufactured home of the type at issue in *Horton Homes, Inc.* v. *United States,* 357 F.3d 1209 (11th Cir. 2004), as a truck trailer because all of its load and weight is carried on its own chassis and it is designed to be towed. A consequence of this characterization is that the vehicle that tows this manufactured home is a tractor as defined in section 4051(a)(1)(E). Thus, under the proposed regulations, *toters,* as the vehicles that tow these manufactured homes are known in the industry, would be taxable as tractors. While this result is different from the decision in *Horton Homes,* which held that toters are not taxable tractors, that decision expressly noted that ''Congress did not define 'trailers or semitrailers,' [in the statute] nor has the Treasury promulgated regulations defining those terms'' and thus applied a dictionary definition of the term ''trailer'' to determine whether toters are taxable. *Id.* at 1212 n.6. These proposed regulations fill in the regulatory gap faced by the Eleventh Circuit by providing a definition of ''trailer'' that will clarify the determination of whether a vehicle is a taxable tractor.

Proposed § 48.4051–1(f) provides exclusions from the tax imposed by section 4051 for certain trucks and trailers that are below a certain GVW and tractors that are below a certain GVW and a certain GCW. Proposed § 48.4051–1(f) defines GVW and GCW and also provides the related recordkeeping requirements to support these exclusions.

Proposed § 48.4051–2 modifies the temporary regulations to reflect the statutory increase in the aggregate dollar value of parts and accessories that may be installed on a taxable article without incurring a tax liability.

Proposed § 48.4052–1 supplements the existing definition of *taxable sale* to include the resale of an unused article that had been previously sold tax-free.

Chassis Characterization

The proposed regulations provide that if a chassis is a component part of a highway vehicle, the taxability of the chassis is determined independent of, and without regard to, the body that is installed on the chassis. Likewise, if a body is a component part of a highway vehicle, the taxability of the body is determined independent of, and without regard to, the chassis on which the body is installed. This proposed rule is contrary to the result in Rev. Rul. 69–205 (1969–1 CB 277), which holds that an otherwise taxable chassis is not taxable if a motorhome body is installed on the chassis. This revenue ruling predates and is inconsistent with the language in section 4051(a)(1), which lists a chassis and a body as separate taxable articles. This revenue ruling will be obsoleted after publication of the final regulations.

Taxable Tires

Effective January 1, 2005, section 4071 imposes a tax on taxable tires for each ten pounds of the maximum rated load capacity that exceeds 3,500 pounds. The proposed regulations reflect this change and remove references in existing regulations to tread rubber, inner tubes, and the determination of a tire's weight. The proposed regulations also define *rated load capacity* and *super single tire,* and address multiple load ratings and the consequences of tampering with a tire's maximum load rating. The proposed regulations also provide rules under section 4073 for making tax-free sales of tires for the exclusive use of the Department of Defense and the Coast Guard. In addition, the proposed regulations provide model certificates to support these sales, as well as sales of tires by manufacturers for use on or in connection with the sale of another article manufactured by the purchaser and sold by the purchaser in a sale that meets the requirements of section 4221(e)(2) and sales of taxable tires to be used on intercity, local, and school buses (section 4221(e)(3)).

Proposed Applicability Date

The regulations generally are proposed to apply on and after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Availability of IRS Documents

The IRS revenue rulings and the notice cited in this preamble are published in the Internal Revenue Cumulative Bulletin and are available at *www.irs.gov.*

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory flexibility assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact

that the time required to secure and maintain the required information is minimal (estimated at an average of 15 minutes) and taxpayers would ordinarily already collect and retain much of this information for other business purposes such as accounting, insurance, and marketing. Also, truck manufacturers presently provide the GVW and gross combined weight to truck dealers for purposes unrelated to federal excise tax. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be available at *www.regulations.gov* or upon request. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Celia Gabrysh, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 41

Excise taxes, Motor vehicles, Reporting and recordkeeping requirements.

26 CFR Parts 48 and 145

Excise taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 41, 48, and 145 are proposed to be amended as follows:

PART 41—EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES

■ **Paragraph 1.** The authority citation for part 41 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 41.4482(a)–1 [Amended]

■ **Par. 2.** Section 41.4482(a)–1(a)(2) is amended by removing the language ''§ 48.4061(a)–1(d)'' and adding ''§ 48.0–5'' in its place.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

■ **Par. 3.** The authority citation for part 48 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 48.4051–1 also issued under 26 U.S.C. 4051(a).

Section 48.4051–2 also issued under 26 U.S.C. 4051(b).

* * * * *

Section 48.4052–2 also issued under 26 U.S.C. 4052(b).

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Section 48.4071–3 also issued under 26 U.S.C. 4071(b).

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§ 48.0–1 [Amended]

■ **Par. 4.** Section 48.0–1, fourth sentence, is amended by removing the language ''highway-type tires'' and adding ''taxable tires'' in its place.

§ 48.0–2 [Amended]

■ **Par. 5.** In § 48.0–2, paragraph (b)(5), first sentence, is amended by removing the language ''In the case of a lease,'' and adding ''Except as provided in § 48.4052–1(e), in the case of a lease,'' in its place.

■ **Par. 6.** Section 48.0–4 is added to subpart A to read as follows:

§ 48.0–4 Highway vehicle and mobile machinery.

(a) *Overview.* (1) The definitions of *highway vehicle* and *mobile machinery* in this section apply for purposes of this part and part 41 of this chapter. See § 41.4482(a)–1(a)(2) of this chapter.

(2) The taxes imposed by sections 4051 and 4481 do not apply to mobile machinery (as defined in paragraph (b)(3)(iii) of this section), and the tax imposed by section 4071 does not apply to tires of a type used exclusively on such mobile machinery. In addition, for purposes of determining whether use of a vehicle qualifies as *off-highway business use* under section 6421(e)(2)(C) (relating to uses in mobile machinery), mobile machinery (as defined in this section) satisfies the design-based test of section 6421(e)(2)(C)(iii). To qualify as off-highway business use, however, the use of the vehicle must also satisfy the use-based test of section 6421(e)(2)(C)(iv).

(b) *Highway vehicle*—(1) *In general.* Except as otherwise provided in paragraph (b)(3) of this section, *highway vehicle* means any self-propelled vehicle, or any truck trailer or semitrailer, designed to perform a function of transporting a load over public highways.

(2) *Explanation.* (i) A vehicle consists of a chassis, or a chassis and a body if the vehicle has a body, but does not include the vehicle's load.

(ii) Except as otherwise provided in paragraph (b)(3) of this section, in determining whether a vehicle is a highway vehicle, it is immaterial whether—

(A) The vehicle can perform functions other than transporting a load over the public highways;

(B) The vehicle is designed to perform a highway transportation function for only a particular kind of load, such as passengers, furnishings and personal effects (as in a house, office, or utility trailer), a special type of cargo, goods, supplies, or materials, or machinery or equipment specially designed to perform some off-highway task unrelated to highway transportation; and

(C) In the case of a vehicle specially designed to transport machinery or equipment, such machinery or equipment is permanently mounted on the vehicle.

(iii) Examples of vehicles that are designed to perform a function of transporting a load over the public highways are passenger automobiles, motorcycles, buses, motor homes, and highway-type trucks, truck tractors, trailers, and semitrailers.

(iv) Examples of vehicles that are not designed to perform a function of transporting a load over the public highways are farm tractors, bulldozers, road graders, and forklifts.

(v) The term *public highway* includes any road (whether a federal highway, state highway, city street, or otherwise) in the United States that is not a private roadway.

(vi) The term *transport* includes tow.

(3) *Exceptions*—(i) *Certain vehicles specially designed for off-highway transportation*—(A) *In general.* The term *highway vehicle* does not include a vehicle if the vehicle is specially designed for the primary function of transporting a particular type of load other than over a public highway and

because of this special design such vehicle's capability to transport a load over a public highway is substantially limited or impaired.

(B) *Determination of vehicle's design.* For purposes of paragraph (c)(3)(i)(A) of this section, a vehicle's design is determined solely on the basis of its physical characteristics.

(C) *Determination of substantial limitation or impairment.* For purposes of paragraph (c)(3)(i)(A) of this section, in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether the vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than the vehicle is permitted to transport over the public highway.

(ii) *Nontransportation truck trailers and semitrailers.* The term *highway vehicle* does not include a truck trailer or semitrailer if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.

(iii) *Mobile machinery.* The term highway vehicle does not include any vehicle that consists of a chassis—

(A) To which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways;

(B) That has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation; and

(C) That, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

(c) *Examples.* The following examples illustrate the rules of this section:

Example 1; Off-highway transportation. (1) *Facts.* (i) A tri-axle semitrailer that is used in highway construction, maintenance, and repair work also hauls highway construction and repair materials to job sites. The semitrailer's floor is equipped with a continuous rubber belt attached to a steel slatted roller chain that carries payload to the rear tailgate at a controllable discharge rate. The semitrailer has insulated double sidewalls and a baffled hopper. This equipment enables the semitrailer to transport and unload hot-mix asphalt, asphalt-related materials, and low-slump concrete for highway construction and repair. When used as an asphalt transporter, the semitrailer unloads the asphalt at the job site through the rear tailgate into a trailing asphalt paving machine. The semitrailer is designed to perform a function of transporting a load over public highways.

(ii) A highway tractor tows the semitrailer at normal highway speeds. The semitrailer complies with all federal and state regulations governing highway use, may be legally operated on the public highways when loaded within legal weight limits (80,000 pounds), and does not exceed state maximum highway length, width, or height limitations. Loaded to its capacity with asphalt, the combined weight of the semitrailer, the asphalt, and the tractor exceeds 100,000 pounds. Special state permits may be purchased to operate the tractor/semitrailer combination above the legal weight limit on public highways.

(2) *Analysis.* For purposes of the exception provided by paragraph (b)(3)(i) of this section for vehicles specially designed for off-highway transportation, paragraph (b)(3)(i)(B) of this section provides that a vehicle's design is determined solely on the basis of its physical characteristics. The physical characteristics of this semitrailer include insulated double sidewalls, a baffled hopper, and an unloading mechanism on the floor of the trailer that moves hot road building materials to the back of the trailer and delivers these materials into a paving machine at controlled rates. Examples of the type of machinery or equipment that contribute to the highway transportation function are unloading equipment and machinery that contribute to the preservation of the cargo. The semitrailer's conveyor discharge system and insulated walls are designed to contribute to the highway transportation functions of unloading (discharge conveyor system) and preserving (insulated sidewalls) the load. This equipment is not designed for the job-site function of applying asphalt or low-slump concrete.

(3) *Conclusion.* The semitrailer is not a vehicle described in paragraph (b)(3)(i)(A) of this section. The semitrailer's physical characteristics, such as sidewalls, a hopper, and the unloading mechanism, demonstrate that this semitrailer is capable of transporting asphalt or low-slump concrete over a public highway without substantial limitation or impairment.

Example 2; Mobile machinery. (1) *Facts.* A chassis manufacturer built a truck chassis with a reinforced chassis frame, a heavy-duty engine, and a structure to accommodate the manufacturer's mounting of drilling equipment on the chassis and the use of that drilling equipment off the highways. The manufacturer also bolted a pintle-type trailer hitch to a beam that is welded to, and operates as a rear cross member of, the chassis frame rails. The truck is designed to perform a function of transporting a load over public highways.

(2) *Analysis.* This chassis can perform two functions. First, the chassis serves as a mobile carriage and mount for the drilling equipment installed on its bed. Second, the chassis can tow a trailer because it has a pintle-type trailer hitch. These dual capabilities demonstrate that the chassis was not specially designed to serve only as a mobile carriage and mount for its machinery.

(3) *Conclusion.* The chassis fails to meet the test in paragraph (c)(3)(iii) of this section for treatment as mobile machinery because the chassis is not specially designed to serve only as a mobile carriage and mount for the drilling equipment. A similar conclusion would apply if the manufacturer reinforced the chassis to make the chassis capable of towing a trailer, but the manufacturer did not install the pintle hook.

(d) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

■ **Par. 7.** Section 48.4041–8 is amended as follows:

■ 1. Paragraph (b)(2)(ii), first sentence, is amended by removing the language ''A self-propelled'' and adding ''Before January 1, 2005, a self-propelled'' in its place.

■ 2. Paragraph (b)(2)(iv) is added.

The addition reads as follows:

§ 48.4041–8 Definitions.

* * * * *

(b) * * *

(2) * * *

(iv) *Off-highway transportation vehicles after December 31, 2004.* For a description of certain vehicles that are not treated as highway vehicles after December 31, 2004, see § 48.0–5(b)(3).

* * * * *

■ **Par. 8.** The heading for subpart H is revised to read as follows:

Subpart H—Motor Vehicles, Tires, and Taxable Fuel

■ **Par. 9.** New §§ 48.4051–0, 48.4051–1, and 48.4051–2 are added to subpart H to read as follows:

§ 48.4051–0 Overview; Heavy trucks, tractors, and trailers sold at retail.

Sections 48.4051–1, 48.4051–2, and 48.4052–1 provide guidance under sections 4051 and 4052 relating to the tax on the first retail sale of certain truck and trailer chassis and bodies and certain tractors. This guidance includes rules relating to the imposition of tax, liability for tax, exclusions, and definitions. For rules under sections 4051 and 4052 on the treatment of leases, uses treated as sales, and the determination of price for which an

article is sold, see § 145.4052–1 of this chapter.

§ 48.4051–1 Imposition of tax; Heavy trucks, tractors, and trailers sold at retail.

(a) *Imposition of tax.* Section 4051 imposes a tax on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection with the article or with the sale of the article):

(1) Automobile truck chassis and bodies.

(2) Truck trailer and semitrailer chassis and bodies.

(3) Tractors of the kind chiefly used for highway transportation in combination with a truck trailer or semitrailer.

(b) *Tax base and rate of tax.* The tax is the applicable percentage of the price for which the article is sold. The applicable percentage is prescribed in section 4051(a)(1). For rules for the determination of price, see paragraph (d)(4) of this section and § 145.4052–1(d) of this chapter.

(c) *Liability for tax*—(1) *In general.* Except as provided in paragraph (c)(2) of this section, the person that makes the first retail sale (as defined in § 48.4052–1(a)) of a taxable article listed in paragraph (a) of this section is liable for the tax imposed by section 4051. This person is referred to as the *retailer* in this section and § 48.4051–2.

(2) *Exceptions; cross references.* For cases in which a person other than the retailer is liable for the tax imposed under paragraph (a) of this section, see §§ 48.4051–1(d)(2)(ii) and (iii) (relating to chassis and bodies sold for use as a component part of a highway vehicle) and § 48.4051–1(e)(6)(ii) (relating to certain chassis completed as tractors).

(d) *Special rules*—(1) *Separate taxation of chassis and body.* If a chassis is a component part of a highway vehicle, the taxability of the chassis is determined independently of, and without regard to, the body that is installed on the chassis. If a body is a component part of a highway vehicle, the taxability of the body is determined independently of, and without regard to, the chassis on which the body is installed.

(2) *Chassis and bodies sold for use as a component part of a highway vehicle*—(i) *In general.* A chassis or body listed in paragraph (a) of this section is taxable under section 4051 only if such chassis or body is sold for use as a component part of a highway vehicle that is an automobile truck, truck trailer or semitrailer, or a tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer. A chassis or body that is not listed in paragraph (a) of this section (for example, a chassis or body of a passenger automobile) is not taxable under section 4051 even though such chassis or body is used as a component part of a highway vehicle.

(ii) *Retailer; conditions for avoidance of liability.* The retailer is not liable for tax on a chassis or body if, at the time of the first retail sale, the retailer—

(A) Has obtained from the buyer a certificate described in paragraph (d)(2)(iv) of this section stating, among other things, that the buyer will use the chassis or body as a component part of a vehicle that is not a highway vehicle;

(B) Has no reason to believe that any information in the certificate is false; and

(C) Has not received a notification from the IRS under paragraph (d)(2)(iv) of this section with respect to the buyer or the type of chassis or body.

(iii) *Liability of buyer.* If a buyer that provides a certificate described in paragraph (d)(2)(iv) of this section uses the chassis or body to which the certificate relates as a component part of a highway vehicle, the buyer is liable for the tax imposed on the first retail sale of such chassis or body.

(iv) *Form of certificate.* The certificate described in this paragraph (d)(2)(iv) consists of a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate in paragraph (d)(2)(v) of this section, and includes all the information necessary to complete the model certificate. The IRS may withdraw the right of a buyer to provide a certificate under this section if the buyer uses the chassis or body to which a certificate relates other than as stated in the certificate. The IRS may notify any retailer that the buyer's right to provide a certificate has been withdrawn. The IRS may also notify a retailer that sales of a specified type or types of chassis or bodies may not be made tax-free under this paragraph (d)(2) until further notification. The certificate may be included as part of any business records used to document a sale.

(v) *Model Certificate.*

Certificate

(To support the tax-free sale of a chassis or body that is to be used as a component part of a non-highway vehicle)

The undersigned buyer of a chassis or body listed in section 4051 (''Buyer'') hereby certifies the following under penalties of perjury:

1. _____

_____

Seller's name, address, and employer identification number

2. _____

_____

Buyer's name, address, and employer identification number

3. _____

Date and location of sale to Buyer

4. The article(s) listed below will not be used as a component part of a highway vehicle. If the article is a chassis, Buyer has listed the chassis Vehicle Identification Number. If the article is a body, Buyer has listed the body's identification number.

5. Buyer understands that it must be prepared to establish, by evidence satisfactory to an examining agent, how Buyer used the article.
6. Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.
7. Buyer understands that if it uses a chassis or body listed in this certificate as a component part of a highway vehicle, Buyer is liable for the tax imposed by section 4051 of the Internal Revenue Code.
8. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.
9. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing this certificate

_____

Title of person signing

_____

Signature and date signed

(3) *Sale of a completed unit.* A sale of an automobile truck, truck trailer, or semitrailer is considered a sale of a chassis and of a body listed in paragraph (a) of this section.

(4) *Equipment installed on chassis or bodies.* For purposes of section 4051, the sale price of a chassis or body includes any amount paid for equipment or machinery that is installed on and is an integral part of the chassis or body. Equipment or machinery is an integral part of a chassis or body if the equipment or machinery contributes to the highway transportation function of the chassis or

body. Examples of machinery or equipment that contributes to the highway transportation function of a chassis or body are loading and unloading equipment; towing winches; and all other machinery or equipment that contributes to the maintenance or safety of the vehicle, the preservation of cargo (other than refrigeration units), or the comfort or convenience of the driver or passengers.

(5) *Vehicle use.* In determining whether a tractor, a truck body or chassis, or a truck trailer or semitrailer chassis or body is subject to the tax imposed by section 4051, the use (whether commercial, personal, recreational, or otherwise) of an article is immaterial.

(e) *Explanation of terms and exclusions; tractors, trucks, trailers*—(1) *Tractor.* The term *tractor* means a highway vehicle primarily designed to tow a vehicle, such as a truck trailer or semitrailer. A vehicle equipped with air brakes and/or a towing package will be presumed to be a tractor unless it is established, based on all the vehicle's characteristics, that the vehicle is not primarily designed to tow a vehicle. However, a vehicle that is not equipped with air brakes and/or a towing package is a tractor if the vehicle is primarily designed to tow a vehicle.

(2) *Truck.* The term *truck* means a highway vehicle primarily designed to transport its load on the same chassis as the engine even if it is also equipped to tow a vehicle, such as a trailer or semitrailer.

(3) *Primarily designed.* The term *primarily* means principally or of first importance. *Primarily* does not mean exclusively. The function for which a vehicle is primarily designed is evidenced by physical characteristics such as the vehicle's capacity to tow a vehicle, carry cargo, and operate (including brake) safely when towing or carrying cargo. Towing capacity depends on the vehicle's gross vehicle weight (GVW) rating and gross combination weight (GCW) rating and whether the vehicle is configured to tow a trailer or semitrailer. Cargo carrying capacity depends on the vehicle's GVW rating and the configuration of the vehicle's bed or platform. If a vehicle is capable of more than one function, such as towing a vehicle and carrying cargo on the same chassis as the engine, the physical characteristics of the vehicle determine the purpose for which the vehicle is primarily designed. A vehicle that can both carry cargo on its chassis and tow a trailer is either a truck or tractor depending on which function is of greater importance.

(4) *Trailer*—(i) *In general.* The term *trailer* means a non-self-propelled vehicle hauled, towed, or drawn by a separate truck or tractor. A trailer consists of a chassis and a body. A chassis is the frame that supports the trailer's suspension, axles, wheels, tires, and brakes. A body is the structure usually installed on the trailer chassis to accommodate the intended load of the trailer. In some instances, the body may itself constitute all or part of the intended load.

(ii) *Truck trailer.* The term *truck trailer* means a trailer that carries all of its weight and the weight of its load on its own chassis.

(iii) *Semitrailer.* The term *semitrailer* means a trailer, the front end of which is designed to be attached to, and rest upon, the vehicle that tows it. A portion of the semitrailer's weight and load also rests upon the towing vehicle.

(5) *Incomplete chassis cab; classification as a truck.* An incomplete chassis cab is classified as a truck at the time of its sale if, at such time—

(i) The incomplete chassis cab is not equipped with any of the features listed in paragraph (e)(7) of this section; and

(ii) The seller—

(A) Has obtained from the buyer a certificate described in paragraph (e)(8) of this section stating, among other things, that the buyer will equip the incomplete chassis cab as a truck;

(B) Has no reason to believe that any information in the certificate is false; and

(C) Has not received a notification under paragraph (e)(8) of this section with respect to the buyer.

(6) *Incomplete chassis cab; classification as a tractor*—(i) *In general.* An incomplete chassis cab is classified as a tractor at the time of its sale if, at such time—

(A) The incomplete chassis cab is equipped with any of the features listed in paragraph (e)(7) of this section; or

(B) The seller fails to satisfy one or more of the conditions set forth in paragraph (e)(5)(ii) of this section.

(ii) *Completion as a tractor.* If no tax is imposed under section 4051(a)(1) on the sale of an incomplete chassis cab classified as a truck under paragraph (e)(5) of this section and the purchaser completes the incomplete chassis cab as a taxable tractor, the purchaser is liable for tax under section 4051(a)(1) on the purchaser's sale or use of the taxable tractor.

(7) *Incomplete chassis cab; features.* The features referred to in paragraphs (e)(5)(i) and (e)(6)(i)(A) of this section are the following:

(i) A device for supplying air or hydraulic pressure or electric or other power from the incomplete chassis cab to the brake system of a towed vehicle.

(ii) A mechanism for protecting the incomplete chassis cab brake system from the effects of a loss of pressure in the brake system of a towed vehicle.

(iii) A control linking the brake system of the incomplete chassis cab to the brake system of a towed vehicle.

(iv) A control in the incomplete chassis cab for operating a towed vehicle's brakes independently of the incomplete chassis cab's brakes.

(v) Any other equipment designed to establish or enhance the incomplete chassis cab's use as a tractor.

(8) *Incomplete chassis cab; certificate*—(i) *In general.* The certificate described in this paragraph (e)(8) consists of a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate in paragraph (e)(8(ii) of this section, and includes all the information necessary to complete the model certificate. The IRS may withdraw the right of a buyer of vehicles to provide a certificate under this section if the buyer uses the vehicles to which a certificate relates other than as stated in the certificate. The IRS may notify any seller that the buyer's right to provide a certificate has been withdrawn. The certificate may be included as part of any business records normally used to document a sale.

(ii) *Model Certificate.*

Certificate

(To support the completion of an incomplete chassis cab as a truck)

The undersigned buyer of articles listed in section 4051 (''Buyer'') hereby certifies the following under penalties of perjury:

1. _____

_____

_____

Seller's name, address, and employer identification number

2. _____

_____

_____

Buyer's name, address, and employer identification number

3. _____

Date and location of sale to Buyer

4. Buyer certifies that Buyer will complete these incomplete chassis cabs listed below as trucks:

VIN:	*VIN:*
VIN:	*VIN:*
VIN:	*VIN:*
VIN:	*VIN:*

5. Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.
6. Buyer understands that if Buyer completes an incomplete chassis cab listed in this certificate as a taxable tractor described in section 4051(a)(1)(E) and then uses it or sells it, Buyer may be liable for the tax imposed by section 4051 on this sale or use. See 26 CFR 48.4051–1(e)(6)(ii) and 145.4052–1(c).
7. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.
8. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Printed or typed name of person signing this certificate

_____
Title of person signing

_____
Signature and date signed

(f) *Exclusions*—(1) *In general.* Tax is not imposed by section 4051 on the first retail sale of the following articles:

(i) Automobile truck chassis or bodies that have practical and commercial fitness for use with a vehicle that has a GVW of 33,000 pounds or less.

(ii) Truck trailer and semitrailer chassis or bodies that have practical and commercial fitness for use with a truck trailer or semitrailer that has a GVW of 26,000 pounds or less.

(iii) Tractors that have—

(A) A GVW of 19,500 pounds or less; and

(B) A GCW of 33,000 pounds or less.

(2) *Practical and commercial fitness.* A chassis or body possesses practical fitness for use with a vehicle if it performs its intended function up to a generally acceptable standard of efficiency with the vehicle, and a chassis or body possesses commercial fitness for use with a vehicle if it is generally available for use with the vehicle at a price that is reasonably competitive with other articles that may be used for the same purpose. A truck chassis that has practical and commercial fitness for use with a vehicle having a GVW of 33,000 pounds or less is not subject to the tax imposed by section 4051 regardless of the body actually mounted on the chassis. A truck trailer or semitrailer chassis that has practical and commercial fitness for use with a vehicle having a GVW of 26,000 pounds or less is not subject to tax regardless of the body actually mounted on the chassis. A taxable chassis or body, as the case may be, remains subject to tax—

(i) Even if an exempt body is mounted on a taxable chassis or a taxable body is mounted on an exempt chassis; and

(ii) The resulting vehicle is a highway vehicle.

(3) *Gross vehicle weight.* (i) The term *gross vehicle weight* means the maximum total weight of a loaded vehicle. Except as otherwise provided in this paragraph (f)(3), the maximum total weight is the GVW rating of the article as specified by the manufacturer on the Manufacturer's Statement of Origin (or comparable document) or by the retailer of the completed article on a comparable document. In determining the GVW, the following rules apply:

(A) The GVW rating must take into account, among other things, the strength of the chassis frame, the axle capacity and placement, and, if an article is specially equipped to the buyer's specifications, those specifications.

(B) The manufacturer or retailer of an article listed in paragraph (a) of this section must specify the article's GVW rating at the time the article requires no additional manufacture other than—

(*1*) The addition of readily attachable articles, such as tire or rim assemblies or minor accessories;

(*2*) The performance of minor finishing operations, such as painting; or

(*3*) In the case of a chassis, the addition of a body.

(C) If the IRS finds that a GVW rating by the manufacturer or a later seller is unreasonable in light of the facts and circumstances in a particular case, that GVW rating will not be used for purposes of section 4051.

(D) The IRS may exclude from a GVW rating any readily attachable parts to the extent the IRS finds that the use of such parts in computing the GVW rating results in an inaccurate GVW rating.

(E) If the following or similar ratings are inconsistent, the highest of these ratings is the GVW rating:

(*1*) The rating indicated in a label or identifying device affixed to an article.

(*2*) The rating set forth in sales invoice or warranty agreement.

(*3*) The advertised rating for that article (or identical articles).

(ii) The retailer must keep a record of the GVW rating for each chassis, body, or vehicle it sells. For this purpose, a record of the serial number of each such article is treated as a record of the GVW rating of the article if such rating is indicated by the serial number. The GVW rating must be retained as part of the retailer's records for each of its chassis, bodies, or vehicles.

(4) *Gross combination weight.* (i) The term *gross combination weight* means the GVW of the tractor plus the GVW of any trailer or semitrailer that the tractor may safely tow. Unless a particular rating is unreasonable in light of the facts and circumstances in a particular case, the IRS will consider the GCW of a tractor to be the highest GCW rating specified on any of the following documents:

(A) The Manufacturer's Statement of Origin (or comparable document) or a comparable document of a seller of the completed tractor.

(B) A label or identifying device affixed to the completed tractor by the manufacturer or the seller.

(C) A sales invoice or warranty agreement.

(D) An advertisement for the tractor (or identical tractors).

(ii) The retailer must keep a record of the GCW rating for each tractor it sells. The GCW rating must be retained as part of the retailer's records for each of its tractors.

(g) *Example.* The following example illustrates the application of paragraphs (e)(1), (2), (3), and (4) of this section:

Example. (1) *Facts.* (i) A vehicle has the capacity to tow truck trailers and semitrailers (trailers) that have a GVW of 20,000 pounds. The vehicle has a standard chassis cab (4-door with crew cab), accommodating five passengers, and is outfitted with certain luxury features. The cab has an electric trailer brake control that connects to the brakes of a towed trailer and to a hook up for trailer lights. The vehicle has two storage boxes behind the cab that can accommodate incidental items such as small tools and vehicle repair equipment.

(ii) The vehicle has a GVW rating of 23,000 pounds and a GCW rating of 43,000 pounds. The vehicle is equipped with hydraulic disc brakes with a four wheel automatic braking system, a 300 horsepower engine, and a six-speed automatic transmission. The front axle of the vehicle has an 8,000 pound rating and the rear axle has a 15,000 pound rating.

(iii) The vehicle has three types of hitching devices: A removable ball gooseneck hitch, a fifth wheel hitch, and a heavy duty trailer receiver hitch. The vehicle's platform, which is approximately 139 inches long, is designed with a rectangular well to accommodate the gooseneck and fifth wheel hitches (bed hitches). This platform slopes at the rear of the rectangular well and has tie down hooks. Optional removable steel stake rails can be placed around the platform.

(2) *Analysis.* (i) Some characteristics of the vehicle such as its chassis cab with a GVW rating of 23,000 pounds, a 300 horsepower engine, a front axle with an 8,000 pound rating, and a rear axle with a 15,000 pound rating are consistent with either a cargo carrying or a towing function. In this case, however, the vehicle also has a GCW rating of 43,000 pounds and its engine, brakes, transmission, axle ratings, electric trailer brake control, trailer hook up lights, and hitches enable it to tow a trailer that has a GVW rating of 20,000 pounds.

(ii) When the vehicle's bed hitches are used to tow, the cargo carrying capacity of the vehicle is limited to the storage boxes behind the cab and is minimal in comparison to the GVW rating of the towed truck trailer or semitrailer. Neither the steel stake bed rails nor the tie down hooks significantly increase cargo carrying capacity when either of the bed hitches is used. Even if neither of the vehicle's two bed hitches is used, the design of the vehicle significantly reduces its cargo carrying capacity when compared to the cargo carrying capacity of a pickup truck body or a flatbed truck body installed on a comparable chassis. The significant reduction in cargo carrying capacity resulting from the vehicle's platform with its rectangular well and sloping platform at the rear of the rectangular well is evidence that the vehicle is not primarily designed to carry cargo. By accommodating the bed hitches, however, this platform configuration increases the vehicle's towing capacity and, in conjunction with the other features described above, makes it possible to safely tow a trailer with a GVW rating of 20,000 pounds.

(3) *Conclusion.* The vehicle's physical characteristics, which maximize towing capacity at the expense of carrying capacity, establish that the vehicle is primarily designed to tow a vehicle, such as a truck trailer or semitrailer, rather than to carry cargo on its chassis. Thus, the vehicle is a tractor.

(h) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

§ 48.4051–2 Imposition of tax; parts and accessories.

(a) *Parts or accessories sold on or in connection with the sale of chassis, bodies, and tractors*—(1) *In general.* (i) The tax imposed by section 4051 applies to parts or accessories sold on or in connection with, or with the sale of, any article specified in § 48.4051–1(a). The tax applies whether or not the parts or accessories are separately billed by the retailer.

(ii) If a taxable chassis or body is sold by the retailer without parts or accessories that are considered equipment essential for the operation or appearance of the taxable article, the sale of these parts or accessories by the retailer to the buyer of the taxable article will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the taxable article even though they are shipped separately, whether at the same time or on a different date.

(iii) Parts and accessories that are spares or replacements are not subject to the tax described in paragraph (a)(1)(i) of this section.

(2) *Example.* The following example illustrates the application of this paragraph (a):

Example. X buys from Retailer a chassis in a sale subject to the tax imposed by section 4051. At the time of the sale, bumpers were not attached to the chassis; rather, they had been ordered from Retailer and delivered to X at a later date. For purposes of the tax imposed by section 4051, the price of the chassis includes the price of the bumpers, regardless of when the Retailer delivered the bumpers or billed X for the bumpers.

(b) *Parts or accessories not sold on or in connection with the sale of chassis, bodies, and tractors*—(1) *In general.* Section 4051(b)(1) imposes a tax on the installation of a part or accessory on a taxable article specified in § 48.4051–1(a) within six months after the article was first placed in service. However, the tax imposed by section 4051(b)(1) does not apply if—

(i) The part or accessory is a replacement part or accessory; or

(ii) The aggregate price of non-replacement parts and accessories (and their installation) for any vehicle does not exceed $1,000.

(2) *Application and rate of tax.* The tax is the applicable percentage of the price of the part or accessory and its installation. The applicable percentage is prescribed in section 4051(b)(1).

(3) *Liability for tax.* The owner, lessee, or operator of the vehicle on which the parts or accessories are installed is liable for this tax. The owner(s) of the trade or business that installs the parts or accessories is secondarily liable for this tax.

(4) *Definitions*—(i) *First placed in service.* For purposes of this section, a vehicle is *first placed in service* on the date on which the owner of the vehicle took actual possession of the vehicle. This date can be established by the delivery ticket signed by the owner or other comparable document indicating delivery to, and acceptance by, the owner.

(ii) *Replacement part.* The term *replacement part* means an item that is substantially similar to and intended to take the place of a vehicle part that has worn out or broken down, regardless of when it is ordered.

(5) *Example.* The following example illustrates the application of this paragraph (b). Assume that during the periods described, the rate of tax is 12 percent of the price of the part or accessory and its installation.

Example. X bought a vehicle in a sale that was subject to the tax imposed by section 4051 and first placed it in service on September 1, 2013. On October 1, 2013, X purchases and has installed non-replacement parts at a cost of $750. On November 1, 2013, X purchases and has installed additional non-replacement parts at a cost of $450. On December 1, 2013, X purchases and has installed additional non-replacement parts and accessories at a cost of $900. Although the price of each separate purchase and installation is less than $1,000, the aggregate price exceeds the $1,000 limit on November 1, 2013. Accordingly, on November 1, 2013, X is liable for tax of $144 (12 percent × ($750 + $450)) on account of the installations on October 1, and November 1, 2013. On December 1, 2013, X is liable for a tax of $108 (12 percent × $900) on account of the installation on that date. To report its liability X must file Form 720, Quarterly Federal Excise Tax Return, for the fourth calendar quarter of 2013 by January 31, 2014.

(c) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

■ **Par. 10.** Section 48.4052–1 is revised to read as follows:

§ 48.4052–1 Definition; first retail sale.

(a) *In general.* For purposes of the tax imposed by section 4051, *first retail sale* means a taxable sale defined in paragraph (b) of this section.

(b) *Taxable sale; in general.* A sale of an article described in § 48.4051–1(a) is a taxable sale except in the following cases:

(1) The sale is an exempt sale. A sale is an exempt sale if—

(i) The sale is a tax-free sale under section 4221;

(ii) The sale is of a used article that had previously been sold tax-free under section 4221; or

(iii) The article is sold for resale or leasing in a long-term lease and, at the time of sale, the seller—

(A) Has obtained from the buyer a certificate described in paragraph (d) of this section stating, among other things, that the buyer will either resell the vehicle or lease it in a long-term lease;

(B) Has no reason to believe that any information in the certificate is false; and

(C) Has not received a notification from the IRS under paragraph (d)(1) of this section with respect to the buyer.

(2) There has been a prior sale of the article that is not an exempt sale. The previous sentence does not apply if the prior sale is described in paragraph (c)(1) of this section.

(c) *Special rule for trailers and semitrailers*—(1) *In general.* A sale is described in this paragraph (c)(1) if the sale—

(i) Is a sale of a chassis or body of a truck trailer or semitrailer (''trailer or semitrailer'');

(ii) Is not an exempt sale; and

(iii) Occurs less than six months after the first sale of the trailer or semitrailer that is not an exempt sale.

(2) *Credit.* In the case of a sale described in paragraph (c)(1) of this

section, any tax paid by the prior seller on account of its sale (and not at any time refunded to or credited against any other liability of the prior seller) is treated as a payment on behalf of the person (the subsequent seller) liable for the tax on the sale described in paragraph (c)(1) of this section. The subsequent seller may claim such payment as a credit against its liability for tax on the sale described in paragraph (c)(1) of this section if the following conditions are met:

(i) The claim is made on Form 720, ''Quarterly Federal Excise Tax Return'' (or such other form as the IRS may designate) in accordance with the instructions for that form.

(ii) The subsequent seller has not been repaid any portion of the tax by the prior seller and has not provided the prior seller with a written consent to the allowance of a credit or refund.

(iii) The subsequent seller has records substantiating the amount of tax paid by the prior seller on its sale of the truck trailer or semitrailer.

(d) *Certificate*—(1) *In general.* The certificate referred to in paragraph (b)(1)(iii) of this section is a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (d)(3) of this section, and contains all information necessary to complete the model certificate. The IRS may withdraw the right of a buyer of vehicles to provide a certificate under this section if the buyer uses the vehicles to which a certificate relates other than as stated in the certificate. The IRS may notify any seller that the buyer's right to provide a certificate has been withdrawn. The certificate may be included as part of any business records normally used to document a sale.

(2) *Effect of use other than as stated in certificate.* If a buyer that provides a certificate described in paragraph (b)(1)(iii)(A) of this section uses or leases (in a short term lease) an article listed in the certificate, the sale of such article to the buyer is treated as the first retail sale of the article and the buyer is liable for the tax imposed on such sale. If the conditions of paragraph (b)(1)(iii)(A), (B), and (C) of this section are satisfied, the seller will not be liable for the tax imposed on such sale.

(3) *Model certificate.*

Certificate

(To support nontaxable sale of articles listed in section 4051 for resale or long term lease under section 4052 of the Internal Revenue Code)

The undersigned buyer of articles listed in section 4051 (''Buyer'') hereby certifies the following under penalties of perjury:

1. _____

_____

_____

Seller's name, address, and employer identification number

2. _____

_____

_____

Buyer's name, address, and employer identification number

3. _____

Date and location of sale to Buyer

4. The articles listed below will be either resold by Buyer or leased on a long term basis by Buyer. If the article is a chassis, Buyer has listed the chassis Vehicle Identification Number. If the article is a body, Buyer has listed the body's identification number.

5. Buyer understands that it must be prepared to establish, by evidence satisfactory to an examining agent, how each article bought under this certificate was used.
6. Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.
7. Buyer understands that if it uses or leases (in a short term lease) an article listed in this certificate, Buyer will be liable for the tax imposed by section 4051(a)(1) on the article. See 26 CFR 48.4051–1 and 145.4052–1(c).
8. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.
9. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing this certificate

_____

Title of person signing

_____

Signature and date signed

(e) *No installment payment of tax.* If a lease is a taxable sale under § 145.4052–1(b) of this chapter or an installment sale (or another form of sale under which the sales price is paid in installments), then the liability for the entire tax arises at the time of the lease or installment sale. No portion of the tax is deferred by reason of the fact that the sales price is paid in installments.

(f) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

■ **Par. 11.** Section 48.4061(a)–1 is amended as follows:

■ 1. Paragraph (d)(2)(ii), first sentence, is amended by removing the language ''A self-propelled'' and adding ''Before January 1, 2005, a self-propelled'' in its place.

■ 2. Paragraph (d)(2)(iv) is added.

The addition reads as follows:

§ 48.4061(a)–1 Imposition of tax; exclusion for light-duty trucks, etc.

* * * * *

(d) * * *

(2) * * *

(iv) *Off-highway transportation vehicles after October 21, 2004.* For a description of certain vehicles that are not treated as highway vehicles after October 21, 2004, see § 48.0–5(b)(3).

* * * * *

Subpart H [Amended]

■ **Par. 12.** Subpart H is amended by revising the undesignated center heading reading ''Tires, Tubes, and Tread Rubber'' to read ''Tires''.

■ **Par. 13.** Section 48.4071–1 is revised to read as follows:

§ 48.4071–1 Tires; imposition of tax.

(a) *In general.* (1) Tax is imposed by section 4071 on the sale by the manufacturer of a taxable tire with a maximum rated load capacity greater than 3,500 pounds.

(2) See § 48.4072–1(b) for the definition of the term *taxable tire.*

(b) *Tax base and computation of tax.* The tax base is equal to the number of 10–pound increments, rounded down to the nearest ten pounds, by which the maximum rated load capacity exceeds 3,500 pounds. The tax is determined by multiplying this tax base by the rate of tax specified in section 4071(a). Thus, for example, a taxable tire with a maximum rated load capacity of 4,005 pounds is treated as having a maximum rated load capacity of 4,000 pounds and a tax base of 50 ((4000 − 3,500) ÷ 10). The tax imposed on the tire is the rate of tax under section 4071(a) times 50.

(c) *Liability for tax.* The manufacturer of a taxable tire is liable for the tax imposed by section 4071.

(d) *Effective/applicability date.* This section applies on and after the date of

publication of these regulations in the **Federal Register** as final regulations.

■ **Par. 14.** Section 48.4071–2 is revised to read as follows:

§ 48.4071–2 Determination of maximum rated load capacity.

(a) *In general.* For purposes of the tax imposed by section 4071, the maximum rated load capacity is the maximum rated load rating inscribed on a taxable tire's sidewall provided the inscription meets the standards prescribed by the National Highway Traffic Safety Administration in its regulations. If a taxable tire has multiple maximum load ratings, the taxable tire's highest maximum load rating is the taxable tire's maximum rated load capacity for purposes of the tax.

(b) *Tampering.* In the event of any tampering with, or the appearance of tampering with, the inscription of a taxable tire's maximum rated load capacity as described in paragraph (a) of this section, the tire's maximum rated load capacity is the maximum rated load capacity of a comparable tire.

(c) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

■ **Par. 15.** Section 48.4071–3 is amended by:

■ 1. Revising the section heading and paragraph (a).

■ 2. Revising paragraph (c)(1).

■ 3. Adding paragraph (e).

■ 4. Removing the undesignated authority citation at the end of the section.

The revisions and addition read as follows:

§ 48.4071–3 Imposition of tax on tires delivered to manufacturer's retail outlet.

(a) *General rule.* If a tire manufacturer delivers a taxable tire it manufactured to one of its retail outlets, the manufacturer is liable for the tax imposed by section 4071 on this tire in the same manner as if the tire had been sold upon delivery to the retail outlet. The amount of tax is computed under § 48.4071–1.

* * * * *

(c) * * *

(1) *Delivery*—(i) *Delivery options.* A manufacturer of taxable tires may, at its option, treat either of the following events as constituting delivery to a retail outlet:

(A) Delivery of taxable tires to a common carrier (or, where the taxable tires are transported by the manufacturer, the placing of the taxable tires into the manufacturer's highway vehicle) for shipment from the plant in which the taxable tires are manufactured, or from a regional distribution center of taxable tires, to a retail outlet or to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.

(B) Arrival of the taxable tires at the retail outlet, or, where shipment is to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet, the arrival of the taxable tires at such location.

(ii) *Delivery election.* A manufacturer that has elected to treat one of the events listed in paragraph (c)(1)(i)(A) or (B) of this section as constituting delivery to a retail outlet may not use a different criterion for a later return period unless the manufacturer obtains permission from the IRS in advance.

* * * * *

(e) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

§ 48.4071–4 [Removed]

■ **Par. 16.** Section 48.4071–4 is removed.

■ **Par. 17.** Section 48.4072–1 is amended by:

■ 1. Revising paragraphs (b), (c), and (d).

■ 2. Amending paragraph (e) by removing the second, third, and fourth sentences.

■ 3. Revising paragraphs (f), (g), and (h).

■ 4. Removing the undesignated authority citation at the end of the section.

The revisions and addition read as follows:

§ 48.4072–1 Definitions.

* * * * *

(b) *Taxable tire*—(1) *In general.* The term *taxable tire* means a tire—

(i) Of the type used on highway vehicles;

(ii) That is wholly or in part made of rubber; and

(iii) That is marked pursuant to federal regulations for for highway use.

(2) *Recapped and retreaded tires.* The term *taxable tire* includes a used tire that is recapped or retreaded (whether from shoulder-to-shoulder or bead-to-bead) only if—

(i) The used tire had not previously been sold in the United States;

(ii) The used tire is recapped or retreaded outside the United States; and

(iii) When imported into the United States, the recapped or retreaded tire meets the requirements of section (b)(1) of this section.

(c) *Tires of the type used on highway vehicles.* The term *tires of the type used on highway vehicles* means tires (other than tires of a type used exclusively on mobile machinery (within the meaning of § 48.0–5(c))) of the type used on—

(1) Highway vehicles; or

(2) Vehicles of the type used in connection with highway vehicles.

(d) *Rated load capacity.* The term *rated load capacity* means the maximum load a tire is rated to carry at a specified inflation pressure.

* * * * *

(f) *Super single tire.* The term *super single tire* means a single tire greater than 13 inches in cross section width designed to replace two tires in a dual fitment. The term does not include any tire designed for steering or an all position tire.

(g) *Examples.* The following examples illustrate the application of this section.

Example 1. (1) *Facts.* (i) A foreign tire manufacturer manufactures a tire that meets the Federal Motor Vehicle Safety Standard for truck tires prescribed by the DOT. The tire is not of a type used exclusively on mobile machinery (within the meaning of § 48.0–5(c)). This tire is partially made of rubber. The foreign manufacturer marks this tire for highway use pursuant to DOT regulations. The foreign manufacturer sells the tire for use in the foreign country.

(ii) After use in the foreign country, a tire importer buys the tire and imports it into the United States. At the time of importation, the tread on this tire's casing meets the criteria for minimal tread on trucks used in interstate commerce as prescribed by the DOT.

(2) *Analysis.* The imported tire is a taxable tire because the tire is of the type used on a highway vehicle and is not of a type used exclusively on mobile machinery, the tire is wholly or in part made of rubber, and the tire is marked pursuant to federal regulations for highway use.

Example 2. (1) *Facts.* A tire manufacturer pays the tax imposed by section 4071(a) when it sells a tire that is (1) of the type used on highway vehicles; (2) wholly or in part made of rubber; and (3) marked pursuant to federal regulations for highway use. The tire does not have any design features to indicate that it is a tire of a type used exclusively on mobile machinery (within the meaning of § 48.0–5(b)(3)(iii)). The purchaser of this tire puts the tire on mobile machinery described in § 48.0–5(b)(3)(iii).

(2) *Analysis.* A tire that is ''of the type used on highway vehicles'' and ''not of a type used exclusively on mobile machinery'' retains those characteristics regardless of how the tire is actually used. Therefore, the characterization of a tire as a taxable tire is not changed because the tire is actually used on a vehicle that is mobile machinery.

(h) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

§ 48.4073 [Removed]

■ **Par. 18.** Reserved § 48.4073 is removed.

■ **Par. 19.** Section 48.4073–1 is revised to read as follows:

§ 48.4073–1 Exemption for tires sold for the exclusive use of the Department of Defense or the Coast Guard.

(a) *In general.* Tax is not imposed by section 4071 on the sale of a taxable tire if—

(1) The manufacturer of the taxable tire meets the registration requirements of section 4222; and

(2) The sale of the taxable tire is to the Department of Defense or the Coast Guard for the exclusive use of the Department of Defense or the Coast Guard,

(b) *Sales for resale.* A manufacturer may sell a taxable tire tax-free under section 4073 and this section only if the sale is directly made to either the Department of Defense or the Coast Guard for such agency's exclusive use. Accordingly, a sale may not be made taxfree to a dealer for resale to the Department of Defense or the Coast Guard for its exclusive use, even though it is known at the time of sale by the manufacturer that the article will be so resold.

(c) *Certificate*—(1) *Effect of certificate.* A manufacturer will not be liable for tax on the sale of a taxable tire if, at the time of the sale, the manufacturer has obtained from the buyer an unexpired certificate described in paragraph (c)(2) of this section and has no reason to believe any information in the certificate is false. A buyer that provides an erroneous certificate described in paragraph (c)(2) of this section is liable for any tax imposed on the sale to which the certificate relates.

(2) *Form of certificate.* The certificate described in this paragraph (c)(2) is a statement by the Department of Defense or the Coast Guard that is signed under penalties of perjury by a person with authority to bind the Department of Defense or the Coast Guard, is in substantially the same form as the model certificate provided in paragraph (c)(3) of this section, and contains all information necessary to complete the model certificate. A new certificate or notice that the current certificate is invalid must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale.

(3) *Model Certificate.*

Certificate

(To support the tax-free sales of tires to the Department of Defense or the Coast Guard under section 4073 of the Internal Revenue Code)

The undersigned buyer of taxable tires (''Buyer'') hereby certifies the following under penalties of perjury:

1. _____

_____

_____

Manufacturer's name, address, and employer identification number

2. _____

_____

_____

Buyer's name, address, and employer identification number

3. _____

Date and location of sale to Buyer

4. The tire(s) to which this certificate applies will be for the exclusive use of Buyer (that is, the Department of Defense or the Coast Guard).

5. This certificate applies to Buyer's purchases from Manufacturer as follows (complete as applicable):

a. A single purchase on invoice or delivery ticket number ____.

b. All purchases between ____ (effective date) and ____ (expiration date), a period not exceeding 12 calendar quarters after the effective date, under account or order number(s) ____. If this certificate applies only to Buyer's purchases for certain locations, check here ____ and list the locations.

_____

_____

_____

6. Buyer will provide a new certificate to the Manufacturer if any information in this certificate changes.

7. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.

8. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing this certificate

_____

Title of person signing

_____

Signature and date signed

(d) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

■ **Par. 20.** Section 48.4073–2 is revised to read as follows:

§ 48.4073–2 American National Red Cross.

(a) For the exemption allowed to the American National Red Cross from the tax imposed by section 4071, see the Secretary's Authorization, 1979–1 C.B. 478 (See § 601.601(d)(2)(ii)(*b*) of this chapter.)

(b) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

§§ 48.4073–3 and 48.4073–4 [Removed]

■ **Par. 21.** Sections 48.4073–3 and 48.4073–4 are removed.

§ 48.4081–1 [Amended]

■ **Par. 22.** Section 48.4081–1(b) is amended by removing the language ''§ 48.4061(a)–1(d)'' in the definition of *Diesel-powered highway vehicle* and adding ''§ 48.0–5'' in its place.

■ **Par. 23.** Section 48.4221–7 is amended by:

■ 1. Revising the section heading and paragraph (a).

■ 2. Removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

■ 3. Revising redesignated paragraph (b)(2).

■ 4. Adding new paragraph (c).

The revisions and addition read as follows:

§ 48.4221–7 Tax-free sale of tires for use on other articles.

(a) *In general.* Under section 4221(e)(2), tax is not imposed by section 4071 on the sale of a taxable tire if—

(1) The taxable tire is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by the purchaser;

(2) The other article is to be sold by the purchaser—

(i) In a tax-free sale for export, for use as supplies for vessels or aircraft, to a state or local government for its exclusive use, or to a nonprofit educational organization for its exclusive use; or

(ii) For any of such purposes in a sale that would be tax-free but for the fact that the other article is not subject to tax under section 4051 or 4064;

(3) The registration requirements of section 4222 and the regulations thereunder are met; and

(4) The proof, described in paragraph (b) of this section, of the disposition of the other article, is timely received by the manufacturer.

(b) * * *

(2) *Required information*—(i) *In general.* The information referred to in paragraph (b)(1) of this section is a statement that is signed under penalties of perjury by a person with authority to bind the purchaser, is in substantially the same form as the model certificate provided in paragraph (b)(2)(ii) of this section, and contains all information necessary to complete the model certificate. For purchasers that are not required to be registered under section 4222, the IRS may withdraw the right of a purchaser of a taxable tire to provide a certificate under this section if the purchaser uses the tire to which a

certificate relates other than as stated in the certificate. The IRS may notify any manufacturer to whom such purchaser has provided a certificate that the purchaser's right to provide a certificate has been withdrawn. The certificate may be included as part of any business records normally used to document a sale.

(ii) *Model certificate.*

Certificate

(To support the nontaxable sale of taxable tires by the manufacturer when sold for use on or in connection with the sale of another article manufactured or produced by the buyer and sold by the buyer in a sale that meets the requirements of section 4221(e)(2))

The undersigned buyer of taxable tires (''Buyer'') hereby certifies the following under penalties of perjury:

1. _____

_____

_____

Manufacturer's name, address, employer identification number, and registration number

2. _____

_____

_____

Buyer's name, address, employer identification number, and registration number (if required)

3. _____

Date and location of sale to Buyer

4. The taxable tire(s) listed below, by its (their) United States Department of Transportation identification number(s), are covered by this certificate

5. The taxable tire(s) listed in this certificate that were purchased or shipped on the date specified in entry 3 have been used on or in connection with the sale of ____ (describe product sold by Buyer) by Buyer and such sale was— *(complete line (i), (ii), (iii), or (iv), whichever is applicable)*
   (i) for export by ____ (Name of carrier) to ____ (Name of foreign country or possession) and was so exported on ____ (Date). (A copy of the bill of lading or other proof of exportation is attached.)
   (ii) for use as supplies on ____ (Name of vessel or aircraft) that is registered in ____ (Name of country in which vessel or aircraft is registered).
   (iii) to ____ (Name of state or local government).
   (iv) to ____ (Name and address of the nonprofit educational organization).
6. Buyer understands that it must be prepared to establish, by evidence satisfactory to an examining agent, how each tire bought under this certificate was used.
7. Check here ____ if Buyer is not required to be registered with the Internal Revenue Service because Buyer is a state or local government, a foreign person buying for export, or the United States.
8. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.
9. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing this certificate

_____

Title of person signing

_____

Signature and date signed

(c) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

■ **Par. 24.** Section 48.4221–8 is amended by:

■ 1. Revising the section heading and paragraph (a).

■ 2. Removing the second paragraph (b), *Registration requirements for tires, tubes, and tread rubber; vendees purchasing tax-free.*

■ 3. Revising paragraphs (c) and (d).

■ 4. Removing paragraphs (e) and (f).

The revisions read as follows:

§ 48.4221–8 Tax-free sales of tires used on intercity, local, and school buses.

(a) *In general.* Under section 4221(e)(3), tax is not imposed by section 4071 on the sale of a taxable tire for use by the buyer on or in connection with a qualified bus, as defined in paragraph (b) of this section, if—

(1) The registration requirements of section 4222 and the regulations thereunder are met;

(2) At the time of sale, the manufacturer of the taxable tire—

(i) Possesses a certificate (in the form described in paragraph (c)(2) of this section) from the buyer of a taxable tire, in which, among other things, the buyer certifies that the buyer will use the taxable tire on or in connection with a qualified bus;

(ii) Has no reason to believe that any information in the certificate described in paragraph (c) of this section is false; and

(iii) Has not received a notification from the IRS under paragraph (c)(2) of this section with respect to the buyer.

* * * * *

(c) *Certificate*—(1) *Effect of certificate.* A manufacturer will not be liable for tax on the sale of a taxable tire if the conditions of paragraph (a)(2) of this section are satisfied. In such a case, a buyer that provides an erroneous certificate described in paragraph (c)(2) of this section is liable for any tax imposed on the sale to which the certificate relates.

(2) *In general.* The certificate referred to in paragraph (a)(2) of this section is a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (c)(3) of this section, and contains all information necessary to complete the model certificate. For purchasers that are not required to be registered under section 4222, the IRS may withdraw the right of a buyer of a taxable tire to provide a certificate under this section if the buyer uses the tires to which a certificate relates other than as stated in the certificate. The IRS may notify any manufacturer to whom the buyer has provided a certificate that the buyer's right to provide a certificate has been withdrawn. The certificate may be included as part of any business records normally used to document a sale.

(3) *Model certificate.*

Certificate

(To support the nontaxable sale of taxable tires used on intercity, local, and school buses)

The undersigned buyer of taxable tires (''Buyer'') hereby certifies the following under penalties of perjury:

1. _____

_____

_____

Manufacturer's name, address, employer identification number, and registration number

2. _____

_____

_____

Buyer's name, address, employer identification number, and registration number

3. _____

Date and location of sale to Buyer

4. The taxable tire(s) listed below, by its (their) United States Department of Transportation identification number(s), will be used on intercity, local, and school buses.

5. Buyer understands that it must be prepared to establish, by evidence

satisfactory to an examining agent, how each tire bought under this certificate was used.

6. Check here ___ if Buyer is not required to be registered with the Internal Revenue Service because Purchaser is a state or local government or the United States.
7. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.
8. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Printed or typed name of person signing this certificate

_____
Title of person signing

_____
Signature and date signed

(d) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

§ 48.6416(c)–1 [Removed]

■ **Par. 25.** Section 48.6416(c)–1 is removed.

■ **Par. 26.** For each section listed in the tables, remove the language in the ''Remove'' column from wherever it appears in the paragraph and add in its place the language in the ''Add'' column as set forth below:

Section	Remove	Add
§ 48.4071–3(b) Second sentence	tires or tubes	taxable tires.
Fourth sentence	tires or inner tubes	taxable tires.
Fifth sentence	tires	taxable tires.
Sixth sentence	taxable tires. and inner tubes	taxable tires.
§ 48.4071–3(c)(1) Introductory text	tires or inner tubes	taxable tires.
§ 48.4071–3(c)(1)(i)	tires or inner tubes	taxable tires.
	tires or tubes	taxable tires.
	tires and inner tubes	taxable tires.
§ 48.4071–3(c)(2)(i) Second sentence	tires and inner tubes	taxable tires.
Third sentence	tires or inner tubes	taxable tires.
Fourth sentence	Tires and inner tubes	Taxable tires.
	tires and tubes	taxable tires.
Seventh sentence	tires and inner tubes	taxable tires.
	tires and tubes	taxable tires
	tires or tubes	
Eighth sentence	tires and inner tubes	taxable tires.
	tire or inner tube	
§ 48.4071–3(c)(2)(ii) First sentence (Example)	tires and tubes	taxable tires.
Third sentence (Example)	tires and inner tubes	taxable tires.
Fourth sentence (Example)	tires or inner tubes	taxable tires.
	tires and tubes	
§ 48.4071–3(c)(3)(i)	tire or inner tube	taxable tire.
§ 48.4071–3(c)(3)(ii)	tire or inner tube	taxable tire.
§ 48.4071–3(d)(1) First sentence	tires and inner tubes	taxable tires.
Second sentence	tires or inner tubes	taxable tires.
§ 48.4071–3(d)(2)	tires and inner tubes	taxable tires.
§ 48.4071–3(d)(3)(i) First sentence	tire or inner tube	taxable tire.
Second sentence	tire or inner tube	taxable tire.
§ 48.4071–3(d)(3)(ii) Third sentence (Example)	tires and tubes (each of the two times it appears).	taxable tires.
Fourth sentence (Example)	tires or inner tubes	taxable tires.
§ 48.4081–1(b)	48.4061(a)–1(d)	48.0–5 of this chapter
Redesignated § 48.4221–7(b)(1)	tire or inner tube	taxable tire.
Second sentence	tire or inner tube	taxable tire.
Third sentence	tire or inner tube	taxable tire.
§ 48.6421–4(c)	48.4061(a)–1(d)	48.0–5

PART 145—TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1982 (PUB. L. 97–424)

■ **Par. 27.** The authority citation for part 145 is amended by adding the following entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.* * *

Section 145.4052–1 also issued under 26 U.S.C. 4052.

■ **Par. 28.** Section 145.4051–1 is revised to read as follows:

§ 145.4051–1 Imposition of tax on heavy trucks, tractors, and trailers sold at retail.

(a) For rules relating to the imposition of the tax imposed by section 4051 and related rules on the tax base, liability for tax, explanation of terms, and exclusions, see § 48.4051–1 through § 48.4052–2 of this chapter.

(b) This section applies on and after the date on which these regulations are published as final regulations in the **Federal Register**.

■ **Par. 29.** Section 145.4052–1 is amended by:

■ 1. Revising paragraph (a).

■ 2. Adding two sentences after the first sentence in paragraph (d)(1).

■ 3. Removing the last sentence in paragraph (d)(8)(iii).

■ 4. Revising paragraph (g).

The revisions read as follows:

§ 145.4052–1 Special rules and definitions.

(a) *First retail sale.* For the definition of first retail sale, see § 48.4052–1 of this chapter.

* * * * *

(d) * * * (1) * * *. Total consideration paid for a chassis or body includes charges for equipment installed on the chassis or body. See § 48.4051–1(d)(4). * * *

* * * * *

(g) *Effective/applicability date.* This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

§ 145.4061–1 [Removed]

■ **Par. 30.** Section 145.4061–1 is removed.

■ **Par. 31.** For each section listed in the tables, remove the language in the ''Remove'' column and add in its place the language in the ''Add'' column as set forth below:

§ 145.4052–1(b)(1) First sentence	§ 145.4051–1	§ 48.4051–1 of this chapter.
Second sentence	paragraph (a)(2) of this section	§ 48.4052–1(b) of this chapter.
§ 145.4052–1(b)(2)	§ 145.4051–1	§ 48.4051–1 of this chapter.
	paragraph (a)(2) of this section	§ 48.4052–1(b) of this chapter.
§ 145.4052–1(c)(1)	§ 145.4051–1	§ 48.4051–1 of this chapter.
§ 145.4052–1(c)(5)(ii)	4216(a), 4216(f)	4052(b)(1)(A) and (B), 4216(a).
§ 145.4052–1(d)(1) Fourth sentence	Installation	installation.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016–06881 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 600

[Docket No. 150507434–5999–01]

RIN 0648–BF09

Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program

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

ACTION: Proposed rule; extension of the comment period.

SUMMARY: The National Marine Fisheries Service (NMFS) is announcing an extension to the comment period for the proposed rule on a seafood import monitoring program published in the **Federal Register** on February 5, 2016. The comment period is being extended from April 5, 2016 to April 12, 2016. Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA), this proposed rule would establish filing and recordkeeping procedures relating to the importation of certain fish and fish products, in order to implement the MSA's prohibition on the import and trade, in interstate or foreign commerce, of fish taken, possessed, transported or sold in violation of any foreign law or regulation. The information to be filed is proposed to be collected at the time of entry, and makes use of an electronic single window consistent with the Safety and Accountability for Every (SAFE) Port Act of 2006 and other applicable statutes. Specifically, NMFS proposes to integrate collection of catch and landing documentation for certain fish and fish products within the government-wide International Trade Data System (ITDS) and require electronic information collection through the Automated Commercial Environment (ACE) maintained by the Department of Homeland Security, Customs and Border Protection (CBP). Under these procedures, NMFS would require an annually renewable International Fisheries Trade Permit (IFTP) and specific data for certain fish and fish products to be filed and retained as a condition of import to enable the United States to exclude the entry into commerce of products of illegal fishing activities. The information to be collected and retained will help authorities verify that the fish or fish products were lawfully acquired by providing information that traces each import shipment from point of harvest to entry-into commerce. The rule will also decrease the incidence of seafood fraud by collecting information at import and requiring retention of documentation so that the information reported (*e.g.,* regarding species and harvest location) can be verified. This proposed rule stipulates the catch and landing data for imports of certain fish and fish products which would be required to be submitted electronically to NMFS through ACE and the requirements for recordkeeping concerning such imports.

DATES: Written comments on the proposed rule published February 5, 2016 (81 FR 6210) must be received on or before April 12, 2016.

ADDRESSES: Written comments on this action, identified by NOAA–NMFS–2015–0122, may be submitted by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0122,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Mark Wildman, International Fisheries Division, Office for International Affairs and Seafood Inspection, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD 20910.

All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may 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. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (PDF) formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the NOAA Fisheries Office for International Affairs and Seafood Inspection and by email to *OIRA Submission@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Mark Wildman, Office for International Affairs and Seafood Inspection, NOAA Fisheries (phone 301–427–8350, or email *mark.wildman@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Extension of Comment Period

This document extends the public comment period established in the **Federal Register** for 7 days. There are a number of international stakeholders who are potential commenters who need some additional time to comment. NMFS is hereby extending the comment period, which was set to end on April 5, 2016, to April 12, 2016.

Dated: March 25, 2016.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–07258 Filed 3–30–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151130999–6225–01]

RIN 0648–XE336

Fishery of the Northeastern United States; Bluefish Fishery; 2016–2018 Bluefish Specifications

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

ACTION: Proposed specifications; request for comments.

SUMMARY: We propose specifications for the 2016–2018 bluefish fishery. This action is necessary to comply with the implementing regulations for the Bluefish Fishery Management Plan that require us to publish specifications and provide an opportunity for public comment. The proposed specifications are necessary to constrain harvest for this species within scientifically sound recommendations to prevent overfishing.

DATES: Comments must be received on or before April 15, 2016.

ADDRESSES: A draft environmental assessment (EA) was prepared for these specifications and describes the proposed action and other considered alternatives, and provides an analysis of their impacts. Copies of the draft Specifications Document, including the draft EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at *www.mafmc.org* and *www.regulations.gov*.

You may submit comments on this document, identified by NOAA–NMFS–2015–1060, by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-1060*

2. Click the ''Comment Now!'' icon, complete the required fields

3. Enter or attach your comments.

—OR—

Mail: Submit written comments to John Bullard, Regional Administrator, National Marine Fishery Service, 55 Great Republic Drive, Gloucester, MA 01950. Mark the outside of the envelope, ''Comments on the Proposed Rule for Bluefish Specifications.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Elizabeth Scheimer, Fishery Management Specialist, (978) 281–9236.

SUPPLEMENTARY INFORMATION:

General Specification Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the Atlantic bluefish (*Pomatus saltatrix*) fishery. Specifications in this fishery include various catch and landing subdivisions, such as annual catch limits (ACLs), commercial and recreational sector annual catch targets (ACTs), sector-specific landing limits (*i.e.,* the commercial fishery quota and recreational harvest limit), and measures used to manage the recreational fishery (*e.g.,* minimum fish size, bag limits) for the upcoming fishing year.

The Bluefish Fishery Management Plan (FMP) and its implementing regulations establish the Council's process for establishing specifications. Regulations implementing the FMP appear at 50 CFR part 648, subparts A and J. The regulations requiring annual specifications are found at § 648.162. The management unit specified in the FMP is U.S. waters of the western Atlantic Ocean, from Florida northward to the U.S./Canada border. The FMP also stipulates how to divide the specification catch limits into commercial and recreational fishery allocations, when and how to adjust commercial and recreational limits by quota transfer between the two sectors, and how to allocate state-by-state quotas.

The annual specifications process requires that the Council's Scientific and Statistical Committee (SSC) and the Bluefish Monitoring Committee review the best available scientific information and make recommendations to the Council. The SSC met July 21, 2015, to review a new 2015 benchmark stock assessment and recommend acceptable biological catches (ABCs) for 2016–2018 for this fishery. More details on the SSC's discussions are provided in the proposed Specifications section below. The Council's Bluefish Monitoring Committee met on July 27, 2015, to review the SSC's ABC recommendations and to propose complementary management measures. The Council and the Commission's Bluefish Management Board met jointly on August 10, 2015, to consider the recommendations of the SSC and the Bluefish Monitoring Committee, receive public comments, and formalize catch limit specifications and commercial and recreational management measures. More complete details on the SSC, Bluefish Monitoring Committee, and Council meeting deliberations can be found on the Council's Web site (*www.mafmc.org*).

While the Board action was finalized at the August meeting, the Council's recommendations must be reviewed by NMFS to ensure that they comply with the FMP and all applicable law. NMFS must also conduct notice-and-comment rulemaking to propose and implement the final specifications.

The Bluefish FMP defines ACL as equal to ABC. The Bluefish Monitoring Committee identifies the relevant sources of management uncertainty, which may be used to reduce the ACL before establishing the recreational and commercial ACTs. Because the bluefish fishery has not fully utilized available ACTs in recent years and management precision is timely, the Bluefish Monitoring Committee did not recommend applying a management uncertainty reduction before establishing sector-specific ACTs. The Bluefish Monitoring Committee recommended allocating 17 percent of the ACL to the commercial fishery and 83 of the ACL percent to the recreational fishery. Estimated discards are then subtracted from each sector ACT to calculate sector Total Allowable Landings (TALs). Using this method ensures that each sector is accountable for its respective discards, rather than simply apportioning the ABC by the allocation percentages to derive the sector TALs. Commercial discards are assumed to be negligible and recreational discards are projected using a 3-year moving average from Marine Recreational Information Program (MRIP) data. The Council may also specify a research set-aside (RSA) quota of up to 3 percent of the TAL, but the

Council did not recommend RSA for 2016–2018. Additionally, the FMP specifies that if the recreational fishery is not projected to land its available harvest limit, then quota may be transferred from the recreational to the commercial sector, up to a commercial quota of 10.5 million lb (4,762 mt). The adjusted commercial quota is then allocated to the coastal states from Maine through Florida in specified shares as outlined in the FMP.

A 2015 benchmark stock assessment used as the scientific basis for these specifications may be found on the Northeast Fisheries Science Center's Web site (*www.nefsc.noaa.gov*). The assessment indicates that bluefish are not overfished, and that overfishing is not occurring. The assessment updated the bluefish stock biological reference points. The previous assessment used Maximum Sustainable Yield (MSY) reference points for fishing mortality and total biomass. The stock recruitment relationship is poorly defined for bluefish, so the 2015 benchmark assessment used Spawning Stock Biomass (SSB) per recruit based reference points as proxies for MSY reference points. This lowered the SSB target level from 324 million lb (147,052 mt) to 245 million pounds (111,228 mt) and lowered the current SSB estimate (191 million pounds in 2014; or 86,534 mt) used to develop the ABCs.

The SSC modified the overfishing limit (OFL) probability distribution derived from the stock assessment, and determined that a lower coefficient of variation, or CV, to estimate scientific uncertainty was acceptable instead of the previously used 100-percent CV. The SSC stated this was acceptable because the new stock assessment improved treatment of uncertainty. The SSC's ABC recommendations are based on a 60-percent CV from the OFL and are, therefore, higher than they would have been under the previously used 100-percent CV.

Proposed Specifications

This rule proposes the Council's ABC recommendation and the commercial and recreational catch limits associated with that ABC for fishing years 2016–2018 as outlined in table 1.

TABLE 1—PROPOSED 2016–2018 BLUEFISH SPECIFICATIONS AND CALCULATIONS

	Current		Proposed					
	2015		2016		2017		2018	
	million lb	mt	million lb	mt	million lb	mt	million lb	mt
OFL	34.22	15,521	25.76	11,686	26.44	11,995	27.97	12,688
ABC	21.54	9,772	19.45	8,825	20.64	9,363	21.81	9,895
ACL	21.54	9,772	19.45	8,825	20.64	9,363	21.81	9,895
Management Uncertainty	0	0	0	0	0	0	0	0
Commercial ACT	3.66	1,661	3.30	1,500	3.50	1,592	3.70	1,682
Recreational ACT	17.88	8,110	16.14	7,325	17.13	7,770	18.10	8,213
Commercial Discards	0	0	0	0	0	0	0	0
Recreational Discards	3.35	1,520	2.98	1,356	2.98	1,356	2.98	1,356
Commercial TAL	3.66	1,661	3.30	1,500	3.50	1,592	3.70	1,682
Recreational TAL	14.53	6,591	13.15	5,969	14.14	6,414	15.11	6,857
Combined TAL	18.19	8,252	16.46	7,469	17.65	8,006	18.82	8,539
Projected Recreational Landings	12.95	5,875	10.98	4,980	10.98	4,980	10.98	4,90
Transfer	1.58	716	2.17	984	3.16	1,433	4.13	1,873
Commercial Quota	5.24	2,377	5.48	2,485	6.67	3,025	7.84	3,556
Recreational Harvest Limit (RHL)	12.95	5,875	10.98	4,980	10.98	4,980	10.98	4,980

Note: Recreational projections, transfer, and resulting commercial quota and RHL may be adjusted as more up-to-date recreational data become available.

The Council recommended the ABC values proposed by the SSC for 2016–2018. The Bluefish Monitoring Committee recommended using a 3-year average to project future recreational landings as was done in the previous specifications. The Council did not endorse this recommendation, requesting that the most recent available complete year's landing data be used to project recreational landings.

Under certain conditions, the FMP allows a TAL transfer from the recreational to the commercial fishery, if projections indicate the full recreational landing limit will not be fully harvested. Council analysis using preliminary 2015 landings data to project future landings indicates the recreational fishery is not expected to land its harvest limit in 2016, so quota can be transferred to the commercial fishery. The amount of transfer was calculated so that the RHL equals expected recreational landings and the final commercial quota does not exceed 10.5 million lb, consistent with the FMP requirement outlining the transfer process. This option represents the preferred alternative recommended by the Council; however, the Council recognized that future updates to the recreational harvest projections may result in a different transfer amount from the recreational sector to the commercial sector. We will use updated 2015 MRIP recreational harvest data as they become available and adjust the 2016 recreational transfer limit, as needed, in the final rule. The Council recommended we re-evaluate the transfer each year, consistent with the FMP requirements, as additional recreational fishery data become available. Each year in 2017 and 2018, an updated projection for recreational landings will be based on realized recreational landings from the preceding year, and that projection will be used to estimate potential transfers from the recreational fishery to the commercial fishery. Any adjustments to the transfer amount will be published each year in a rule.

We propose the Council-recommended status quo daily recreational possession limit of up to 15 fish per person. Fishing under these catch limits for 2016 through 2018 is not expected to compromise the bluefish stock, nor will fishing at this level present an unacceptably high likelihood of overfishing. The calculation process described above produced the

management measures shown in Table 1. Table 2 presents the proposed state allocations for 2016–2018 using the state commercial quota allocations in the FMP. There were no states that exceeded their quota in 2015; therefore, no accountability measures are necessary for the 2016 fishing year. In 2017 and 2018, any commercial quota adjustments necessary to account for overages will be published in the **Federal Register** prior to the start of the respective fishing year.

TABLE 2—2016–2018 PROPOSED INITIAL BLUEFISH STATE COMMERCIAL QUOTAS

State	FMP Percent share	2016 Initial quota		2017 Initial quota		2018 Initial quota	
		kg	lb	kg	lb	kg	lb
ME	0.6685	16,635	36,673	20,231	44,602	23,788	52,443
NH	0.4145	10,314	22,739	12,544	27,655	14,749	32,517
MA	6.7167	167,135	368,469	203,270	448,135	239,003	526,912
RI	6.8081	169,409	373,483	206,037	454,233	242,256	534,082
CT	1.2663	31,510	69,467	38,323	84,487	45,059	99,339
NY	10.3851	258,417	569,712	314,289	692,888	369,538	814,691
NJ	14.8162	368,678	812,796	448,389	988,529	527,211	1,162,302
DE	1.8782	46,736	103,035	56,841	125,312	66,833	147,341
MD	3.0018	74,695	164,675	90,845	200,278	106,814	235,485
VA	11.8795	295,603	651,693	359,515	792,594	422,713	931,924
NC	32.0608	797,783	1,758,810	970,270	2,139,079	1,140,833	2,515,107
SC	0.0352	876	1,931	1,065	2,349	1,253	2,761
GA	0.0095	236	521	288	634	338	745
FL	10.0597	250,320	551,861	304,441	671,178	357,959	789,164
Total	100.0001	2,488,344	5,485,859	3,026,344	6,671,946	3,558,344	7,844,805

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared by the Council, as required by section 603 of the Regulatory Flexibility Act (RFA), to examine the impacts of these proposed specifications on small business entities, if adopted. A copy of the detailed RFA analysis, including the IRFA, is available from NMFS or the Council (see **ADDRESSES**). The Council's analysis made use of quantitative approaches when possible. Where quantitative data on revenues or other business-related metrics that would provide insight to potential impacts were not available to inform the analyses, qualitative analyses were conducted. A summary of the 2016–2018 specifications IRFA analysis follows.

Description of the Reasons Why Action by the Agency Is Being Considered and a Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action proposes management measures, including annual catch limits, for the bluefish fishery in order to prevent overfishing and achieve optimum yield in the fishery. A complete description of the action, why it is being considered, and the legal basis for this action are contained in the draft Specifications Document, and elsewhere in the preamble to this proposed rule, and are not repeated here.

Description and Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

The Small Business Administration defines a small business as one that is independently owned and operated; not dominant in its field of operation; has annual receipts that do not exceed $20.5 million in the case of commercial finfish harvesting entities, $5.5 million in the case of commercial shellfish harvesting entities, $7.5 million in the case of for-hire fishing entities; or has fewer than 750 employees in the case of fish processors or 100 employees in the case of fish dealers.

This proposed rule affects commercial and recreational fish harvesting entities engaged in the bluefish fishery. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the IRFA analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate ownership entity for the purpose of this analysis.

In preparation for this action, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership data set used for this analysis is based on calendar year 2014 and contains average gross sales associated with those permits for calendar years 2012 through 2014. In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. A description of the specific permits that are likely to be impacted by this action is provided below, along with a discussion of the impacted businesses, which can include multiple vessels and/or permit types.

The ownership database shows that for the 2012–2014 period, 724 affiliate firms held a bluefish commercial permit only, 144 affiliate firms held a bluefish party/charter permit only, and 144 firms held both commercial and party/charter permits. However, not all of those affiliate firms are active participants in the fishery. According to the ownership database, 950 affiliate firms landed bluefish during the 2012–2014 period, with 942 of those business affiliates categorized as small business and 8 categorized as large business.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

There is no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

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

The Council analyzed four sets of combined catch limit alternatives for each of the fishing years 2016–2018 for the bluefish fishery. The alternatives were as follows:

- Alternative 1 is the Council's preferred alternative that we are proposing as outlined in this rule's preamble;
- Alternative 2 is the status quo and would maintain the current measures in effect;
- Alternative 3 is an alternative provided for analytical purposes as the ''most restrictive'' set of commercial quotas, based on no transfer between the recreational and commercial sectors; and
- Alternative 4 is the counter-point to Alternative 3, a maximum quota transfer of up to 10.5 million lb (4,762 mt) commercial quota.

The preferred alternative represents an increase in commercial quota and a decrease in RHL for all three years 2016–2018 relative to the 2015 implemented limits. The discussion below is based on the conclusions of the IRFA analyses in the draft Specifications Document provided by the Council. Table 3 outlines the available commercial quota and recreational harvest limits for the four alternatives used in the IRFA.

TABLE 3—SUMMARY OF LANDINGS LIMITS BY ALTERNATIVE

Year	Alternative	Commercial quota		Recreational harvest limit	
		million lb	mt	million lb	mt
2016	1	5.48	2,485	10.98	4,980
	2	5.24	2,376	12.95	5,874
	3	3.31	1,501	13.15	5,964
	4	10.5	4,760	5.96	2,703
2017	1	6.67	3,025	10.98	4,980
	2	5.24	2,376	12.95	5,874
	3	3.51	1,592	14.14	6,413
	4	10.5	4,760	7.15	3,243
2018	1	7.84	3,556	10.98	4,980
	2	5.24	2,376	12.95	5,874
	3	3.71	1,682	15.11	6,853
	4	10.5	4,762	8.32	3,773

Commercial Fishery Impacts

To assess the impact of the alternatives on commercial fisheries, the Council conducted a threshold analysis and an analysis of potential changes in ex-vessel gross revenue that would result from each alternative, using Northeast dealer reports and South Atlantic Trip Ticket reports.

Alternative 1 (the preferred alternative) and Alternative 4 represent increases in commercial quotas relative to 2015. It is expected that Alternatives 1 and 4 would have neutral socio-economic impacts. In recent years, bluefish commercial landings have been substantially lower than the quotas due to market conditions. Unless market conditions change substantially, we expect that commercial landings will be close to 2014 landings despite an increase in fishing opportunity. There is no indication that the market environment for commercially caught bluefish will change considerably in 2016–2018.

Under the Alternative 2 (status quo) measures, the 2016–2018 specifications would have no change in allowable commercial landings relative to the 2015 limits. As such, it is expected that no change in revenues or fishing opportunities would occur. Alternative 2 would likely result in quota constraints for vessels in New York, Massachusetts, Rhode Island, and North Carolina; however, these quota constraints may not have an economic impact due to the ability to transfer quota from state to state.

Under Alternative 3, the most commercially restrictive alternative considered, 72 out of 942 small firms in the Northeast region are projected to incur revenue losses of 5 percent or more in 2016 when compared to 2015. Of those firms, 43 percent had gross sales of $10,000 or less, likely indicating that their dependence on fishing is small. In 2017, 68 small firms likely would be faced with revenue reductions of 5 percent or more (60 percent with gross sales of $10,000 or less), and in 2018, 61 small firms likely would be faced with revenue reductions of 5 percent or more (61 percent with gross sales less than $10,000). For large firms that landed bluefish in the Northeast during 2012–2014, the potential overall revenue reduction is 0.01 percent for each year in 2016–2018. Assuming no change in prices, the average decrease in revenue distributed among all firms that landed bluefish in the Northeast would be $780 per firm in 2016, $649 in 2017, and $518 in 2018.

The South Atlantic Trip Ticket Report data indicate that 757 vessels landed commercial bluefish quota in North

Carolina from 2012–2014. On average, these vessels generated 8.9 percent of their total ex-vessel revenue from bluefish landings. Landings are projected to decrease in North Carolina by 43 percent as a consequence of Alternative 3 quota in 2016 relative to 2014; however, this analysis may overestimate the negative impact to small businesses because quota may be transferred between states. Alternative 3 represents a 40-percent reduction in 2017 and 36-percent reduction in 2018 for North Carolina relative to 2014 landings. If commercial quota is transferred from a state or states that do not land their entire bluefish quotas, as was done frequently in previous years, the number of affected entities could change. Under this alternative, the amount of potential surplus quota available to be transferred is low for all years 2016–2018, but transfers could lessen the adverse economic impact on vessels landing in the state(s) receiving quota transfers. Such transfers cannot be predicted or projected, as each occurs on a case-by-case basis by agreement between states.

Recreational Fishery Impacts

It is very difficult to calculate the economic value of recreational fisheries. No changes to the recreational fishing season, minimum fish size, or per-angler possession limit are being proposed. Because these measures are not changing, it is not expected that there will be any associated economic impact on the recreational fishery. The only potential variable that may have an economic on impact recreational fisheries and regulated small business entities that participate in them are the various landing limits under consideration. Using the preliminary 2015 recreational landings data, Alternative 1 (preferred) proposes an RHL (10.98 million lb, 4,980 mt) that is approximately 15 percent lower than the 2015 limit; however, the proposed RHL is the same as 2015 landings. As such, the proposed RHL is not expected to be constraining, and, therefore, is not expected to impact recreational fisheries. Under the Alternative 2 (status quo), the RHL (12.95 million lb, 5,874 mt) is approximately 15 percent above the recreational landings for 2015 (10.98 million lb, 4,980 mt). The RHLs for Alternative 3 (13.15 million lb, 5,964 mt) and Alternative 4 (5.96 million lb, 2,703 mt) in 2016 are approximately 20 percent above and 46 percent below the recreational landings for 2015, respectively. Alternative 4, which we are not recommending, is the only alternative that could potentially have negative impacts on the recreational fishery by risking a closure. None of the analyses indicate that the proposed measures will have a negative impact on recreational fishing. The proposed RHLs each year are not anticipated to limit recreational catch or negatively impact recreational fishing revenue, because the RHLs will be based on realized landings from the preceding year.

Summary

The Council selected Alternative 1 (preferred) over Alternative 2 (status quo), Alternative 3 (no transfer), and Alternative 4 (maximum transfer), stating that the Alternative 1 measures were consistent with the advice provided to the Council by its SSC and Bluefish Monitoring Committees. The Council analysis indicates the proposed measures would have less negative economic impacts than the most restrictive Alternative 3, while also benefitting from the potential for increased efficiency of flexible sector quota transfer. Alternative 2, the status quo alternative, is not feasible because it could result in combined landings that are higher than the ABC, which is inconsistent with the Council's risk policy on overfishing and is in violation of the Magnuson-Stevens Fishery Conservation and Management Act. Alternative 4 is not preferred because it represents significant decreases in recreation limits below historical catch and it is not expected that the commercial sector would fully utilize the resulting quota. The proposed measures in Alternative 1 contain the second largest overall increase in commercial quota and the second lowest overall reduction in RHL of all the analyzed alternatives when compared to 2015 measures. As such, NMFS is proposing to implement the Council's preferred ABCs, ACLs, ACTs, commercial quotas, and recreational harvest limits, as presented in Table 1 of this proposed rule preamble.

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

Dated: March 24, 2016.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–07263 Filed 3–30–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 62
Thursday, March 31, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0015]

Notice of Request for Revision to and Extension of Approval of an Information Collection; APHIS Pest Reporting and Asian Longhorn Beetle Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection that allows the public to report sightings of plant pests and diseases.

DATES: We will consider all comments that we receive on or before May 31, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0015.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0015, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0015* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on reporting sightings of plant pests and diseases, contact Dr. Robyn Rose, National Policy Manager, PHP, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737–1231; (301) 851–2283. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: APHIS Pest Reporting and Asian Longhorn Beetle Program.

OMB Control Number: 0579–0311.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: As authorized by the Plant Protection Act (U.S.C. 7701 *et seq.*) (PPA), the Animal and Plant Health Inspection Service (APHIS), either independently or in cooperation with States, may carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests and diseases that are new to or not widely distributed within the United States. This authority allows APHIS to establish control programs for a number of pests and diseases of concern, including Asian longhorned beetle (ALB), emerald ash borer beetle, and citrus greening, to name a few.

APHIS relies on various entities, such as individuals, households, businesses, and State departments of agriculture to report sightings of pests of concern or suspicious signs of pest or disease damage they may see in their local areas. This reporting and the detection and verification methods involved include information collection activities, such as the online pest reporting form (Plant Protection and Quarantine (PPQ) Form 10), inspection and ALB unified survey form (PPQ Form 375), cooperative agreement for inspection, State compliance training workshop records, contract for inspection, homeowner permission or refusal to inspect, tree removal agreement, litigation and warrants and associated letters, removal and monitoring, removal and disposal, disposal/Marshalling Yard, tree warrant, treatment agreement, contract for treatment, and certificate/permit cancellation.

PPQ Form 10 was previously approved by the Office of Management and Budget (OMB) under control number 0579–0311. However, in addition to this form, we are adding the information collection activities listed above to further assist APHIS with its efforts for the detection, treatment, and eradication of various plant pests. As a result, we have revised the name of this information collection from APHIS Pest Reporting Form to APHIS Pest Reporting and Asian Longhorn Beetle Program.

We are asking OMB to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.63706 hours per response.

Respondents: Individuals and households, businesses, and State departments of agriculture.

Estimated annual number of respondents: 7,055.

Estimated annual number of responses per respondent: 97.62.

Estimated annual number of responses: 688,746.

Estimated total annual burden on respondents: 438,779 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 25th day of March 2016.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–07291 Filed 3–30–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Pike-San Isabel Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Pike-San Isabel Resource Advisory Committee (RAC) will meet in Salida, Colorado. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/goto/psicc/RAC.*

DATES: The meeting will be held at 9:00 a.m. (MST) on May 12, 2016.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Pike & San Isabel National Forests, Cimarron & Comanche National Grasslands (PSICC) Salida Ranger District Office, 5575 Cleora Road, Salida, Colorado. The public may access the meeting by attending a Video Teleconference (VTC) at the following U.S. Forest Service facilities in Colorado: Leadville, Salida, Fairplay, Pueblo and Ft. Collins.

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 received at PSICC. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Barbara Timock, RAC Coordinator, by phone at 719–553–1415 or via email at *btimock@fs.fed.us.*

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. Review project proposals;
2. Vote and recommend projects; and
3. Public comment.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by May 4, 2016, 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 requests for time to make oral comments must be sent to Barbara Timock, RAC Coordinator, 2840 Kachina Drive, Pueblo, Colorado; by email to *btimock@fs.fed.us,* or via facsimile to 719–553–1416.

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 in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 21, 2016.

Erin Connelly,

Forest and Grassland Supervisor.

[FR Doc. 2016–07270 Filed 3–30–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet in Yreka, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Meeting_Page?id=a2zt00000004CyPAAU.*

DATES: The meeting will be held April 18, 2016, at 5:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Klamath National Forest (NF) Supervisor's Office, Conference Room, 1711 South Main Street, Yreka, California.

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 received at Klamath NF Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Natalie Stovall, RAC Coordinator, by phone at 530–841–4411 or via email at *nstovall@fs.fed.us.*

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. Approve prior meeting notes;
2. Update on ongoing projects;
3. Public comment period;
4. Review meeting schedule;
5. Proposal reviews;
6. Vote on proposals from February meeting; and
7. Schedule meeting for May.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. 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 may be sent to Natalie Stovall, RAC Coordinator, 1711 S. Main Street, Yreka, California 96097; by email to *nstovall@fs.fed.us* or via facsimile to 530–841–4571.

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 in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 24, 2016.

Patricia A Grantham,

Forest Supervisor.

[FR Doc. 2016–07271 Filed 3–30–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Hood and Willamette Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Hood and Willamette Resource Advisory Committee (RAC) will meet in Salem, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/detail/willamette/workingtogether/advisorycommittees/?cid=STELPRDB5048434*.

DATES: The meeting will be held on May 4, 2016, beginning at 10:00 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Willamette Heritage Center, Dye House, 1313 Mill Street Southeast, Salem, Oregon.

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 received at the Willamette National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jennifer Lippert, RAC Coordinator, by phone at 541–225–6440 or via email at *jlippert@fs.fed.us*.

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. Familarize RAC members with each other;

2. Review Secure Rural School rules and regulations pertaining to the Title II process; and

3. Make decisions on proposals submitted for FY2016 Title II funds.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 22, 2016, 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 requests for time for oral comments must be sent to Jennifer Lippert, RAC Coordinator, Willamette National Forest Supervisor's Office, 3106 Pierce Parkway, Suite D, Springfield, Oregon 97477; by email to *jlippert@fs.fed.us,* or via facsimile to 541–225–6224.

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 in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 15, 2016.

Tracy Beck,

Forest Supervisor, Willamette National Forest.

[FR Doc. 2016–07188 Filed 3–30–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Grant and Loan Application Deadlines

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Funding Availability (NOFA), Revolving Fund Program.

SUMMARY: The Rural Utilities Service (RUS) announces its Revolving Fund Program (RFP) application window for Fiscal Year (FY) 2016. The RFP is authorized under section 306(a)(2)(B) of the Consolidated Farm and Rural Development Act (Con Act), 7 U.S.C. 1926(a)(2)(B). Under the RFP, qualified private, non-profit organizations may receive RFP grant funds to establish a lending program for eligible entities. Eligible entities for the revolving loan fund will be the same entities eligible, under paragraph 1 or 2 of Section 306(a) of the Con Act, 7 U.S.C. 1926(a)(1) or (b)(2), to obtain a loan, loan guarantee, or grant from the RUS Water, Waste Disposal, and Wastewater loan and grant programs.

This year administrative discretion points may be awarded for work plans that:

1. Direct loans to the smallest communities with the lowest incomes emphasizing areas where according to the American Community Survey data by census tracts show that at least 20 percent of the population is living in poverty. This emphasis will support Rural Development's goal of providing 20 percent of its funding by 2016 to these areas of need.

2. Direct loans to areas that lack running water, flush toilets, and modern sewage disposal systems, and areas which have open sewers and high rates of disease caused by poor sanitation, in particular, colonias or Substantially Underserved Trust Areas.

3. Direct loans that emphasize energy and water efficient components to reduce costs and increase sustainability of rural systems.

DATES: You may submit completed applications for grants on paper or electronically according to the following deadlines:

- Paper copies must be postmarked and mailed, shipped, or sent overnight no later than May 31, 2016 to be eligible for FY 2016 grant funding. Late or incomplete applications will not be eligible for FY 2016 grant funding.
- Electronic copies must be received by May 31, 2016 to be eligible for FY 2016 grant funding. Late or incomplete applications will not be eligible for FY 2016 grant funding.

ADDRESSES: You may obtain application guides and materials for the RFP program at the Water and Environmental Programs (WEP) Web site: *http://www.rd.usda.gov/programs-services/water-waste-disposal-revolving-loan-funds.* You may also request application guides and materials by contacting Lisa Chesnel at (202) 720–0499.

Submit electronic grant applications at *http://www.grants.gov/* and follow the instructions on the Web site.

Submit completed paper applications for RFP grants to, Rural Utilities Service, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 2234, STOP 1570, Washington, DC 20250–1570. Applications should be marked Attention: Lisa Chesnel, Water and Environmental Programs.

FOR FURTHER INFORMATION CONTACT: Lisa Chesnel, Community Programs Specialist, Water and Environmental Programs, Rural Utilities Service, Rural Development, U.S. Department of Agriculture STOP 1570, Room 2234–S, 1400 Independence Avenue SW., Washington, DC 20250–1570; Telephone: (202) 720–0499: Fax: (202) 690–0649.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS), USDA.

Funding Opportunity Title: Grant Program to Establish a Fund for Financing Water and Wastewater Projects (Revolving Fund Program (RFP)).

Announcement Type: Notice of Funding Availability.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.864.

Due Date for Applications: Applications must be mailed, shipped or submitted electronically through Grants.gov no later than May 31, 2016 to be eligible for FY 2016 grant funding.

Items in Supplementary Information

A. Program Description: Brief introduction to the RFP.

B. Federal Award Information: $1,000,000.00.

C. Eligibility Information: Who is eligible, what kinds of projects are eligible, what criteria determine basic eligibility.

D. Application and Submission Information: Where to get application materials, what constitutes a completed application, how and where to submit applications, deadlines, items that are eligible.

E. Application Review Information: Considerations and preferences, scoring criteria, review standards, selection information.

F. Federal Award Administration Information: Award notice information, award recipient reporting requirements.

G. Federal Awarding Agency Contacts: Web site, phone, fax, email, contact name.

H. Other Information: Non-discrimination Statement.

A. Program Description

Drinking water systems are basic and vital to both health and economic development. With dependable water facilities, rural communities can attract families and businesses that will invest in the community and improve the quality of life for all residents. Without dependable water facilities, the communities cannot sustain economic development.

RUS provides financial and technical assistance to help communities bring safe drinking water and sanitary, environmentally sound waste disposal facilities to rural Americans. It supports the sound development of rural communities and the growth of our economy without endangering the environment.

The Revolving Fund Program (RFP) was established under 7 U.S.C. part 1783 to assist communities with water or wastewater systems. Qualified private, non-profit organizations, who are selected for funding, will receive RFP grant funds to establish a lending program for eligible entities. Eligible entities for the revolving loan fund will be those entities eligible under 7 U.S.C. 1926(a)(1) and (2) to obtain a loan, loan guarantee, or grant from the Water and Waste Disposal loan and grant programs administered by RUS. As grant recipients, the non-profit organizations will set up a revolving loan fund to provide loans to finance predevelopment costs of water or wastewater projects, or short-term small capital projects not part of the regular operation and maintenance of current water and wastewater systems. The amount of financing to an eligible entity shall not exceed $100,000.00 and shall be repaid in a term not to exceed 10 years. The rate shall be determined in the approved grant work plan.

B. Federal Award Information

Available funds: $1,000,000.

C. Eligibility Information

1. Eligible Applicants

An applicant is eligible to apply for the RFP grant if it:

a. Is a private, non-profit organization;

b. Is legally established and located within one of the following:

i. A state within the United States;

ii. The District of Columbia;

iii. The Commonwealth of Puerto Rico; or

iv. A United States territory;

c. Has the legal capacity and authority to carry out the grant purpose;

d. Has a proven record of successfully operating a revolving loan fund to rural areas;

e. Has capitalization acceptable to the Agency, and is composed of at least 51 percent of the outstanding interest or membership being citizens of the United States or individuals who reside in the United States after being legally admitted for permanent residence;

f. Has no delinquent debt to the Federal government or no outstanding judgments to repay a Federal debt;

g. Demonstrates that it possesses the financial, technical, and managerial capability to comply with Federal and state laws and requirements; and

h. Is not a corporation that has been convicted of a felony (or had an officer or agent acting on behalf of the corporation convicted of a felony) within the past 24 months. Any Corporation 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.

2. Cost Sharing or Matching

Applicants must contribute at least 20 percent of funds from sources other than the proceeds of an RFP grant to pay part of the cost of a loan recipient's project. In-kind contribution will not be considered.

3. Other: What are the basic eligibility requirements for a project?

a. The following activities are authorized under the RFP statute:

i. Grant funds must be used to capitalize a revolving fund program for the purpose of providing direct loan financing to eligible entities for pre-development costs associated with proposed or with existing water and wastewater systems, or,

ii. Short-term costs incurred for equipment replacement, small-scale extension of services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

b. Grant funds may not be used to pay any of the following:

i. Payment of the Grant Recipient's administrative costs or expenses, or,

ii. Delinquent debt owed to the Federal Government.

D. Application and Submission Information

1. Address To Request Application Package

a. The Internet: *http://www.rd.usda.gov/programs-services/water-waste-disposal-revolving-loan-funds* or Grants.gov Web site: *http://www.grants.gov/.*

b. For paper copies of these materials, you may call (202) 720–9583.

2. Content and Form of Application Submission

a. You may file an application in either paper or electronic format. To be considered for support, you must be an eligible entity and must submit a complete application by the deadline date. You should consult the cost principles and general administrative requirements for grants pertaining to their organizational type in order to prepare the budget and complete other parts of the application. You also must demonstrate compliance (or intent to comply), through certification or other means, with a number of public policy requirements. Applications should be prepared in conformance with 7 CFR part 1783, and departmental and other applicable regulations including 2 CFR parts 180, 182, 200, 400 and 421, or any successor regulations.

Whether you file a paper or an electronic application, you will need a DUNS number and must be registered in the System for Award Management (SAM). Detailed information on obtaining a DUNS number and registering for SAM may be found in section D(3).

b. Applicants must complete and submit the following forms to apply for a RFP grant:

i. Standard Form 424, ''Application for Federal Assistance''.

ii. Standard Form 424A, ''Budget Information—Non-Construction Programs''.

iii. Standard Form 424B, ''Assurances—Non-Construction Programs''.

iv. Standard Form LLL, ''Disclosure of Lobbying Activity''.

v. Form RD 400–1, ''Equal Opportunity Agreement''.

vi. Form RD 400–4, ''Assurance Agreement (Under Title VI, Civil Rights Act of 1964).

c. The project proposal should outline the project in sufficient detail to provide a reader with a complete understanding of how the loan program will work. Explain what you will accomplish by lending funds to eligible entities. Demonstrate the feasibility of the proposed loan program in meeting the objectives of this grant program. The proposal should cover the following elements:

i. Present a brief project overview. Explain the purpose of the project, how it relates to RUS's purposes, how you will carry out the project, what the project will produce, and who will direct it.

ii. Describe why the project is necessary. Demonstrate that eligible entities need loan funds. Quantify the number of prospective borrowers or provide statistical or narrative evidence that a sufficient number of borrowers will exist to justify the grant award. Describe the service area. Address community needs.

iii. Clearly state your project goals. Your objectives should clearly describe the goals and be concrete and specific enough to be quantitative or observable. They should also be feasible and relate to the purpose of the loan program.

iv. The narrative should cover in more detail the items briefly described in the Project Summary. It should establish the basis for any claims that you have substantial expertise in promoting the safe and productive use of revolving funds. In describing what the project will achieve, you should tell the reader if it also will have broader influence. The narrative should address the following points:

(1) Document your ability to administer and service a revolving fund in accordance with the provisions of 7 CFR part 1783.

(2) Document your ability to commit financial resources to establish the RFP with funds your organization controls. This documentation should describe the sources of funds other than the RFP grant that will be used to pay your operational costs and provide financial assistance for projects.

(3) Demonstrate that you have secured commitments of significant financial support from other funding sources, if appropriate.

(4) List the fees and charges that borrowers will be assessed.

v. The work plan must describe the tasks and activities that will be accomplished with available resources during the grant period. It must show the work you plan to do to achieve the anticipated outcomes, goals, and objectives set out for the RFP. The plan must:

(1) Describe the work to be performed by each person.

(2) Give a schedule or timetable of work to be done.

(3) Show evidence of previous experience with the techniques to be used or their successful use by others.

(4) Outline the loan program to include the following: Specific loan purposes, a loan application process, priorities, borrower eligibility criteria, limitations, fees, interest rates, terms, and collateral requirements.

(5) Provide a marketing plan.

(6) Explain the mechanics of how you will transfer loan funds to the borrowers.

(7) Describe follow-up or continuing activities that should occur after project completion such as monitoring and reporting borrowers' accomplishments.

(8) Describe how the results will be evaluated. The evaluation criteria should be in line with the project objectives.

(9) List all personnel responsible for administering this program along with a statement of their qualifications and experience.

vi. The written justification for projected costs should explain how budget figures were determined for each category. It should indicate which costs are to be covered by grant funds and which costs will be met by your organization or other organizations. The justification should account for all expenditures discussed in the narrative. It should reflect appropriate cost-sharing contributions. The budget justification should explain the budget and accounting system proposed or in place. The administrative costs for operating the budget should be expressed as a percentage of the overall budget. The budget justification should provide specific budget figures, rounding off figures to the nearest dollar. Applicants should consult 2 CFR 200, Subpart E, ''Cost Principals,'' for information about appropriate costs for each budget category.

vii. In addition to completing the standard application forms, you must submit:

(1) Supplementary material that demonstrate that your organization is legally recognized under state or Tribal and Federal law. Satisfactory documentation includes, but is not limited to, certificates from the Secretary of State, or copies of state statutes or laws establishing your organization. Letters from the IRS awarding tax-exempt status are not considered adequate evidence.

(2) A certified list of directors and officers with their respective terms.

(3) Evidence of tax exempt status from the IRS.

(4) The most recent audit of your organization.

(5) The following financial statements:

(a) A pro forma balance sheet at start-up and for at least three additional years; Balance sheets, income statements, and cash flow statements for the last three years.

(b) If your organization has been formed less than three years, the financial statements should be submitted for the periods from inception to the present. Projected income and cash flow statements for at least three years supported by a list of assumptions showing the basis for the projections. The projected income

statement and balance sheet must include one set of projections that shows the revolving loan fund only and a separate set of projections that shows your organization's total operations.

(6) Additional information to support and describe your plan for achieving the grant objectives. The information may be regarded as essential for understanding and evaluating the project and may be found in letters of support, as resolutions, policies, and other relevant documents. The supplements may be presented in appendices to the proposal.

d. Compliance with other federal statutes:

The applicant must provide evidence of compliance with other federal statutes, including but not limited to the following:

i. Debarment and suspension information is required in accordance with 2 CFR part 417 (Nonprocurement Debarment and Suspension) supplemented by 2 CFR part 180, if it applies. The section heading is ''What information must I provide before entering into a covered transaction with the Federal Government?'' located at 2 CFR 180.335. It is part of OMB's Guidance for Grants and Agreements concerning Government-wide Debarment and Suspension.

ii. All of your organization's known workplaces by including the actual address of buildings (or parts of buildings) or other sites where work under the award takes place. Workplace identification is required under the drug-free workplace requirements in Subpart B of 2 CFR part 421, which adopts the Government-wide implementation (2 CFR part 182) of the Drug-Free Workplace Act.

iii. 2 CFR parts 200 and 400 (Uniform Assistance Requirements, Cost Principles and Audit Requirements for Federal Awards).

iv. 2 CFR part 182 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)) and 2 CFR part 421 (Requirements for Drug Free Workplace (Financial Assistance)).

v. Executive Order 13166, ''Improving Access to Services for Persons with Limited English Proficiency.'' For information on limited English proficiency and agency-specific guidance, go to *http://www.LEP.gov.*

e. Requirements for numbers of copies of submitted applications:

i. Send or deliver paper applications by the U.S. Postal Service (USPS) or courier delivery services to: Water and Environmental Programs, Rural Utilities Service, 1400 Independence Avenue SW., Attention: Lisa Chesnel, Mail STOP 1570, Room 2233–S, Washington, DC, 20250–1570.

ii. For paper applications mail or ensure delivery of an original paper application (no stamped, photocopied, or initialed signatures) and two copies by the deadline date. The application and any materials sent with it become Federal records by law and cannot be returned to you.

iii. Electronically submitted applications:

(1). Applications will not be accepted by fax or electronic mail.

(2). Electronic applications for grants will be accepted if submitted through Grants.gov.

(3). Applicants must preregister successfully with Grants.gov to use the electronic applications option. Application information may be downloaded from Grants.gov without preregistration.

(4). Applicants who apply through Grants.gov should submit their electronic applications before the deadline.

(5). Grants.gov contains full instructions on all required passwords, credentialing, and software. Follow the instructions at Grants.gov for registering and submitting an electronic application.

(6). Grants.gov has two preregistration requirements: A DUNS number and an active registration in the SAM. See section D(3) below for instructions on obtaining a DUNS number and registering in the SAM.

3. Unique Entity Identifier and System for Award Management (SAM)

The applicant for a grant must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number as part of an application. The Standard Form 424 (SF–424) contains a field for the DUNS number. The applicant can obtain the DUNS number free of charge by calling Dun and Bradstreet. Please see *http://fedgov.dnb.com/webform* for more information on how to obtain a DUNS number or how to verify your organization's number.

In accordance with 2 CFR part 25, whether applying electronically or by paper, the applicant must register in the System for Award Management (SAM) prior to submitting an application. Applicants may register for the SAM at *https://www.sam.gov/portal/SAM/#1.* The SAM registration must remain active with current information at all times while RUS is considering an application or while a Federal Grant award or loan is active. To remain registered in the SAM database the applicant must review and update the information in the SAM database annually from date of initial registration or from the date of the last update. The applicant must ensure that the information in the database is current, accurate, and complete.

4. Submission Dates and Times

You may submit completed applications for grants on paper or electronically according to the following deadlines:

a. Paper copies must be postmarked and mailed, shipped, or sent overnight no later than May 31, 2016 to be eligible for FY 2016 grant funding. Late or incomplete applications will not be eligible for FY 2016 grant funding.

b. Electronic copies must be received by May 31, 2016 to be eligible for FY 2016 grant funding. Late or incomplete applications will not be eligible for FY 2016 grant funding.

5. Funding Restrictions

Grant proceeds may be used solely to establish the revolving loan fund to provide loans to eligible entities for: Pre-development costs associated with proposed or existing water and wastewater projects, and short-term costs incurred for replacement equipment or other small capital projects not part of regular operations and maintenance of existing water and wastewater systems. Grant recipients may not use grant funds in any manner inconsistent with the purposes described in 7 CFR 1783.12 or in the terms of the grant agreement. Administrative expenses may, however, be paid or reimbursed from revolving loan fund assets that are not RFP grant funds, including revolved funds and case originally contributed by the grant recipient.

E. Application Review Information

Within 30 days of receiving your application, RUS will send you a letter of acknowledgment. Your application will be reviewed for completeness to determine if you included all of the items required. If your application is incomplete or ineligible, RUS will return it to you with an explanation. A review team, composed of at least two RUS staff members, will evaluate all applications and proposals. They will make overall recommendations based on factors such as eligibility, application completeness, and conformity to application requirements. They will score the applications based on criteria in the following section.

1. Criteria

All applications that are complete and eligible will be ranked competitively based on the following scoring criteria:

a. Degree of expertise and successful experience in making and servicing commercial loans, with a successful record, for the following number of full years:

i. At least 1 but less than 3 years—5 points.

ii. At least 3 but less than 5 years—10 points.

iii. At least 5 but less than 10 years—20 points.

iv. 10 or more years—30 points.

b. Extent to which the work plan demonstrates a well thought out, comprehensive approach to accomplishing the objectives of this part, clearly defines who will be served by the project, clearly articulates the problem/issues to be addressed, identifies the service area to be covered by the RFP loans and appears likely to be sustainable; Up to 40 points.

c. Percentage of applicant contributions. Points allowed under this paragraph will be based on written evidence of the availability of funds from sources other than the proceeds of an RFP grant to pay part of the cost of a loan recipient's project. In-kind contributions will not be considered. Funds from other sources as a percentage of the RFP grant and points corresponding to such percentages are as follows:

i. Less than 20 percent—ineligible.

ii. At least 20 percent but less than 50 percent—10 points.

iii. 50 percent or more—20 points.

d. Extent to which the goals and objectives are clearly defined, tied to the work plan, and are measurable; Up to 15 points.

e. Lowest ratio of projected administrative expenses to loans advanced; Up to 10 points.

f. The evaluation methods for considering loan applications and making RFP loans are specific to the program, clearly defined, measurable, and are consistent with program outcomes; Up to 20 points.

g. Administrator's discretion points up to 10 points may be awarded.

To the maximum extent possible, there should be an emphasis on high poverty areas in rural communities and rural areas with the lowest incomes, particularly those areas where at least 45 percent of children qualify for the National School Lunch Program. This emphasis will support Rural Development's goal of providing 20 percent of its funding by 2016 to these areas of need.

Factors include:

i. Directs loans to the smallest communities with the lowest incomes emphasizing areas where according to the American Community Survey data by census tracts show that at least 20 percent of the population is living in poverty.

ii. Directs loans to areas which lack running water, flush toilets, and modern sewage disposal systems, and areas which have open sewers and high rates of disease caused by poor sanitation, in particular, colonias or Substantially Underserved Trust Areas.

iii. Directs loans that emphasize energy and water efficient components to reduce costs and increase sustainability of rural systems.

2. Review and Selection Process

RUS will rank all qualifying applications by their final score. Applications will be selected for funding, based on the highest scores and the availability of funding for RFP grants. Each applicant will be notified in writing of the score its application receives.

a. In making its decision about your application, RUS may determine that your application is:

i. Eligible and selected for funding,

ii. Eligible but offered fewer funds than requested,

iii. Eligible but not selected for funding, or

iv. Ineligible for the grant.

b. In accordance with 7 CFR part 1900, subpart B, you generally have the right to appeal adverse decisions. Some adverse decisions cannot be appealed. For example, if you are denied RUS funding due to a lack of funds available for the grant program, this decision cannot be appealed. However, you may make a request to the National Appeals Division (NAD) to review the accuracy of our finding that the decision cannot be appealed. The appeal must be in writing and filed at the appropriate regional office, which can be found at *www.nad.usda.gov* or by calling (703) 305–1166.

F. Federal Award Administration Information

1. Federal Award Notices

RUS generally notifies by mail applicants whose projects are selected for awards. However, the receipt of an award letter does not serve to authorize the applicant to commence performance under the award. RUS follows the award letter with an agreement containing terms and conditions for the grant. Applicants selected for funding will complete and return grant agreement, which outlines the terms and conditions of the grant award.

2. Administrative and National Policy Requirements

The items listed in Section D of this notice, the RFP program regulation and departmental and other regulations including 2 CFR parts 180, 182, 200, 400, 421 and any successor regulations implement the appropriate administrative and national policy requirements, which include but are not limited to:

a. SF–270, ''Request for Advance or Reimbursement,'' will be completed by the Non-Federal Entity and submitted to either the state or national office no more frequently than monthly.

b. Upon receipt of a properly completed SF–270, the funds will be requested through the field office terminal system. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

c. Non-Federal Entities may use women- and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members) for the deposit and disbursement of funds.

3. Reporting

a. Any change in the scope of the project, budget adjustments of more than 10 percent of the total budget, or any other significant change in the project must be reported to and approved by the approval official by written amendment to the grant agreement. Any change not approved may be cause for termination of the grant.

b. Non-Federal Entities shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. The Non-Federal Entity will provide project reports as follows:

i. SF–425, ''Financial Status Report (short form),'' and a project performance activity report will be required of all Non-Federal Entities on a quarterly basis, due 30 days after the end of each quarter.

ii. A final project performance report will be required with the last SF–425 due 90 days after the end of the last quarter in which the project is completed. The final report may serve as the last quarterly report.

iii. All multi-State Non-Federal Entities are to submit an original of each report to the National Office. Non-Federal Entities serving only one State are to submit an original of each report to the State Office. The project performance reports should detail,

preferably in a narrative format, activities that have transpired for the specific time period.

c. Financial reporting. The Non-Federal Entity will provide an audit report or financial statements as follows:

i. Non-Federal Entities expending $750,000 or more Federal funds per fiscal year will submit an audit conducted in accordance with 2 CFR part 200 The audit will be submitted within nine months after the Non-Federal Entity's fiscal year. Additional audits may be required if the project period covers more than one fiscal year.

ii. Non-Federal Entities expending less than $750,000 will provide annual financial statements covering the grant period, consisting of the organization's statement of income and expense and balance sheet signed by an appropriate official of the organization. Financial statements will be submitted within 90 days after the Non-Federal Entity's fiscal year.

iii. Recipient and Subrecipient Reporting. The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparency Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR part 170, § 170.110(b). The reporting requirements under the Transparency Act pursuant to 2 CFR part 170 are as follows:

(1) First Tier Sub-Awards of $25,000 or more in non-Recovery Act funds (unless they are exempt under 2 CFR part 170) must be reported by the Recipient to *http://www.fsrs.gov* no later than the end of the month following the month the obligation was made.

(2) The Total Compensation of the Recipient's Executives (five most highly compensated executives) must be reported by the Recipient (if the Recipient meets the criteria under 2 CFR part 170) to *https://www.sam.gov/portal/SAM/#1* by the end of the month following the month in which the award was made.

(3) The Total Compensation of the Subrecipient's Executives (five most highly compensated executives) must be reported by the Subrecipient (if the Subrecipient meets the criteria under 2 CFR part 170) to the Recipient by the end of the month following the month in which the subaward was made.

G. Federal Awarding Agency Contacts

1. Web site: *http://www.rd.usda.gov/programs-services/water-waste-disposal-revolving-loan-funds.* The RUS Web site maintains up-to-date resources and contact information for the RFP.

2. Phone: (202) 720–9640.

3. Fax: (202) 690–0649.

4. Email: *lisa.chesnel@wdc.usda.gov.*

5. Main point of contact: Lisa Chesnel, Community Programs Specialist, Water and Environmental Programs, Rural Utilities Service, Rural Development, U.S. Department of Agriculture.

H. Other Information

1. USDA 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: February 29, 2016.

Brandon McBride,

Administrator, Rural Utilities Service.

[FR Doc. 2016–07309 Filed 3–30–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2017 New York City Housing and Vacancy Survey.

OMB Control Number: 0607–0757.

Form Number(s): H–100, H–100(SP), H–100A, H–100A(SP), H–108, H–100(L), H–100L(A).

Type of Request: Reinstatement, with change, of a previously Approved collection for which approval has expired.

Number of Respondents: 19,000.

Average Hours per Response: 0.5 hours.

Burden Hours: 9,396.

Needs and Uses: The Census Bureau will conduct the survey for the City of New York in order to determine the vacancy rate of rental housing stock, which the city uses to enact specific policies. New York City will also use the data to help measure the quality of its housing, and learn specific demographic characteristics about the city's residents.

Affected Public: Primarily households and some rental offices/realtors (for vacants).

Frequency: Every three years.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C.— Section 8b and Local Emergency Housing Rent Control Act, Laws of New York (Chapters 8603 and 657).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or faxed to (202) 395–5806.

Dated: March 28, 2016.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–07298 Filed 3–30–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–15–2016]

Foreign-Trade Zone (FTZ) 87—Lake Charles, Louisiana; Notification of Proposed Production Activity; Sasol Chemicals (USA), LLC, Subzone 87E, (Assembly of Ethylene Distillation/ Rectification Plant and Ethane Cracker/ Reaction Unit; Production of Polyethylene) Westlake and Sulphur, Louisiana

Sasol Chemicals (USA), LLC (Sasol) submitted a notification of proposed production activity to the FTZ Board for its sites within Subzone 87E in Westlake and Sulphur, Louisiana. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 17, 2016.

Sasol is requesting FTZ authority for the assembly and installation of an ethylene distillation/rectification plant and ethane cracker/reaction unit(s). Sasol is also requesting to produce polyethylene from foreign-sourced ethane once the construction is completed. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials/components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could allow Sasol to choose the duty rates during customs entry procedures that apply to the ethylene distillation/rectification plant and ethane cracker/reaction unit(s) (free and 4.2%) and the finished polyethylene (6.5%) for the foreign-status inputs noted below.

The components and materials from abroad for the assembly and installation of the ethylene distillation/rectification plant and ethane cracker/reaction unit include: Ethane; paint; cellular polyurethane foam insulation; plastic stacking corner fixtures for stacking pallets; plastic cable guides; Teflon back-up rings; fiber reinforced plastic washers; plastic gaskets; plastic washers; Teflon encapsulated gaskets; vulcanized rubber hoses; vulcanized, cellular rubber rings; neoprene seals; neoprene rubber gaskets; rubber feed-filtrate hoses reinforced or otherwise combined with textile materials without fittings/measurement hoses with fittings/diaphragms/vibration control bushings/seals/containers, with or without their closures, of a kind used for the packing and transporting of merchandise/sealing frame diaphragms; textile filter bags; ceramic insulation; refractory materials for cracking furnaces; center precast walls; fiber glass filters non-woven fabric; fiber glass filters fabric woven; carbon steel flatbar for toeplates; seamless iron or steel pipes; seamless stainless steel pipe (boiler tubes); seamless alloy steel pipe (exchanger, boiler tubes); submerged arc welded line pipe; longitudinally welded line pipe; welded stainless steel pipe; welded alloy steel pipe; welded carbon steel pipe; welded stainless steel pipe; pipe fittings: carbon steel threaded plugs/carbon steel unions (ductile fittings, non-threaded)/stainless steel flanges/stainless steel threaded elbows and bends/stainless steel concentric reducers/stainless steel elbows/butt welding fittings/stainless steel sleeves (couplings)/stainless steel weldolets/ stainless steel nipples/iron or steel flanges/iron or steel threaded elbow and bends/iron or steel threaded sleeves (couplings)/iron or nonalloy steel butt welding fittings with an inside diameter of less than 360 millimeters/alloy steel butt welding fittings with an inside diameter of less than 360 millimeters/ butt welding fittings of all metallurgies other than stainless steel with and inside diameter of 360 millimeters or more/butt welding fittings of all metallurgies other than stainless steel—nipples; pumps (venturi tubes); steel beams, columns, posts, platforms and ladders and steel assemblies for use in steel structures; pipe rack modules (steel structures with piping); steel tanks for liquid; steel fume collectors for holding gas; stainless steel belts (superbelts); galvanized carbon steel wire mesh screen; iron or steel machine screws; iron or steel studs; iron or steel nuts; stainless steel threaded rods; steel washers; cotter pins (split pins); coil spring pins; steel hairsprings; steel assemblies for mine air heaters; steel wires; electrical grounding rods; spring hangers for supporting pipe in steel structures; aluminum connecting fishplates (splice bar for connecting aluminum beams or tracks); aluminum ladders; steel wrenches, non-adjustable; steel wrenches, adjustable; socket wrenches; carbon steel threaded studs; stainless steel grating discs (with assembly hardware); fabricated steel brackets; non-iron or steel attachment brackets; boilers with steam production exceeding 45 tons per hour; boilers with steam production not exceeding 45 tons per hour; condensate and boiler feedwater system parts; steam boiler heat exchangers; parts for steam boilers; steam turbines (compressor driver); spare rotors for steam turbine in steel container; high pressure deck pumps; pitch pumps; rotary positive displacement pumps; centrifugal water pumps; feed pumps, cloth wash pumps; eductors (acts as a pump with no moving parts); pump parts; vacuum station pumps; exhaust fans; induced draft fans; propylene refrigeration compressors; ethylene refrigeration compressors; screw compressors; pellet transfer air compressors; nitrogen compressors; cracked gas compressors; decoke air compressors; spare compressor rotor assemblies in steel container; parts for fans and blowers; parts for compressors; parts for pumps; flare systems; dry flare superheater condenser pots; furnace parts; cracked gas driers; depropanizer column (distillation process to remove propane); debutanizer column (distillation process to remove butane); de-ethanizer column (distillation process to remove ethane); quench water towers; coolers (shell and tube heat exchangers); heaters (shell and tube heat exchangers); air cooled (fin-fan) heat exchangers; brazed aluminum plate-fin heat exchangers; reactors; ethane feed systems; parts for quench water towers (fabricated center support beams with hardware and carbon steel lateral pipe distributors with hardware); heat exchanger parts; reactor parts; sludge paddles; carbon steel large drums, suspect condensate flash drums; strainers; filters; carbon steel drums for hydro carbon vapor & liquid separation; filter elements; parts for filtering machinery; liquid propane ethane stripper feed chiller parts; truck weighing scales; down flow booths with temperature control cooling coils and integrated safety shower units; lifting devices; aggregate feeder conveyors; mixer feed screw conveyors; truck and railcar loading arms; rock breaker boom systems; lime silo bin vent assemblies; special tools for rock breakers; self-feeder lid assemblies; pulverizer mills to grind sample material; millmate assemblies; jaw crushers; colloidal mixing systems; overflow chutes; mounting brackets; flotation tank cell components, disassembled for shipping; washer plates; nut plates; extruders; static mixers; air electromechanical self-contained electric motors; gas motor driven machines; ammonia storage package; accumulators; parts for lime mixers; pressure reducing valves; hand-operated relief valves; non-iron or steel

hand operated valves; hand-operated copper valves; hand-operated steel valves; hydraulic and pneumatic actuated valves; copper valve parts; steel valve parts; iron or steel slide plates; spiral wound gaskets, mixture of metallic material; collector seals; electric actuator of an output exceeding 37.5 watts but not exceeding 74.6 watts; gear motors; electric motors of an output exceeding 74.6 watts but not exceeding 735 watts; motors of an output exceeding 750 watts but not exceeding 75 kilo watts; motors exceeding 750 watts but not exceeding 14.92 kilo watts; motors exceeding 75 kilo watts but under 149.2 kilo watts; motors not exceeding 373 kilo watts; motors of 149.2 kilo watts or more but not exceeding 150 kilo watts; rock breaker hydraulic power units with a power output not exceeding 50 watts; speed drive controllers for electric motors; bolt heaters; electric mercury retorts; visual sensors; automatic fuses; solenoid operated valve open/close switch boxes; safety relays; on/off electrical switches; limit switches; electrical terminals; electrical splices and couplings; junction boxes including support switch boxes; auxiliary panels; I-line distribution panels; local control panels; variable bleed solenoid valve box sets; parts of machines, thermocouples; printed circuit assemblies; cables for emergency switches; sea containers; pyrometers; flow meters (instruments for measuring liquid flow); liquid level sensors; level housing assemblies; pressure transmitters; pressure gauges; level transmitters, parts & accessories; sensors; gas chromatographs; electrical turbidity transmitters and sensors; turbidity transmitters and sensors with exposure meters; integrated turbines compressor control system designed for use in 6, 12 or 24 volt systems; local gauge board with bolts, nuts & washers (duty rates range from free to 9%).

The request indicates that alloy steel pipes (diameter exceeding 114.3 mm but not exceeding 406.4 mm), HTSUS 7304.19.5050; butt welding fittings, HTSUS 7307.23.0000; iron or non-alloy steel pipes (external diameter exceeding 609.6 mm), HTSUS 7305.11.1060; iron or non-alloy steel pipes (external diameter exceeding 406.4 mm but not exceeding 609.6 mm), HTSUS 7305.11.1030; welded iron or non-alloy steel tubes, HTSUS 7305.31.4000; iron or non-alloy line pipes (outside diameter exceeding 114.3 mm), HTSUS 7306.19.1050; welded iron or non-alloy steel pipes (external diameter exceeding 406.4 mm but not exceeding 609.6 mm), HTSUS 7305.12.1030; line pipes (external diameter exceeding 609.6 mm), HTSUS 7305.19.1060; and, welded stainless steel line pipes (outside diameter not exceeding 114.3 mm), HTSUS 7306.19.1010, are subject to antidumping/countervailing duty (AD/CVD) orders. The FTZ Board's regulations (15 CFR 400.14(e)) require that merchandise subject to AD/CVD orders be admitted to the zone in privileged foreign status (19 CFR 146.41).

Additionally, production of polyethylene under FTZ procedures could exempt Sasol from customs duty payments on the foreign-status ethane (duty free) used in export production. On its domestic sales, Sasol would be able to choose the duty rate during customs entry procedures that applies to polyethylene (duty rate 6.5%) for the foreign-status ethane.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 10, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: March 25, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–07315 Filed 3–30–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–4–2016]

Approval of Subzone Status, FTZ Networks, Inc., Olive Branch, MS

On January 19, 2016, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by Tunica County, Mississippi, grantee of FTZ 287, requesting subzone status subject to the existing activation limit of FTZ 287 on behalf of FTZ Networks, Inc., in Olive Branch, Mississippi.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (81 FR 4249–4250, January 26, 2016). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 287A is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 287's 2,000-acre activation limit.

Dated: March 25, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–07317 Filed 3–30–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–041]

Truck and Bus Tires From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Jennifer Shore or Mark Kennedy, 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) 482–2778 or (202) 482–7883, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 2016, the Department of Commerce (the Department) initiated a countervailing duty investigation on Truck and Bus Tires From the People's Republic of China (China).[1] Currently, the preliminary determination is due no later than April 25, 2016.[2]

Postponement of the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty

[1] *See Truck and Bus Tires From the People's Republic of China: Initiation of Countervailing Duty Investigation,* 81 FR 9428 (February 25, 2016).

[2] The actual deadline is April 23, 2016, which is a Saturday. Department practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

investigation within 65 days after the date on which the Department initiated the investigation. However, in accordance with 19 CFR 351.205(e), if the petitioner makes a timely request for an extension, section 703(c)(1)(A) of the Act allows the Department to postpone the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation. Under 19 CFR 351.205(e), a petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reason for the request. The Department will grant the request unless it finds compelling reasons to deny the request.[3]

On March 14, 2016, the petitioner [4] in this investigation submitted a timely request pursuant to section 703(c)(1)(A) of the Act and 19 CFR 351.205(e) to postpone the preliminary determination due to the number and nature of subsidy programs under investigation.[5]

The record does not present any compelling reasons to deny the petitioner's request. Therefore, in accordance with section 703(c)(1)(A) of the Act, we are fully postponing the due date for the preliminary determination to not later than 130 days after the day on which the investigation was initiated. As a result, the deadline for completion of the preliminary determination is now June 27, 2016. In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations 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 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 24, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–07314 Filed 3–30–16; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See* 19 CFR 351.205(e).

[4] The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (collectively, the petitioner).

[5] *See* Letter from the petitioner, entitled ''Truck and Bus Tires From People's Republic of China: Petitioner's Request To Extend the Deadline for the Preliminary Determination,'' dated March 14, 2016.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE443

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Boost-Backs and Landings of Rockets at Vandenberg Air Force Base

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from Space Explorations Technology Corporation (SpaceX), for authorization to take marine mammals incidental to boost-backs and landings of Falcon 9 rockets at Vandenberg Air Force Base in California, and at a contingency landing location approximately 30 miles offshore. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to SpaceX to incidentally take marine mammals, by Level B Harassment only, during the specified activity.

DATES: Comments and information must be received no later than May 2, 2016.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Carduner@noaa.gov.*

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted for public viewing on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of SpaceX's IHA application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/.* In case of problems accessing these documents, please call the contact listed under **FOR FURTHER INFORMATION CONTACT**.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment, serious injury, death, or a combination thereof, requires that regulations be established. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The establishment of these prescriptions requires notice and opportunity for public comment.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably

expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On July 28, 2015, we received a request from SpaceX for authorization to take marine mammals incidental to Falcon 9 First Stage recovery activities, including in-air boost-back maneuvers and landings of the First Stage of the Falcon 9 rocket at Vandenberg Air Force Base (VAFB) in California, and at a contingency landing location approximately 50 km (31 mi) offshore of VAFB. SpaceX submitted a revised version of the request on November 5, 2015. This revised version of the application was deemed adequate and complete. Acoustic stimuli, including sonic booms (overpressure of high-energy impulsive sound), landing noise, and possible explosions, resulting from boost-back maneuvers and landings of the Falcon 9 First Stage have the potential to result in take, in the form of Level B harassment, of six species of pinnipeds. NMFS is proposing to authorize the Level B harassment of the following marine mammal species/stocks, incidental to SpaceX's proposed activities: Pacific harbor seal (*Phoca vitulina richardii*), California sea lion (*Zalophus californianus*), Steller sea lion (eastern Distinct Population Segment, or DPS) (*Eumetopias jubatus*), northern elephant seal (*Mirounga angustirostris*), northern fur seal (*Callorhinus ursinus*), and Guadalupe fur seal (*Arctocephalus townsendi*).

Description of the Specified Activity

Overview

The Falcon 9 is a two-stage rocket designed and manufactured by SpaceX for transport of satellites and SpaceX's Dragon spacecraft into orbit. SpaceX currently operates the Falcon Launch Vehicle Program at Space Launch Complex 4E (SLC–4E) at VAFB. SpaceX proposes regular employment of First Stage recovery by returning the Falcon 9 First Stage to SLC–4 West (SLC–4W) at VAFB for potential reuse up to six times per year. The reuse of the Falcon 9 First Stage will enable SpaceX to efficiently conduct lower cost launch missions from VAFB in support of commercial and government clients. First Stage recovery includes an in-air boost-back maneuver and the landing of the First Stage of the Falcon 9 rocket.

Although SLC–4W is the preferred landing location, SpaceX has identified the need for a contingency landing action that would only be exercised if there were critical assets on South VAFB that would not permit an over-flight of the First Stage, or if other reasons such as fuel constraints did not permit landing at SLC–4W. The contingency action is to land the First Stage on a barge in the Pacific Ocean at a landing location 50 km (31 miles) offshore of VAFB.

Dates and Duration

SpaceX plans to conduct their proposed activities during the period from June 30, 2016 to June 29, 2017. Up to six Falcon 9 First Stage recovery activities would occur per year. Precise dates of Falcon 9 First Stage recovery activities are not known. Falcon 9 First Stage recovery activities may take place at any time of year and at any time of day.

Specific Geographic Region

Falcon 9 First Stage recovery activities will originate at VAFB. Areas affected include VAFB and areas on the coastline surrounding VAFB; the Pacific Ocean offshore VAFB; and the Northern Channel Islands (NCI). VAFB operates as a missile test base and aerospace center, supporting west coast space launch activities for the U.S. Air Force (USAF), Department of Defense, National Aeronautics and Space Administration, and commercial contractors. VAFB is the main west coast launch facility for placing commercial, government, and military satellites into polar orbit on expendable (unmanned) launch vehicles, and for testing and evaluating intercontinental ballistic missiles and sub-orbital target and interceptor missiles.

VAFB occupies approximately 99,100 acres of central Santa Barbara County, California (see Figure 1–1 in SpaceX's IHA application), approximately halfway between San Diego and San Francisco. The Santa Ynez River and State Highway 246 divide VAFB into two distinct parts: North Base and South Base. SLC–4W is located on South Base, approximately 0.5 miles (0.8 km) inland from the Pacific Ocean (see Figure 1–2 in SpaceX's IHA application). SLC–4E, the launch facility for SpaceX's Falcon 9 program, is located approximately 427 m to the east of SLC–4W, the proposed landing site for the Falcon 9 First Stage (see Figure 1–2, inset, in SpaceX's IHA application).

Although SLC–4W is the preferred landing location, SpaceX has identified the need for a contingency landing action that would be exercised if there were critical assets on South VAFB that would not permit an over-flight of the First Stage or if other reasons (*e.g.* fuel constraints) prevented a landing at SLC–4W. The contingency action is to land the First Stage on a barge in the Pacific Ocean at a landing location 31 miles (50 km) offshore of VAFB (see Figure 1–5 in SpaceX's IHA application for the proposed location of the contingency landing location). Thus the waters of the Pacific Ocean between VAFB and the area approximately 50 km offshore shown in Figure 1–5 in SpaceX's IHA application are also considered part of the project area for the purposes of this proposed authorization.

The NCI are four islands (San Miguel, Santa Rosa, Santa Cruz, and Anacapa) located approximately 50 km (31 mi) south of Point Conception, which is located on the mainland approximately 6.5 km south of the southern border of VAFB (see Figure 2–1 and 2–2 in the IHA application). All four islands are inhabited by pinnipeds, with San Miguel Island being the most actively used among the four islands for pinniped rookeries. All four islands in the NCI are part of the Channel Islands National Park, while the Channel Islands National Marine Sanctuary encompasses the waters 11 km off the islands. The closest part of the NCI (Harris Point on San Miguel Island) is located more than 55 km south-southeast of SLC–4E, the launch facility for the Falcon 9 rocket. Pinnipeds hauled out on beaches of the NCI may be affected by sonic booms associated with the proposed action, as described later in this document.

Detailed Description of Activities

The Falcon 9 is a two-stage rocket designed and manufactured by SpaceX for transport of satellites and SpaceX's Dragon spacecraft into orbit. The First Stage of the Falcon 9 is designed to be reusable, while the second stage is not reusable. The proposed action includes up to six Falcon 9 First Stage recoveries, including in-air boost-back maneuvers and landings of the First Stage, at VAFB and/or at a contingency landing location 50 km offshore over the course of one year.

Boost-back and Landing Maneuvers

After launch of the Falcon 9, the boost-back and landing sequence begins when the rocket's First Stage separates from the second stage and the Merlin engines of the First Stage cut off. After First Stage engine cutoff, rather than dropping the First Stage in the Pacific Ocean, exoatmospheric cold gas thrusters would be triggered to flip the First Stage into position for retrograde burn. The First Stage would then descend back toward earth. During descent, a sonic boom would be generated when the First Stage reaches a rate of travel that exceeds the speed of sound. Sound from the sonic boom would have the potential to result in harassment of marine mammals, as described below. The sonic boom's overpressure would be directed at either the coastal area south of SLC–4 or at the ocean surface no less than 50 km off the coast of VAFB, depending on the targeted landing location. Three of the nine First Stage Merlin engines would be restarted to conduct the retrograde burn in order to reduce the velocity of the First Stage in the correct angle to land. Once the First Stage is in position and approaching its landing target, the three engines would be cut off to end the boost-back burn. The First Stage would then perform a controlled descent using atmospheric resistance to slow the stage down and guide it to the landing site. The landing legs on the First Stage would then deploy in preparation for a final single engine burn that would slow the First Stage to a velocity of zero before landing. Please see Figure 1–3 in the IHA application for a graphical depiction of the boost-back and landing sequence, and see Figure 1–4 in the IHA application for an example of the boost-back trajectory of the First Stage and the second stage trajectory.

Contingency Landing Procedure

As a contingency action to landing the Falcon 9 First Stage on the SLC–4W landing pad at VAFB, SpaceX proposes to return the Falcon 9 First Stage booster to a barge. The barge is specifically designed to be used as a First Stage landing platform and will be located at least 50 km off VAFB's shore (See Figure 1–5 in the IHA application). The contingency landing location would be used if conditions prevented a landing at SLC–4W, as described above. The maneuvering and landing process described above for a pad landing would be the same for a barge landing. Three vessels would be required to support a barge landing, if it were required: A barge/landing platform (300 ft long and 150 ft wide); a support vessel (165 ft long research vessel); and an ocean tug (120 ft long open water commercial tug). In the event of an unsuccessful barge landing, the First Stage would explode upon impact with the barge; the explosion would not be expected to result in take of marine mammals, as described below. The explosive equivalence with maximum fuel and oxidizer is 503 pounds of trinitrotoluene (TNT) which is capable of a maximum projectile range of 384 m (1,250 ft) from the point of impact. Approximately 25 pieces of debris are expected to remain floating in the water and expected to impact less than 0.46 km^2 (114 acres), and the majority of debris would be recovered. All other debris is expected to sink. These 25 pieces of debris are primarily made of Carbon Over Pressure Vessels (COPVs), the LOX fill line, and carbon fiber constructed legs. During previous landing attempts in other locations, SpaceX has performed successful debris recovery. All of the recovered debris would be transported back to Long Beach Harbor for proper disposal. Most of the fuel (estimated 50–150 gallons) is expected to be released onto the barge deck at the location of impact.

In the event that a contingency landing action is required, SpaceX has considered the likelihood of the First Stage missing the barge and landing instead in the Pacific Ocean, and has determined that the likelihood of such an event is so unlikely as to be considered discountable. This is supported by three previous attempts by SpaceX at Falcon 9 First Stage barge landings, none of which have missed the barge. Therefore, NMFS does not propose to authorize take of marine mammals incidental to landings of the Falcon 9 First Stage in the Pacific Ocean, and the potential effects of landings of the Falcon 9 First Stage in the Pacific Ocean on marine mammals are not considered further in this proposed authorization.

NMFS has previously issued regulations and Letters of Authorization (LOA) that authorize the take of marine mammals, by Level B harassment, incidental to launches of up to 50 rockets per year (including the Falcon 9) from VAFB (79 FR 10016). The regulations, titled ''*Taking of Marine Mammals Incidental to U.S. Air Force Launches, Aircraft and Helicopter Operations, and Harbor Activities Related to Vehicles from Vandenberg Air Force Base, California,*'' published February 24, 2014, are effective from March 2014 to March 2019. The activities proposed by SpaceX are limited to Falcon 9 First Stage recovery events (Falcon 9 boost-back maneuvers and landings); launches of the Falcon 9 rocket are not part of the proposed activities, and incidental take (Level B harassment) resulting from Falcon 9 rocket launches from VAFB is already authorized in the above referenced LOA. As such, NMFS does not propose to authorize take of marine mammals incidental to launches of the Falcon 9 rocket; incidental take resulting from Falcon 9 rocket launches is therefore not analyzed further in this document. The LOA application (USAF 2013a), and links to the **Federal Register** notice of the final rule (79 FR 10016) and the **Federal Register** notice of issuance of the LOA (79 FR 18528), can be found on the NMFS Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental.*

Description of Marine Mammals in the Area of the Specified Activity

There are six marine mammal species with expected occurrence in the project area (including at VAFB, on the NCI, and in the waters surrounding VAFB, the NCI and the contingency landing location) that are expected to be affected by the specified activities. These include the Steller sea lion (*Eumetopias jubatus*), northern fur seal (*Callorhinus ursinus*), northern elephant seal (*Mirounga angustirostris*), Guadalupe fur seal (*Arctocephalus townsendi*), California sea lion (*Zalophus californianus*), and Pacific harbor seal (*Phoca vitulina richardsi*). There are an additional 28 species of cetaceans with expected or possible occurrence in the project area. However, despite the fact that the ranges of these cetacean species overlap spatially with SpaceX's proposed activities, we have determined that none of the potential stressors associated with the proposed activities (including exposure to debris strike, rocket fuel, and visual and acoustic stimuli, as described further in ''Potential Effects of the Specified Activity on Marine Mammals'') are likely to result in take of cetaceans. As we have concluded that the likelihood of a cetacean being taken incidentally as a result of SpaceX's proposed activities is so low as to be discountable, cetaceans are not considered further in this proposed authorization. Please see Table 3–1 in the IHA application for a complete list of species with expected or potential occurrence in the project area.

We have reviewed SpaceX's detailed species descriptions, including abundance, status, distribution and life history information, for accuracy and completeness; this information is summarized below and may be viewed

in detail in the IHA application, available on the NMFS Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental.* Additional information on these species is available in the NMFS stock assessment reports (SARs), which can be viewed online at *http://www.nmfs.noaa.gov/pr/sars/*.

Generalized species accounts are also available on NMFS' Web site at *www.nmfs.noaa.gov/pr/species/mammals.*

Table 1 lists the marine mammal species with expected potential for occurrence in the vicinity of the project during the project timeframe that are likely to be affected by the specified activities, and summarizes key information regarding stock status and abundance. Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance.

TABLE 1—MARINE MAMMALS EXPECTED TO BE PRESENT IN THE VICINITY OF THE PROJECT LOCATION THAT ARE LIKELY TO BE AFFECTED BY THE SPECIFIED ACTIVITIES

Species	Stock	ESA Status/MMPA Status; strategic (Y/N)[1]	Stock abundance[2]	Occurrence in project area
Order Carnivora—Superfamily Pinnipedia				
Family Otariidae (eared seals and sea lions)				
Steller sea lion	Eastern U.S. DPS	–/D; Y	60,131	Rare.
California sea lion	U.S. stock	–/–; N	296,750	Common.
Family Phocidae (earless seals)				
Harbor seal	California stock	–/–; N	30,968	Common.
Northern elephant seal	California breeding stock	–/–; N	179,000	Common.
Northern fur seal	California stock	–/–; N	12,844	Common.
Guadalupe fur seal	n/a	T/D; Y	[3] 7,408	Rare.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (–) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the species (or similar species) life history to arrive at a best abundance estimate.

[3] Abundance estimate for this stock is greater than ten years old and is therefore not considered current. We nevertheless present the most recent abundance estimate, as this represents the best available information for use in this document.

In the species accounts provided here, we offer a brief introduction to the species and relevant stock as well as available information regarding population trends and threats, and describe any information regarding local occurrence.

Pacific Harbor Seal

Pacific harbor seals are the most common marine mammal inhabiting VAFB, congregating on multiple rocky haulout sites along the VAFB coastline. Harbor seals are local to the area, rarely traveling more than 50 km from haul-out sites. There are 12 harbor seal haul-out sites on south VAFB; of these, 10 sites represent an almost continuous haul-out area which is used by the same animals. Virtually all of the haul-out sites at VAFB are used during low tides and are wave-washed or submerged during high tides. Additionally, the Pacific harbor seal is the only species that regularly hauls out near the VAFB harbor. The main harbor seal haul-outs on VAFB are near Purisima Point and at Lion's Head (approximately 0.6 km south of Point Sal) on north VAFB and between the VAFB harbor north to South Rocky Point Beach on south VAFB (ManTech 2009). This south VAFB haul-out area is composed of several sand and cobblestone coves, rocky ledges, and offshore rocks. The Rocky Point area, located approximately 1.6 km north of the VAFB harbor, is used as breeding habitat (ManTech 2009).

Pups are generally present in the region from March through July. Within the affected area on VAFB, a total of up to 332 adults and 34 pups have been recorded, at all haulouts combined, in monthly counts from 2013 to 2015 (ManTech 2015). During aerial pinniped surveys of haulouts located in the Point Conception area by NOAA Fisheries in May 2002 and May and June of 2004, between 488 to 516 harbor seals were recorded (M. Lowry, NOAA Fisheries, unpubl. data). Harbor seals also haul out, breed, and pup in isolated beaches and coves throughout the coasts of San Miguel, Santa Rosa, and Santa Cruz Islands (Lowry 2002). During aerial surveys conducted by NOAA Fisheries in May 2002 and May and June of 2004, between 521 and 1,004 harbors seals were recorded at San Miguel Island, between 605 and 972 at Santa Rosa Island, and between 599 and 1,102 Santa Cruz Island (M. Lowry, NOAA Fisheries, unpubl. data).

The harbor seal population at VAFB has undergone an apparent decline in recent years (USAF 2013). This decline has been attributed to a series of natural landslides at south VAFB, resulting in the abandonment of many haulout sites. These slides have also resulted in extensive down-current sediment deposition, making these sites accessible to coyotes, which are now regularly seen in the area. Some of the displaced seals have moved to other sites at south VAFB, while others likely have moved to Point Conception, about 6.5 km south of the southern boundary of VAFB.

Pacific harbor seals frequently use haul-out sites on the NCI, including San Miguel, Santa Rosa, Santa Cruz; and Anacapa. On San Miguel Island, they occur along the north coast at Tyler Bight and from Crook Point to Cardwell Point. Additionally, they regularly breed on San Miguel Island. On Santa Cruz Island, they inhabit small coves and rocky ledges along much of the coast. Harbor seals are scattered throughout Santa Rosa Island and also are observed in small numbers on Anacapa Island.

California Sea Lions

California sea lions are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the

Marine Mammal Protection Act. The estimated population of the U.S. stock is approximately 296,750 (Carretta *et al.* 2015). California sea lion breeding areas are on islands located in southern California, in western Baja California (Mexico), and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.,* 2015). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey. Elevated strandings of California sea lion pups have occurred in Southern California since January 2013. This event has been declared an Unusual Mortality Event (UME), and is confined to pup and yearling California sea lions.

California sea lions are common offshore of VAFB and haul out on rocks and beaches along the coastline of VAFB. At south VAFB, California sea lions haul out on north Rocky Point, with numbers often peaking in spring. They have been reported at Point Arguello and Point Pedernales (both on south VAFB) in the past, although none have been noted there over the past several years. Individual sea lions have been noted hauled out throughout the VAFB coast; these were transient or stranded specimens. California sea lions occasionally haul out on Point Conception itself, south of VAFB. They regularly haul out on Lion Rock, north of VAFB and immediately south of Point Sal. In 2014, counts of California sea lions at haulouts on VAFB increased substantially, ranging from 47 to 416 during monthly counts. Despite their prevalence at haulout sites at VAFB, California sea lions rarely pup on the VAFB coastline (ManTech 2015); no pups were observed in 2013 or 2014 (ManTech 2015) and 1 pup was observed in 2015 (VAFB, unpubl. data).

Pupping occurs in large numbers on San Miguel Island at the rookeries found at Point Bennett on the west end of the island and at Cardwell Point on the east end of the island (Lowry 2002). Sea lions haul out at the west end of Santa Rosa Island at Ford Point and Carrington Point. A few California sea lions have been born on Santa Rosa Island, but no rookery has been established. On Santa Cruz Island, California sea lions haul out from Painted Cave almost to Fraser Point, on the west end. Fair numbers haul out at Gull Island, off the south shore near Punta Arena. Pupping appears to be increasing there. Sea lions also haul out near Potato Harbor, on the northeast end of Santa Cruz. California sea lions haul out by the hundreds on the south side of East Anacapa Island.

During aerial surveys conducted by NOAA Fisheries in February 2010 of the Northern Channel Islands, 21,192 total California sea lions (14,802 pups) were observed at haulouts on San Miguel Island and 8,237 total (5,712 pups) at Santa Rosa Island (M. Lowry, NOAA Fisheries, unpubl. data). During aerial surveys in July 2012, 65,660 total California sea lions (28,289 pups) were recorded at haulouts on San Miguel Island, 1,584 total (3 pups) at Santa Rosa Island, and 1,571 total (zero pups) at Santa Cruz Island (M. Lowry, NOAA Fisheries, unpubl. data).

Northern Elephant Seal

Northern elephant seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the California breeding stock is approximately 179,000 animals (Carretta et al. 2015). Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska and as far south as Mexico. They spend much of the year, generally about nine months, in the ocean. They spend much of their lives underwater, diving to depths of about 1,000 to 2,500 ft (330–800 m) for 20- to 30-minute intervals with only short breaks at the surface, and are rarely seen at sea for this reason. While on land, they prefer sandy beaches.

Northern elephant seals breed and give birth in California and Baja California (Mexico), primarily on offshore islands, from December to March (Stewart et al. 1994). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

Northern elephant seals haul out sporadically on rocks and beaches along the coastline of VAFB; monthly counts in 2013 and 2014 recorded between 0 and 191 elephant seals within the affected area (ManTech 2015). However, northern elephant seals do not currently pup on the VAFB coastline. Observations of young of the year seals from May through November at VAFB have represented individuals dispersing later in the year from other parts of the California coastline where breeding and birthing occur. The nearest regularly used haul-out site on the mainland coast is at Point Conception. Eleven northern elephant seals were observed during aerial surveys of the Point Conception area by NOAA Fisheries in February of 2010 (M. Lowry, NOAA Fisheries, unpubl. data). In December 2012, an immature male elephant seal was observed hauled out on the sandy beach west of the breakwater at the VAFB harbor (representing the first documented instance of an elephant seal hauled out at the VAFB harbor). There has been no verified breeding of northern elephant seals on VAFB.

Point Bennett on the west end of San Miguel Island is the primary northern elephant seal rookery in the NCI, with another rookery at Cardwell Point on the east end of San Miguel Island (Lowry 2002). They also pup and breed on Santa Rosa Island, mostly on the west end. Northern elephant seals are rarely seen on Santa Cruz and Anacapa Islands. During aerial surveys of the NCI conducted by NMFS in February 2010, 21,192 total northern elephant seals (14,802 pups) were recorded at haulouts on San Miguel Island and 8,237 total (5,712 pups) were observed at Santa Rosa Island (M. Lowry, NOAA Fisheries, unpubl. data). None were observed at Santa Cruz Island (M. Lowry, NOAA Fisheries, unpubl. data).

Steller Sea Lion

The eastern DPS of Steller sea lion is not listed as endangered or threatened under the ESA, nor is it categorized as depleted under the MMPA. The species as a whole was ESA-listed as threatened in 1990 (55 FR 49204). In 1997, the species was divided into western and eastern DPSs, with the western DPS reclassified as endangered under the ESA and the eastern DPS retaining its threatened listing (62 FR 24345). On October 23, 2013, NMFS found that the eastern DPS has recovered; as a result of the finding, NMFS removed the eastern DPS from ESA listing. Only the eastern DPS is considered in this proposed authorization due to its distribution and the geographic scope of the action. Steller sea lions are distributed mainly around the coasts to the outer continental shelf along the North Pacific rim from northern Hokkaido, Japan through the Kuril Islands and Okhotsk Sea, Aleutian Islands and central Bering

Sea, southern coast of Alaska and south to California (Loughlin *et al.,* 1984).

Prior to 2012, there were no records of Steller sea lions observed at VAFB. In April and May 2012, Steller sea lions were observed hauled out at North Rocky Point on VAFB, representing the first time the species had been observed on VAFB during launch monitoring and monthly surveys conducted over the past two decades (Marine Mammal Consulting Group and Science Applications International Corporation 2013). Since 2012, Steller sea lions have been observed frequently in routine monthly surveys, with as many as 16 individuals recorded. In 2014, up to five Steller sea lions were observed in the affected area during monthly marine mammal counts (ManTech 2015) and a maximum of 12 individuals were observed during monthly counts in 2015 (VAFB, unpublished data). However, up to 16 individuals were observed in 2012 (SAIC 2012). Steller sea lions once had two small rookeries on San Miguel Island, but these were abandoned after the 1982–1983 El Niño event (DeLong and Melin 2000; Lowry 2002); these rookeries were once the southernmost colonies of the eastern stock of this species. In recent years, between two to four juvenile and adult males have been observed on a somewhat regular basis on San Miguel Island (pers. comm. Sharon Melin, NMFS Alaska Fisheries Science Center, to J. Carduner, NMFS, Feb 11, 2016). Steller sea lions are not observed on the other NCI.

Northern Fur Seal

Northern fur seals are not ESA listed and are not categorized as depleted under the MMPA. Northern fur seals occur from southern California north to the Bering Sea and west to the Okhotsk Sea and Honshu Island, Japan. Two stocks of northern fur seals are recognized in U.S. waters: An eastern Pacific stock and a California stock (formerly referred to as the San Miguel Island stock). Only the California stock is considered in this proposed authorization due to its geographic distribution.

Due to differing requirements during the annual reproductive season, adult males and females typically occur ashore at different, though overlapping, times. Adult males occur ashore and defend reproductive territories during a 3-month period from June through August, though some may be present until November (well after giving up their territories). Adult females are found ashore for as long as 6 months (June-November). After their respective times ashore, fur seals of both sexes spend the next 7 to 8 months at sea (Roppel 1984). Peak pupping is in early July and pups are weaned at three to four months. Some juveniles are present year-round, but most juveniles and adults head for the open ocean and a pelagic existence until the next year. Northern fur seals exhibit high site fidelity to their natal rookeries.

Northern fur seals have rookeries on San Miguel Island at Point Bennett and on Castle Rock. Comprehensive count data for northern fur seals on San Miguel Island are not available. San Miguel Island is the only island in the NCI on which Northern fur seals have been observed. Although the population at San Miguel Island was established by individuals from Alaska and Russian Islands during the late 1960s, most individuals currently found on San Miguel nowadays are considered resident to the island. No haul-out or rookery sites exist for northern fur seals on the mainland coast. The only individuals that do appear on mainland beaches are stranded animals.

Guadalupe Fur Seal

Guadalupe fur seals are listed as threatened under the ESA and are categorized as depleted under the MMPA. The population is estimated at 7,408 animals; however, this estimate is over 20 years old (Carretta *et al.* 2015). The population is considered to be a single stock. Guadalupe Fur Seals were abundant prior to seal exploitation, when they were likely the most abundant pinniped species on the Channel Islands. They are found along the west coast of the United States, but are considered uncommon in Southern California. They are typically found on shores with abundant large rocks, often at the base of large cliffs (Belcher and Lee 2002). Increased strandings of Guadalupe fur seals started occurring along the entire coast of California in early 2015. Strandings were eight times higher than the historical average, peaking from April through June 2015, and have since lessened. This event has been declared a marine mammal UME.

Comprehensive survey data on Guadalupe fur seals in the NCI is not readily available. On San Miguel Island, one to several male Guadalupe fur seals had been observed annually between 1969 and 2000 (DeLong and Melin 2000) and juvenile animals of both sexes have been seen occasionally over the years (Stewart *et al.* 1987). The first adult female at San Miguel Island was seen in 1997. In June 1997, she gave birth to a pup in rocky habitat along the south side of the island and, over the next year, reared the pup to weaning age. This was apparently the first pup born in the California Channel Islands in at least 150 years. Since 2008, individual adult females, subadult males, and between one and three pups have been observed annually on San Miguel Island. There are estimated to be approximately 20–25 individuals that have fidelity to San Miguel, mostly inhabiting the southwest and northwest ends of the island. A total of 14 pups have been born on the island since 2009, with no more than 3 born in any single season (pers. comm., S. Melin, NMFS National Marine Mammal Laboratory, to J. Carduner, NMFS, Aug. 28, 2015). Thirteen individuals and two pups were observed in 2015 (NMFS 2016). No haul-out or rookery sites exist for Guadalupe fur seals on the mainland coast, including VAFB. The only individuals that do appear on mainland beaches are stranded animals.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

Debris Strike

Under the contingency barge landing action, in the event of an unsuccessful barge landing, the First Stage booster is expected to explode upon impact with the barge. The maximum estimated remaining fuel and oxidizer onboard the booster when it explodes would be the equivalent a net explosive weight of 503 lbs. of TNT. The resulting explosion of the estimated onboard remaining fuel would be capable of scattering debris a maximum estimated range of approximately 384 m from the landing point and thus spread over a radial area of 0.46 km^2 as an impact area (ManTech 2015). Based on engineering analysis collected during a flight anomaly that occurred during a Falcon 9 test at SpaceX's Texas Rocket Development Facility, debris could impact 0.000706

km² of the total 0.46 km² impact area. Debris impacting an individual marine mammal, though highly unlikely as discussed below, would have the potential to cause injury and potential mortality.

Using a statistical probability analysis for estimating direct air strike impact developed by the U.S. Navy (Navy 2014), the probability of impact of debris with a marine mammal (*P*) can be estimated for individual marine mammals of each species that may occur in the impact footprint area (*I*) (0.000706 km²). For this analysis, SpaceX assumed a dynamic scenario with broadside collision, in which the width of the impact footprint is enhanced by a factor of five (5) to reflect forward momentum created by an explosion (Navy 2014). Forward momentum typically accounts for five object lengths, thus the applied factor of five (5) area (Navy 2014).

The probability of impact with a single animal (*P*) is calculated as the likelihood that an animal footprint area (*A,* defined as the adult length [L_a] and width [W_a] for each species) intersects the impact footprint area (*I*) within the overall ''testing area'' (*R*). Note that to calculate (*P*) it is assumed that the animal is in the testing area and is at or near the ocean surface, thus the model is overly conservative since cetaceans spend the majority of time submerged. For the purposes of this model, *R* was estimated as the maximum range of debris spread as a result of the First Stage explosion at the landing location (0.46 km²). The probability impact with a single animal (*P*) depends on the degree of overlap of *A* and *I.* To calculate this area of overlap (A_{tot}), a buffer distance is added around *A* that is equal to one-half of the impact area (0.5**I*). This buffer accounts for an impact with the center of the object anywhere within the combined area of overlap (A_{tot}) would result in an impact with the animal. A_{tot} is then calculated as $(L_a + 2*W_i)*(W_a + (1 + 5)*L_i)$, where W_i and L_i are the length and width of the impact area (*I*). We assumed that $W_a = W_i$ = square root of *I.* The single animal impact probability (*P*) for each species is then calculated as the ratio of total area (A_{tot}) to testing area (*R*): $P = A_{tot}/R$. This single animal impact probability (*P*) is then multiplied by the number of animals expected in the testing area (*N* = density * *R*) to estimate the probability of impacting an individual for each species per event (*T*).

SpaceX proposes to conduct up to six contingency offshore landings per year, which may result in between zero and six explosions of the First Stage annually (as recovery actions continue, SpaceX expects to assess each incident, refine methodology and ultimately reduce the risk or explosion for the purpose of First Stage recovery and re-use). In the model presented in the IHA application, SpaceX assumed that the maximum of six events per year would result in an explosion. This is a conservative estimate, since the actual number of contingency landing events resulting in the First Stage explosion may be less than six. In addition, the model conservatively utilized the highest estimated at-sea individual densities for each species within the geographic area of potential impact. Please see Table 6–1 of the IHA application for results of the debris strike analysis.

Even with the intentionally conservative estimates of parameters and assumptions in the model as described above, the results indicate that it is highly unlikely that debris would strike any individual of any marine mammal species, including cetaceans and pinnipeds. For all 34 marine mammal species that occur in the project area, including pinnipeds and cetaceans, the maximum probability of debris strike, for a single debris impact event, was 0.0222 for California sea lion (see Table 6–1 in the IHA application). The modeled probabilities are sufficiently low as to be considered discountable. Therefore, we have concluded that the likelihood of take of marine mammals from debris strike following the explosion of the Falcon 9 First Stage is negligible. As such, debris strike is not analyzed further in this proposed authorization as a potential stressor to marine mammals.

Floating Debris

As described above, in the event of an unsuccessful landing attempt at the contingency landing location, the Falcon 9 First Stage would explode upon impact with the barge. SpaceX has experience performing recovery operations after water and unsuccessful barge landings for previous Falcon 9 First Stage landing attempts. This experience, in addition to the debris catalog that identifies all floating debris, has revealed that approximately 25 pieces of debris remain floating after an unsuccessful barge landing. The surface area potentially impacted with debris would be less than 0.46 km², and the vast majority of debris would be recovered. All other debris is expected to sink to the bottom of the ocean.

The approximately 25 pieces of debris expected to be floating after an unsuccessful barge landing are primarily made up of Carbon Over Pressure Vessels (COPVs), the LOX fill line, and carbon fiber constructed landing legs. SpaceX has performed successful recovery of all of these floating items during previous landing attempts. An unsuccessful barge landing would result in a very small debris field, making recovery of debris relatively straightforward and efficient. All debris recovered offshore would be transported back to Long Beach Harbor.

Since the area impacted by debris is very small, the likelihood of adverse effects to marine mammals is very low. Denser debris that would not float on the surface is anticipated to sink relatively quickly and is composed of inert materials which would not affect water quality or bottom substrate potentially used by marine mammals. The rate of deposition would vary with the type of debris; however, none of the debris is so dense or large that benthic habitat would be degraded. Also, the area that would be impacted per event by sinking debris is only a maximum of 0.17 acres (0.000706 km²), a relatively small portion of the total 0.46 km² potential impact area, based on a maximum range of 384 m that a piece of debris would travel following an explosion.

We have determined that the likelihood of debris from an unsuccessful barge landing that enters the ocean environment approximately 50 km offshore of VAFB resulting in the incidental take of a marine mammal to be so small as to be discountable. Therefore the potential effects of floating debris on marine mammals as a result of the proposed activities are not considered further in this proposed authorization.

Spilled Rocket Propellant

As described above, in the event of an unsuccessful landing attempt at the contingency landing location, the Falcon 9 First Stage would explode upon impact with the barge. At most, the First Stage would contain 400 gallons of rocket propellant (RP–1 or ''fuel'') on board. In the event of an unsuccessful barge landing, most of this fuel would be consumed during the subsequent explosion. Residual fuel after the explosion (estimated to be between 50 and 150 gallons) would be released into the ocean. Final volumes of fuel remaining in the First Stage upon impact may vary, but are anticipated to be below this high range estimate. The fuel used by the First Stage, RP–1, is a Type 1 ''Very Light Oil'', which is characterized as having low viscosity, low specific gravity, and is highly volatile. Clean-up following a spill of very light oil is usually not possible, particularly with such a small quantity

of oil that would enter the ocean in the event of an unsuccessful barge landing (U.S. Fish and Wildlife Service 1998). Therefore, SpaceX would not attempt to boom or recover RP–1 fuel from the ocean.

In relatively high concentrations, exposure to very light oils can have a range of effects to marine mammals including skin and eye irritation, increased susceptibility to infection, respiratory irritation, gastrointestinal inflammation, ulcers, bleeding, diarrhea, damage to organs, immune suppression, reproductive failure, and death. The effects of exposure primarily depend on the route (internal versus external) and amount (volume and time) of exposure. Although the U.S. Environmental Protection Agency has established exposure levels for kerosene and jet fuel (RP–1 is a type of kerosene) for toxicity in mammals and the environment (U.S. Environmental Protection Agency 2011), in reality it is difficult to predict exposure levels, even with a known amount of fuel released. This is because exposure level is dependent not only on the amount of fuel in the spill area, but also on unpredictable factors, including the behavior of the animal and the amount of fuel it contacts, ingests, or inhales.

However, precluding these factors is the overall risk of a marine mammal being within the fuel spill area before the RP–1 dissipates. This risk depends primarily on how quickly RP–1 dissipates in the environment and the area affected by the spill. Since RP–1 is lighter than water and almost completely immiscible (*i.e.* very little will dissolve into the water column), RP–1 would stay on top of the water's surface. Due to its low viscosity, it would rapidly spread into a very thin layer (several hundred nanometers) on the surface of water and would continue to spread as a function of sea surface, wind, current, and wave conditions. This spreading rapidly reduces the concentration of RP–1 on the water surface at any one location and exposes more surface area of the fuel to the atmosphere, thus increasing the amount of RP–1 that is able to evaporate.

RP–1 is highly volatile and evaporates rapidly when exposed to the air (U.S. Fish and Wildlife Service 1998). The evaporation rate for jet fuel (a kerosene similar to RP–1) on water, can be determined by the following equation from Fingas (2013): $\%EV = (0.59 + 0.13T)/t$, where $\%EV$ is the percent of mass evaporated within a given time in minutes (t) at a given temperature in °C (T). Using an assumed air temperature of 50 °F (10 °C), the percent of mass evaporated versus time can be determined (see Figure 14 in the IHA application). Although it would require one to two days for the RP–1 to completely dissipate, over 90 percent of its mass would evaporate within the first seven minutes and 99 percent of its mass would evaporate within the first hour (see Figure 14 in the IHA application). In the event of adverse ocean conditions (*e.g.,* large swells, large waves) and weather conditions (*e.g.,* fog, rain, high winds) RP-1 would be volatilized more rapidly due to increased agitation and thus dissipate even more quickly and further reduce the likelihood of exposure.

Since RP–1 would remain on the surface of the water, in order for a marine mammal to be directly exposed to RP–1, it would have to surface within the spill area very soon after the spill occurred (on the order of minutes). Given the relatively small volume of RP–1 that would be spilled (50 to 150 gallons), the exposure area would be relatively small and thus it would be unlikely that a marine mammal would be within the exposure area. Based on the thinness of the layer of RP–1 on the water surface, spreading on the surface (thus rapidly reducing concentration), and rapid evaporation (further reducing concentration), a marine mammal would need to be at the surface within the layer of RP–1 and be exposed to a toxic level within a very short period of time (minutes) after the spill to be affected. Similarly, since RP–1 would be a very thin, rapidly evaporating layer on the water's surface, we do not expect that fish or other prey species would be negatively impacted to any significant degree.

We therefore have determined that the likelihood that spilled RP–1, as a result of an unsuccessful barge landing that enters the ocean environment approximately 50 km from shore, would have an effect on marine mammal species is so low as to be discountable. Therefore the potential effects of spilled rocket propellant are not considered further in this proposed authorization.

Visual Stimuli

Visual disturbances resulting from Falcon 9 First Stage landings have the potential to cause pinnipeds to lift their heads, move towards the water, or enter the water. Pinnipeds hauled out at VAFB would potentially be able to see the Falcon 9 First Stage landing at SLC–4W. However, SpaceX has determined that the trajectory of the return flight includes a nearly vertical descent to the SLC–4W landing pad (see Figure 1–4 in the IHA application) and the contingency landing location (see Figure 1–5 in the IHA application). As a result, there would be no significant visual disturbance expected as the descending Falcon 9 First Stage would either be shielded by coastal bluffs (for a SLC–4W landing) or too far away to cause significant stimuli (in the case of a barge landing). Further, the visual stimulus of the Falcon 9 First Stage would not be coupled with the sonic boom, since the First Stage will be at significant altitude when the overpressure is produced (described further below), further decreasing the likelihood of a behavioral response. Therefore we have determined that the possibility of marine mammal harassment from visual stimuli associated with the proposed activities is so low as to be considered discountable. Therefore visual stimuli associated with the proposed activities are not considered further in this proposed authorization.

Acoustic Stimuli

In the following discussion, we provide general background information on sound and marine mammal hearing before considering potential effects to marine mammals from sound produced by the proposed activities.

Description of Sound Sources

Acoustic sources associated with SpaceX's proposed activities are expected to include: sonic booms; Falcon 9 First Stage landings; and potential explosions as a result of unsuccessful Falcon 9 First Stage landing attempts at the contingency landing location. Sounds produced by the proposed activities may be impulsive, due to sonic boom effects and possible explosions, and non-pulse (but short-duration) noise, due to combustion effects of the Falcon 9 First Stage.

Pulsed sound sources (*e.g.,* sonic booms, explosions, gunshots, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; Harris, 1998; NIOSH, 1998; ISO, 2003; ANSI, 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI,

1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by rocket launches and landings, vessels, aircraft, machinery operations such as drilling or dredging, and vibratory pile driving. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse, and is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals, and exposure to sound can have deleterious effects. To appropriately assess these potential effects, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on measured or estimated hearing ranges on the basis of available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. The lower and/or upper frequencies for some of these functional hearing groups have been modified from those designated by Southall *et al.* (2007). The functional groups and the associated frequencies are indicated below (note that these frequency ranges do not necessarily correspond to the range of best hearing, which varies by species):

- Low-frequency cetaceans (mysticetes): functional hearing is estimated to occur between approximately 7 Hz and 25 kHz (extended from 22 kHz; Watkins, 1986; Au *et al.,* 2006; Lucifredi and Stein, 2007; Ketten and Mountain, 2009; Tubelli *et al.,* 2012);
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus;* now considered to include two members of the genus *Lagenorhynchus* on the basis of recent echolocation data and genetic data (May-Collado and Agnarsson, 2006; Kyhn *et al.* 2009, 2010; Tougaard *et al.* 2010): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds: Functional hearing for pinnipeds underwater is estimated to occur between approximately 75 Hz to 100 kHz for Phocidae (true seals) and between 100 Hz and 48 kHz for Otariidae (eared seals), with the greatest sensitivity between approximately 700 Hz and 20 kHz. Functional hearing for pinnipeds in air is estimated to occur between 75 Hz and 30 kHz. The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth *et al.,* 2013).

Acoustic Effects on Marine Mammals

The effects of sounds from the proposed activities might result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of sounds on marine mammals are dependent on several factors, including the species, size, behavior (feeding, nursing, resting, etc.), and depth (if underwater) of the animal; the intensity and duration of the sound; and the sound propagation properties of the environment.

Impacts to marine species can result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of sounds on marine mammals. Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973).

Hearing Impairment and Other Physical Effects—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002, 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Marine mammals depend on acoustic cues for vital biological functions, (*e.g.,* orientation, communication, finding prey, avoiding predators); thus, TTS may result in reduced fitness in survival and reproduction. However, this depends on the frequency and duration of TTS, as well as the biological context in which it occurs. TTS of limited duration, occurring in a frequency range that does not coincide with that used for recognition of important acoustic cues, would have little to no effect on an

animal's fitness. Repeated sound exposure that leads to TTS could cause PTS. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). The following subsections discuss TTS, PTS, and non-auditory physical effects in more detail.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be stronger in order to be heard. In terrestrial mammals, TTS can last from minutes or hours to days (in cases of strong TTS). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the sound ends. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007).

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, while in other cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of sound can cause PTS in any marine mammal. However, given the possibility that mammals close to a sound source might incur TTS, there has been further speculation about the possibility that some individuals might incur PTS. Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds is at least 6 dB higher than the TTS threshold on a peak-pressure basis and probably greater than 6 dB (Southall *et al.,* 2007). On an SEL basis, Southall *et al.* (2007) estimated that received levels would need to exceed the TTS threshold by at least 15 dB for there to be risk of PTS. Thus, for cetaceans, Southall *et al.* (2007) estimate that the PTS threshold might be an M-weighted SEL (for the sequence of received pulses) of approximately 198 dB re 1 μPa^2-s (15 dB higher than the TTS threshold for an impulse). Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Captive bottlenose dolphins and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds (Finneran *et al.,* 2000, 2002, 2005). The animals tolerated high received levels of sound before exhibiting aversive behaviors. Experiments on a beluga whale showed that exposure to a single watergun impulse at a received level of 207 kPa (30 psi) p-p, which is equivalent to 228 dB p-p, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within four minutes of the exposure (Finneran *et al.,* 2002). In order for marine mammals to experience TTS or PTS, the animals must be close enough to be exposed to high intensity sound levels for a prolonged period of time. The likelihood of PTS or TTS resulting from exposure to the proposed activities is considered discountable due to the short duration of the sounds generated by the proposed activities and the data available on marine mammal responses to the stressors associated with the proposed activities, which indicate that PTS and TTS are not likely (as described below).

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to intense sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited and many of these impacts result from exposure to underwater sound and therefore are not relevant to the proposed activities. In general, little is known about the potential for sonic booms to cause non-auditory physical effects in marine mammals. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. The likelihood of non-auditory physiological effects resulting from exposure to the proposed activities is considered discountable due to data available on marine mammal responses to the stressors associated with the proposed activities (as described below).

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007).

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud underwater sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007).

The onset of noise can result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior; avoidance of areas where sound sources are located; and/or flight responses.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could potentially be biologically significant if the change affects growth, survival, or reproduction. The onset of behavioral disturbance from anthropogenic sound depends on both external factors

(characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking, or interfering with, a marine mammal's ability to hear other sounds. Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher levels. Chronic exposure to excessive, though not high-intensity, sound could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions. Masking can interfere with detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction. If the coincident (masking) sound were man-made, it could be potentially harassing if it disrupted hearing-related behavior. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect. The likelihood of masking resulting from exposure to sound from the proposed activities is considered discountable due to the short duration of the sounds generated by the proposed activities (as described below).

Acoustic Effects, Airborne

Marine mammals that occur in the project area could be exposed to airborne sounds associated with Falcon 9 First Stage recovery activities, including sonic booms, landing sounds, and potentially explosions, that have the potential to cause harassment, depending on the animal's distance from the sound. Airborne sound could potentially affect pinnipeds that are hauled out. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon their habitat and move further from the source. Hauled out pinnipeds may flush into the water, which can potentially result in pup abandonment or trampling of pups. Studies by Blackwell *et al.* (2004) and Moulton *et al.* (2005) indicate a tolerance or lack of response to unweighted airborne sounds as high as 112 dB peak and 96 dB rms.

Acoustic Effects of the Proposed Activities

As described above, the sound sources associated with the proposed activities that have the potential to result in harassment of marine mammals include: Sonic booms; landing noise; and potential explosions associated with unsuccessful barge landing attempts. We describe each of these sources separately and in more detail below.

Explosion Resulting From Unsuccessful Barge Landing Attempt

In the event of an unsuccessful barge landing, the Falcon 9 First Stage would likely explode. Noise resulting from such an explosion would introduce impulsive sound into both the air and the water. This sound would be in the audible range of most marine mammals, even if the duration is expected to be very short (likely less than a second). The spacing of the landing attempts (no more than six over one year) would likely reduce the potential for long-term auditory masking. However, because of its intensity, the direct sound from an explosion has the potential to result in behavioral or physiological effects in marine mammals. The intensity of the explosion would likely vary depending on the amount of fuel remaining in the Falcon 9 First Stage, but for our analysis we assumed a worst-case scenario: That the largest possible amount of fuel would be left in the First Stage upon impact.

Noise resulting from an unsuccessful barge landing would be expected to generate an in-air impulsive sound pressure level up to 180 dB rms re 20μPa (ManTech 2015). NMFS's current acoustic criteria for in-air acoustic impacts assumes Level B harassment of non-harbor seal pinnipeds occurs at 100 dB rms re 20μPa, with Level B harassment of harbor seals occurring at 90 dB rms re 20μPa (Table 2). No threshold for Level A harassment for in-air noise has been established. To determine whether harassment of pinnipeds was likely to occur as a result of in-air noise from explosion of the Falcon 9 First Stage at the contingency landing location, SpaceX performed modeling to determine the distance at which the sound level from such an explosion would attenuate to 90 dB rms re 20μPa (the lowest NMFS threshold for pinniped harassment, as described above).

TABLE 2—NMFS CRITERIA FOR ACOUSTIC IMPACTS TO MARINE MAMMALS

Criterion	Criterion definition	Threshold
In-Water Acoustic Thresholds		
Level A	PTS (injury) conservatively based on TTS	190 dB_{rms} for pinnipeds 180 dB_{rms} for cetaceans.
Level B	Behavioral disruption for impulsive noise	160 dB_{rms}.
Level B	Behavioral disruption for non-pulse noise	120 dB_{rms}.
In-Air Acoustic Thresholds		
Level A	PTS (injury) conservatively based on TTS	None established.
Level B	Behavioral disruption for harbor seals	90 dB_{rms}.
Level B	Behavioral disruption for non-harbor seal pinnipeds	100 dB_{rms}.

The explosion would generate an in-air impulsive noise that would propagate in a radial fashion away from the barge. Based on the size of the anticipated explosion, Sadovsky equations were used to calculate peak received pressures (received levels are a function of charge weight and distance from source) at sound pressure contour lines. Since the sound pressure levels were peak levels, the approximate RMS values were estimated by converting peak to RMS (peak pressure value * 0.707). Then, these values were converted into dB re 20 μPa to determine distances to defined contour levels and in-air acoustic threshold levels for marine mammal harassment (see Figure 2–7 in the IHA application). To generate realistic sound pressure contour lines, atmospheric attenuation was included in the model. Calculations for atmospheric attenuation included the following assumptions: The explosion was assumed to be 250 hertz or less, relative humidity was assumed to be 30 percent and air temperature was assumed to be 50 °F (10 °C). This model does not take into account additional factors that would be expected to attenuate the blast wave further, including: Sea surface roughness, changes in atmospheric pressure, frontal systems, precipitation, clouds, and degradation when encountering other sound pressure waves. Thus, the area of exposure is likely to be conservative. Results indicated that an impulsive in-air noise resulting from a Falcon 9 First Stage explosion at the barge would attenuate to 90 dB rms re 20μPa at a radius of 26.5 km from the contingency landing location (ManTech 2015). There are no pinniped haulouts located within this area (See Figure 2–7 in the IHA application); therefore in-air noise generated by an explosion of the Falcon 9 First Stage during an unsuccessful barge landing would not result in Level B harassment of marine mammals.

Explosions near the water's surface can introduce loud, impulsive, broadband sounds into the marine environment. These sounds can potentially be within the audible range of most marine mammals, though the duration of individual sounds is very short. The direct sound from an explosion would last less than a second. Furthermore, events are dispersed in time, with maximum of six barge landing attempts occurring within the time period that the proposed IHA would be valid. If an explosion occurred on the barge, as in the case of an unsuccessful barge landing, some amount of the explosive energy would be transferred through the ship's structure and would enter the water and propagate away from the ship. There is very little published literature on the ratio of explosive energy that is absorbed by a ship's hull versus the amount of energy that is transferred through the ship into the water. However, based on the best available information, we have determined that exceptionally little of the acoustic energy from the explosion would transmit into the water (Yagla and Stiegler 2003). An explosion on the barge would create an in-air blast that propagates away in all directions, including toward the water's surface; however the barge's deck would act as a barrier that would attenuate the energy directed downward toward the water (Yagla and Stiegler 2003). Most sound enters the water in a narrow cone beneath the sound source (within 13 degrees of vertical). Since the explosion would occur on the barge, most of this sound would be reflected by the barge's surface, and sound waves would approach the water's surface at angles higher than 13 degrees, minimizing transmission into the ocean. An explosion on the barge would also send energy through the barge's structure, into the water, and away from the barge. This effect was investigated in conjunction with the measurements described in Yagla and Steigler (2003). The energy transmitted through a ship to the water for the firing of a typical 5-inch round was approximately six percent of that from the air blast impinging on the water (Yagla and Stiegler 2003). Therefore, sound transmitted from the blast through the hull into the water was a minimal component of overall firing noise, and would likewise be expected to be a minimal component of an explosion occurring on the surface of the barge.

Depending on the amount of fuel remaining in the booster at the time of the explosion, the intensity of the explosion would likely vary. As indicated above, the explosive equivalence of the First Stage with maximum fuel and oxidizer is 503 lb. of TNT. Explosion shock theory has proposed specific relationships for the peak pressure and time constant in terms of the charge weight and range from the detonation position (Pater 1981; Plotkin *et al.* 2012). For an in-air explosion equivalent to 500 lb. of TNT, at 0.5 feet the explosion would be approximately 250 dB re 20μPa. Based on the assumption that the structure of the barge would absorb and reflect approximately 94 percent of this energy, with approximately six percent of the energy from the explosion transmitted into the water (Yagla and Stiegler 2003), the amount of energy that would be transmitted into the water would be far less than the lowest threshold for Level B harassment for both pinnipeds and cetaceans based on NMFS's current acoustic criteria for in-water explosive noise (see Table 3). As a result, the likelihood of in-water sound generated by an explosion of the Falcon 9 First Stage during an unsuccessful barge landing attempt resulting in take of marine mammals is considered so low as to be discountable.

TABLE 3—NMFS ACOUSTIC CRITERIA FOR IMPACTS TO MARINE MAMMALS FROM EXPLOSIVES

Group	Species	Level B		Level A			Mortality
		Behavioral (for ≥2 pulses/24 hours)	TTS	PTS	Gastro-intestinal tract injury	Lung injury	
Low-Frequency Cetaceans.	Mysticetes	167 dB SEL	172 dB SEL or 224 dB peak SPL.	187 dB SEL or 230 dB peak SPL.	237 dB SPL/ 104 psi.	39.1 $M^{1/3}$ $(1+[D_{Rm}/10.081]^{1/2})$ Pa-sec Where: M = mass of the animal in kg D_{Rm} = depth of the receiver in meters.	91.4 $M^{1/3}$ $(1+[D_{Rm}/10.081]^{1/2})$ Pa-sec Where: M = mass of the animal in kg D_{Rm} = depth of the receiver in meters.
Mid-Frequency Cetaceans.	Most delphinids, medium & large toothed whales.	167 dB SEL	172 dB SEL or 224 dB peak SPL.	187 dB SEL or 230 dB peak SPL.			

TABLE 3—NMFS ACOUSTIC CRITERIA FOR IMPACTS TO MARINE MAMMALS FROM EXPLOSIVES—Continued

Group	Species	Level B		Level A			Mortality
		Behavioral (for ≥2 pulses/24 hours)	TTS	PTS	Gastro-intestinal tract injury	Lung injury	
High-Frequency Cetaceans.	Porpoises and *Kogia* spp.	141 dB SEL	146 dB SEL or 195 dB peak SPL.	161 dB SEL or 201 dB peak SPL.			
Phocids	Elephant & harbor seal.	172 dB SEL	177 dB SEL or 212 dB peak SPL.	192 dB SEL or 218 Db peak SPL.			
Otariids	Sea lions & fur seals.	195 dB SEL	200 dB SEL or 212 Db peak SPL.	215 dB SEL or 218 Db peak SPL.			

As we have determined that neither in-air noise nor underwater noise associated with potential explosions from an unsuccessful Falcon 9 First Stage landing attempt at the contingency landing location would result in take of marine mammals, explosions as a result of unsuccessful landing attempts at the contingency landing location are not considered further in this proposed authorization. The likelihood of a Falcon 9 First Stage completely missing the barge during a landing attempt, and directly impacting the surface of the water, is considered to be so low as to be discountable; therefore this scenario is not analyzed in terms of its potential to result in take of marine mammals. Likewise, the likelihood of a Falcon 9 First Stage landing failure at VAFB, resulting in an explosion of the First Stage on the SLC–4W landing pad, is considered to be so low as to be discountable; therefore this scenario is not analyzed in terms of its potential to result in take of marine mammals.

Landing Noise

A final engine burn during the landing of the Falcon 9 First Stage, lasting approximately 17 seconds, would generate non-pulse in-air noise that could potentially result in hauled out pinnipeds alerting, moving away from the noise, or flushing into the water. SpaceX determined that the landing noise would generate non-pulse in-air noise of between 70 and 110 dB re 20 μPa centered on SLC–4W, but affecting an area up to 22.5 km offshore of VAFB (see Figure 2–5 in the IHA application) (ManTech 2015). Engine noise would also be produced during Falcon 9 First Stage landings at the contingency landing location; the potential area of influence for barge landings was estimated by extrapolating the landing noise profile from a SLC–4W landing (see Figure 2–5 in the IHA application). Engine noise during the barge landing is also expected to be between 70 and 110 dB re 20 μPa non-pulse in-air noise affecting a radial area up to 22.5 km around the contingency landing location (see Figure 2–6 in the IHA application).

As described above, NMFS's current acoustic criteria for in-air acoustic impacts assumes Level B harassment of non-harbor seal pinnipeds occurs at 100 dB rms re 20μPa, with Level B harassment of harbor seals occurring at 90 dB rms re 20μPa (Table 2). No threshold for Level A harassment for in-air noise has been established. Based on SpaceX's modeling of the propagation of noise from a Falcon 9 First Stage landing, there are no pinniped haulouts within the area modeled to be impacted by landing noise at 90 dB or greater, for either a landing at VAFB (see Figure 2–5 in the IHA application) or a contingency barge landing (see Figure 2–6 in the IHA application) (ManTech 2015). Therefore we believe it is unlikely that hauled out pinnipeds will be harassed by the noise associated with Falcon 9 First Stage landings, either at VAFB or at the contingency landing location. The noise associated with Falcon 9 First Stage landings would not be expected to have an effect on submerged animals or those that spend a considerable amount of time submerged, such as cetaceans. Therefore the likelihood of take resulting from noise from a Falcon 9 First Stage landing, either at VAFB or at the contingency landing location, is considered so low as to be discountable. As such, landing noise is not considered further in this proposed authorization.

Sonic Boom

During descent when the First Stage is supersonic, a sonic boom (overpressure of high-energy impulsive sound) would be generated. During a landing event at SLC–4W, the sonic boom would be directed at the coastal area south of SLC–4W (see Figure 2–1 in the IHA application). Acoustic modeling was performed to estimate the area of expected impact and overpressure levels that would be created during the return flight of the Falcon 9 First Stage (Wyle, Inc. 2015). The boom footprint was computed using PCBoom (Plotkin and Grandi 2002; Page et al. 2010). The vehicle is a cylinder generally aligned with the velocity vector, descending engines first (see Figure 1–3 in the IHA application). It was modeled via PCBoom's drag-dominated blunt body mode (Tiegerman 1975), which has been validated for entry vehicles (Plotkin et al. 2006). Drag is determined by vehicle weight and the kinematics of the trajectory. Kinematics include the effect of the retro burn. The model results predict that sonic overpressures would reach up to 2.0 pounds per square foot (psf) in the immediate area around SLC–4W (Figures 2–1 and 2–2) and an overpressure between 1.0 and 2.0 psf would impact the coastline of VAFB from approximately 8 km north of SLC–4 to approximately 18 km southeast of SLC–4W (see Figures 2–1 and 2–2 in the IHA application). A significantly larger area, including the mainland, the Pacific Ocean, and the NCI, would experience an overpressure between 0.1 and 1.0 psf (see Figure 2–1 in the IHA application). In addition, San Miguel Island and Santa Rosa Island may experience an overpressure up to 3.1 psf and the west end of Santa Cruz Island may experience an overpressure up to 1.0 psf (see Figures 2–1 and 2–3 in the IHA application).

During a contingency barge landing event, an overpressure would also be generated while the first-stage booster is supersonic. The overpressure would be directed at the ocean surface no less than 50 km off the coast of VAFB. The SLC–4W pad-based landing

overpressure modeling was roughly extrapolated to show potential noise impacts for landing 50 km to the west of VAFB (see Figure 2–4 in the IHA application). An overpressure of up to 2.0 psf would impact the Pacific Ocean at the contingency landing location approximately 50 km offshore of VAFB. San Miguel Island and Santa Rosa Island would experience a sonic boom between 0.1 and 0.2 psf. Sonic boom overpressures on the mainland would be between 0.2 and 0.4 psf.

Behavioral Responses of Pinnipeds to Sonic Booms

The USAF has monitored pinniped responses to rocket launches from VAFB for nearly 20 years. Though rocket launches are not part of the proposed activities (as described above), the acoustic stimuli (sonic booms) associated with launches is expected to be substantially similar to those expected to occur with Falcon 9 boost-backs and landings; therefore, we rely on observational data on responses of pinnipeds to sonic booms associated with rocket launches from VAFB in making assumptions about expected pinniped responses to sound associated with Falcon 9 boost-backs and landings.

Observed reactions of pinnipeds at the NCI to sonic booms have ranged from no response to heads-up alerts, from startle responses to some movements on land, and from some movements into the water to occasional stampedes (especially involving California sea lions on the NCI). We therefore assume sonic booms generated during the return flight of the Falcon 9 First Stage may elicit an alerting or other short-term behavioral reaction, including flushing into the water if hauled out. NMFS considers pinnipeds behaviorally reacting to stimuli by flushing into the water, moving more than 1 meter but not into the water; becoming alert and moving more than 1 meter; and changing direction of current movements as behavioral criteria for take by Level B harassment. As such, SpaceX has requested, and we propose to authorize, take of small numbers of marine mammals by Level B harassment incidental to Falcon 9 boost-backs and landings associated with sonic booms.

Data from launch monitoring by the USAF on the NCI has shown that pinniped reactions to sonic booms are correlated with the level of the sonic boom. Low energy sonic booms (<1.0 psf) have resulted in little to no behavioral responses, including head raising and briefly alerting but returning to normal behavior shortly after the stimulus (Table 4). More powerful sonic booms have resulted in pinnipeds flushing from haulouts. No pinniped mortalities have been associated with sonic booms. No sustained decreases in numbers of animals observed at haulouts have been observed after the stimulus. Table 4 presents a summary of monitoring efforts at the NCI from 1999 to 2011. These data show that reactions to sonic booms tend to be insignificant below 1.0 psf and that, even above 1.0 psf, only a portion of the animals present have reacted to the sonic boom. Time-lapse video photography during four launch events revealed that harbor seals that reacted to the rocket launch noise but did not leave the haul-out were all adults.

Data from previous monitoring also suggests that for those pinnipeds that flush from haulouts in response to sonic booms, the amount of time it takes for those animals to begin returning to the haulout site, and for numbers of animals to return to pre-launch levels, is correlated with sonic boom sound levels. Pinnipeds may begin to return to the haul-out site within 2–55 min of the launch disturbance, and the haulout site usually returned to pre-launch levels within 45–120 min. Monitoring data from launches of the Athena IKONOS rocket from VAFB, with ASELs of 107.3 and 107.8 dB recorded at the closest haul-out site, showed seals that flushed to the water on exposure to the sonic boom began to return to the haul-out approximately 16–55 minutes post-launch (Thorson *et al.,* 1999a; 1999b). In contrast, in the cases of Atlas rocket launches and several Titan II rocket launches with ASELs ranging from 86.7 to 95.7 dB recorded at the closest haul-out, seals began to return to the haul-out site within 2–8 minutes post-launch (Thorson and Francine, 1997; Thorson *et al.,* 2000).

Monitoring data has consistently shown that reactions among pinnipeds vary between species, with harbor seals and California sea lions tending to be more sensitive to disturbance than northern elephant seals and northern fur seals (Table 4). Because Steller sea lions and Guadalupe fur seals occur in the project area relatively infrequently, no data has been recorded on their reactions to sonic booms. At VAFB, harbor seals generally alert to nearby launch noises, with some or all of the animals going into the water. Usually the animals haul out again from within minutes to two hours or so of the launch, provided rising tides or breakers have not submerged the haul-out sites. Post-launch surveys often indicate as many or more animals hauled out than were present at the time of the launch, unless rising tides, breakers or other disturbances are involved (SAIC 2012). When launches occurred during high tides at VAFB, no impacts have been recorded because virtually all haul-out sites were submerged. At San Miguel Island, California sea lions react more strongly to sonic booms than most other species. Pups may react more than adults, either because they are more easily frightened or because their hearing is more acute. Although California sea lions on San Miguel Island tend to react to sonic booms, most disturbances are minor and temporary in nature (USAF 2013b). Harbor seals also appear to be more sensitive to sonic booms than other pinnipeds, often startling and fleeing into the water. Northern fur seals often show little or no reaction. Northern elephant seals generally exhibit no reaction at all, except perhaps a heads-up response or some stirring, especially if sea lions in the same area react strongly to the boom. Post-launch monitoring generally reveals a return to normal patterns within minutes up to an hour or two of each launch, regardless of species (SAIC 2012).

Table 4 summarizes monitoring efforts at San Miguel Island during which acoustic measurements were successfully recorded and during which pinnipeds were observed. During more recent launches, night vision equipment was used. The table shows only launches during which sonic booms were heard and recorded. The table shows that little or no reaction from the four species usually occurs when overpressures are below 1.0 psf. In general, as described above, elephant seals do not react unless other animals around them react strongly or if the sonic boom is extremely loud, and northern fur seals seem to react similarly. Not enough data exist to draw conclusions about harbor seals, but considering their reactions to launch noise at VAFB, it is likely that they are also sensitive to sonic booms (SAIC 2012).

TABLE 4—PINNIPED REACTIONS TO SONIC BOOMS AT SAN MIGUEL ISLAND

Launch event	Sonic boom level (psf)	Location	Species & associated reaction
Athena II (27 April 1999)	1.0	Adams Cove	Calif. sea lion—866 alerted; 232 flushed into water northern elephant seal—alerted but did not flush northern fur seal—alerted but did not flush.
Athena II (24 September 1999).	0.95	Point Bennett	Calif. sea lion—600 alerted; 12 flushed into water northern elephant seal—alerted but did not flush northern fur seal—alerted but did not flush.
Delta II 20 (November 2000)	0.4	Point Bennett	Calif. sea lion—60 flushed into water; no reaction from rest Northern elephant seal—no reaction.
Atlas II (8 September 2001) ..	0.75	Cardwell Point	Calif. sea lion—no reaction northern elephant seal—no reaction harbor seal—2 of 4 flushed into water.
Delta II (11 February 2002) ...	0.64	Point Bennett	Calif. sea lion—no reaction northern fur seal—no reaction northern elephant seal—no reaction.
Atlas II (2 December 2003) ...	0.88	Point Bennett	Calif. sea lion—40% alerted; several flushed to water northern elephant seal—no reaction.
Delta II (15 July 2004)	1.34	Adams Cove	Calif. sea lion—10% alerted.
Atlas V (13 March 2008)	1.24	Cardwell Point	northern elephant seal—no reaction.
Delta II (5 May 2009)	0.76	West of Judith Rock ..	Calif. sea lion—no reaction.
Atlas V (14 April 2011)	1.01	Cuyler Harbor	northern elephant seal—no reaction.
Atlas V (3 April 2014)	0.74	Cardwell Point	harbor seal—1 of ~25 flushed into water; no reaction from others.
Atlas V (12 December 2014)	1.16	Point Bennett	Calif. sea lion—5 of ~225 alerted; none flushed.

Physiological Responses to Sonic Booms

To determine if harbor seals experience changes in their hearing sensitivity as a result of sounds associated with rocket launches (including sonic booms), Auditory Brainstem Response (ABR) testing was conducted on 14 harbor seals following four launches of the Titan IV rocket, one launch of the Taurus rocket, and two launches of the Delta IV rocket from VAFB, in accordance with NMFS scientific research permits. ABR tests have not yet been performed following Falcon 9 rocket landings nor launches, however results of ABR tests that followed launches of other rockets from VAFB are nonetheless informative as the sound source (sonic boom) is expected to be the same as that associated with the activities proposed by SpaceX.

Following standard ABR testing protocol, the ABR was measured from one ear of each seal using sterile, subdermal, stainless steel electrodes. A conventional electrode array was used, and low-level white noise was presented to the non-tested ear to reduce any electrical potentials generated by the non-tested ear. A computer was used to produce the click and an 8 kilohertz (kHz) tone burst stimuli, through standard audiometric headphones. Over 1,000 ABR waveforms were collected and averaged per trial. Initially the stimuli were presented at SPLs loud enough to obtain a clean reliable waveform, and then decreased in 10 dB steps until the response was no longer reliably observed. Once response was no longer reliably observed, the stimuli were then increased in 10 dB steps to the original SPL. By obtaining two ABR waveforms at each SPL, it was possible to quantify the variability in the measurements.

Good replicable responses were measured from most of the seals, with waveforms following the expected pattern of an increase in latency and decrease in amplitude of the peaks, as the stimulus level was lowered. Detailed analysis of the changes in waveform latency and waveform replication of the ABR measurements for the 14 seals showed no detectable changes in the seals' hearing sensitivity as a result of exposure to the launch noise. The delayed start (1.75 to 3.5 hours after the launches) for ABR testing allows for the possibility that the seals may have recovered from a TTS before testing began. However, it can be said with confidence that the post-launch tested animals did not have permanent hearing changes due to exposure to the launch noise from the sonic booms associated with launches of the rockets from VAFB (SAIC 2013).

NMFS also notes that stress from long-term cumulative sound exposures can result in physiological effects on reproduction, metabolism, and general health, or on the animals' resistance to disease. However, this is not likely to occur as a result of the proposed activities because of the infrequent nature and short duration of the noise (up to six sonic booms annually). Research indicates that population levels at these haul-out sites have remained constant in recent years (with decreases only noted in some areas because of the increased presence of coyotes), giving support to this conclusion.

Anticipated Effects on Marine Mammal Habitat

Impacts on marine mammal habitat are part of the consideration in making a finding of negligible impact on the species and stocks of marine mammals. Habitat includes rookeries, mating grounds, feeding areas, and areas of similar significance. We do not anticipate that the proposed activities would result in any temporary or permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (*i.e.* fish and invertebrates). Behavioral disturbance caused by in-air acoustic stimuli may result in marine mammals temporarily moving away from or avoiding the exposure area but are not expected to have long term impacts, as supported by over two decades of launch monitoring studies on the Northern Channel Islands by the U.S. Air Force (MMCG and SAIC 2012).

Effects on Potential Prey and Foraging Habitat

The proposed activities would not result in in-water acoustic stimuli that would cause significant injury or mortality to prey species and would not create barriers to movement for marine mammal prey. In the event of an unsuccessful barge landing and a resulting explosion of the Falcon 9 First Stage, up to 25 pieces of debris would likely remain floating (see Section 6.5.1 in the IHA application for further details). SpaceX would recover all floating debris. Denser debris that

would not float on the surface is anticipated to sink relatively quickly and would be composed of inert materials. The area of benthic habitat impacted by falling debris would be very small (approximately 0.000706 km^2) (ManTech 2015) and all debris that would sink are composed of inert materials that would not affect water quality or bottom substrate potentially used by marine mammals. None of the debris would be so dense or large that benthic habitat would be degraded. As a result, debris from an unsuccessful barge landing that enters the ocean environment approximately 50 km offshore of VAFB would not have a significant effect on marine mammal habitat.

In summary, since the acoustic impacts associated with the proposed activities are of short duration and infrequent (up to six events annually), the associated behavioral responses in marine mammals are expected to be temporary. Therefore, the proposed activities are unlikely to result in long term or permanent avoidance of the exposure areas or loss of habitat. The proposed activities are also not expected to result in any reduction in foraging habitat or adverse impacts to marine mammal prey. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

SpaceX's IHA application contains descriptions of the mitigation measures proposed to be implemented during the specified activities in order to effect the least practicable adverse impact on the affected marine mammal species and stocks and their habitats. The proposed mitigation measures include the following:

- Unless constrained by other factors including human safety or national security concerns, launches will be scheduled to avoid, whenever possible, boost-backs and landings during the harbor seal pupping season of March through June.

We have carefully evaluated SpaceX's proposed mitigation and considered their likely effectiveness relative to implementation of similar mitigation measures in previously issued incidental take authorizations to preliminarily determine whether they are likely to affect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of SpaceX's proposed measures, we have preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat. While we have determined preliminarily that the proposed mitigation measures presented in this document will affect the least practicable adverse impact on the affected species or stocks and their habitat, we will consider all public comments to help inform our final decision.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within defined zones of effect (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

2. An increase in our understanding of how many marine mammals are likely to be exposed to stimuli that we associate with specific adverse effects, such as behavioral harassment or hearing threshold shifts;

3. An increase in our understanding of how marine mammals respond to stimuli expected to result in incidental take and how anticipated adverse effects on individuals may impact the population, stock, or species (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict pertinent information, *e.g.,* received level, distance from source);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict pertinent information, *e.g.,* received level, distance from source); and

• Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli.

4. An increased knowledge of the affected species; or

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

SpaceX submitted a monitoring plan as part of their IHA application. SpaceX's proposed marine mammal monitoring plan was created with input from NMFS and was based on similar plans that have been successfully implemented by other action proponents under previous authorizations for similar projects, specifically the USAF's monitoring of rocket launches from VAFB. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Proposed monitoring protocols vary according to modeled sonic boom intensity and season. Sonic boom modeling will be performed prior to all boost-back events. PCBoom, a commercially available modeling program, or an acceptable substitute, will be used to model sonic booms. Launch parameters specific to each launch will be incorporated into each model. These include direction and trajectory, weight, length, engine thrust, engine plume drag, position versus time from initiating boost-back to additional engine burns, among other aspects. Various weather scenarios will be analyzed from NOAA weather records for the region, then run through the model. Among other factors, these will include the presence or absence of the jet stream, and if present, its direction, altitude and velocity. The type, altitude, and density of clouds will also be considered. From these data, the models will predict peak amplitudes and impact locations.

Marine Mammal Monitoring

Marine mammal monitoring procedures will consist of the following:

• Should sonic boom model results indicate that a peak overpressure of 1.0 psf or greater is likely to impact VAFB, then acoustic and biological monitoring at VAFB will be implemented.

• If it is determined that a sonic boom of 1.0 psf or greater is likely to impact one of the Northern Channel Islands between 1 March and 30 June; a sonic boom greater than 1.5 psf between 1 July and 30 September, and a sonic boom greater than 2.0 psf between 1 October and 28 February, then monitoring will be conducted at the haulout site closest to the predicted sonic boom impact area.

• Monitoring would commence at least 72 hours prior to the boost-back and continue until at least 48 hours after the event.

• Monitoring data collected would include multiple surveys each day that record the species; number of animals; general behavior; presence of pups; age class; gender; and reaction to booms or other natural or human-caused disturbances. Environmental conditions such as tide, wind speed, air temperature, and swell would also be recorded.

• If the boost-back is scheduled for daylight; video recording of pinnipeds on NCI would be conducted during the boost-back in order to collect required data on reaction to launch noise.

• For launches during the harbor seal pupping season (March through June), follow-up surveys will be conducted within 2 weeks of the boost-back/landing.

Acoustic Monitoring

Acoustic measurements of the sonic boom created during boost-back at the monitoring location would be recorded to determine the overpressure level.

Reporting

SpaceX will submit a report within 90 days after each Falcon 9 First Stage recovery event that includes the following information:

• Summary of activity (including dates, times, and specific locations of Falcon 9 First Stage recovery activities)

• Summary of monitoring measures implemented

• Detailed monitoring results and a comprehensive summary addressing goals of monitoring plan, including:

○ Number, species, and any other relevant information regarding marine mammals observed and estimated exposed/taken during activities;

○ Description of the observed behaviors (in both presence and absence of activities);

○ Environmental conditions when observations were made; and

○ Assessment of the implementation and effectiveness of monitoring measures.

In addition to the above post-activity reports, a draft annual report will be submitted within 90 calendar days of the expiration of the proposed IHA, or within 45 calendar days prior to the effective date of a subsequent IHA (if applicable). The annual report will summarize the information from the post-activity reports, including but not necessarily limited to: (a) Numbers of pinnipeds present on the haulouts prior to commencement of Falcon 9 First Stage recovery activities; (b) numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of Falcon 9 First Stage recovery noise; (c) for pinnipeds that entered the water as a result of Falcon 9 First Stage recovery noise, the length of time(s) those pinnipeds remained off the haulout or rookery; and (d) any behavioral modifications by pinnipeds that likely were the result of stimuli associated with the proposed activities.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not authorized by the proposed IHA (if issued), such as a Level A harassment, or a take of a marine mammal species other than those proposed for authorization, SpaceX would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources. The report would include the following information:

• Time, date, and location (latitude/longitude) of the incident;

• Description of the incident;

• Status of all Falcon 9 First Stage recovery activities in the 48 hours preceding the incident;

• Description of all marine mammal observations in the 48 hours preceding the incident;

• Species identification or description of the animal(s) involved;

• Fate of the animal(s); and

• Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with SpaceX to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SpaceX would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that SpaceX discovers an injured or dead marine mammal, and the lead MMO determines the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), SpaceX would immediately report the incident to mailto: The Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS West Coast Region Stranding Coordinator.

The report would include the same information identified in the paragraph above. Authorized activities would be able to continue while NMFS reviews the circumstances of the incident.

NMFS would work with SpaceX to determine whether modifications in the activities are appropriate.

In the event that SpaceX discovers an injured or dead marine mammal, and the lead MMO determines the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SpaceX would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and NMFS West Coast Region Stranding Coordinator, within 24 hours of the discovery. SpaceX would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

SpaceX has requested, and NMFS proposes, authorization to take harbor seals, California sea lions, northern elephant seals, Steller sea lions, northern fur seals, and Guadalupe fur seals, incidental to Falcon 9 First Stage recovery activities. All anticipated takes would be by Level B harassment only, resulting from noise associated with sonic booms and involving temporary changes in behavior. Estimates of the number of harbor seals, California sea lions, northern elephant seals, Steller sea lions, northern fur seals, and Guadalupe fur seals that may be harassed by the proposed activities is based upon the number of potential events associated with Falcon 9 First Stage recovery activities (maximum 6 per year) and the average number of individuals of each species that are present in areas that will be exposed to the activities at levels that are expected to result in Level B harassment.

In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then incorporate information about marine mammal density or abundance in the project area. We first provide information on applicable thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidences of take. It should be noted that estimates of Level B take described below are not necessarily estimates of the number of individual animals that are expected to be taken; a smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (*e.g.,* because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

Sound Thresholds

Typically NMFS relies on the acoustic criteria shown in Table 2 to estimate the extent of take by Level A and/or Level B harassment that is expected as a result of an activity. If we relied on the acoustic criteria shown in Table 2, we would assume harbor seals exposed to airborne sound at levels at or above 90 dB rms re 20 μPa, and non-harbor seal pinnipeds exposed to airborne sound at levels at or above 100 dB rms re 20 μPa, would experience Level B harassment. However, in this case we have the benefit of more than 20 years of observational data on pinniped responses to the stimuli associated with the proposed activity that we expect to result in harassment (sonic booms) in the particular geographic area of the proposed activity (VAFB and the NCI). Therefore, we consider these data to be the best available information in regard to estimating take based on modeled exposures among pinnipeds to sounds associated with the proposed activities. These data suggest that pinniped reactions to sonic booms are dependent on the species, the age of the animal, and the intensity of the sonic boom (see Table 4).

As described above, data from launch monitoring by the USAF on the NCI and at VAFB have shown that pinniped reactions to sonic booms are correlated to the level of the sonic boom. Low energy sonic booms (< 1.0 psf) have resulted in little to no behavioral responses, including head raising and briefly alerting but returning to normal behavior shortly after the stimulus. More powerful sonic booms have flushed animals from haulouts (but not resulted in any mortality or sustained decreased in numbers after the stimulus). Table 4 presents a summary of monitoring efforts at the NCI from 1999 to 2011. These data show that reactions to sonic booms tend to be insignificant below 1.0 psf and that, even above 1.0 psf, only a portion of the animals present react to the sonic boom. Therefore, for the purposes of estimating the extent of take that is likely to occur as a result of the proposed activities, we assume that Level B harassment occurs when a pinniped (on land) is exposed to a sonic boom at or above 1.0 psf. Therefore the number of expected takes by Level B harassment is based on estimates of the numbers of animals that would be within the area exposed to sonic booms at levels at or above 1.0 psf.

The data recorded by USAF at VAFB and the NCI over the past 20 years has also shown that pinniped reactions to sonic booms vary between species. As described above, little or no reaction has been observed in harbor seals, California sea lions, northern fur seals and northern elephant seals when overpressures were below 1.0 psf (data on responses among Steller sea lions and Guadalupe fur seals is not available). At the NCI sea lions have reacted more strongly to sonic booms than most other species. Harbor seals also appear to be more sensitive to sonic booms than most other pinnipeds, often resulting in startling and fleeing into the water. Northern fur seals generally show little or no reaction, and northern elephant seals generally exhibit no reaction at all, except perhaps a heads-up response or some stirring, especially if sea lions in the same area mingled with the elephant seals react strongly to the boom. No data is available on Steller sea lion or Guadalupe fur seal responses to sonic booms.

Exposure Area

As described above, SpaceX performed acoustic modeling to estimate overpressure levels that would be created during the return flight of the Falcon 9 First Stage (Wyle, Inc. 2015). The predicted acoustic footprint of the sonic boom was computed using the computer program PCBoom (Plotkin and Grandi 2002; Page et al. 2010). Modeling was performed for a landing at VAFB and separately for a contingency barge landing (see Figures 2–1, 2–2, 2–3 and 2–4 in the IHA application).

The model results predicted that sonic overpressures would reach up to 2.0 pounds psf in the immediate area around SLC–4W (see Figures 2–1 and 2–2 in the IHA application) and an overpressure between 1.0 and 2.0 psf would impact the coastline of VAFB

from approximately 8 km north of SLC–4W to approximately 18 km southeast of SLC–4W see (Figures 2–1 and 2–2 in the IHA application). A substantially larger area, including the mainland, the Pacific Ocean, and the NCI would experience an overpressure between 0.1 and 1.0 psf (see Figure 2–1 in the IHA application). In addition, San Miguel Island and Santa Rosa Island may experience an overpressure up to 3.1 psf and the west end of Santa Cruz Island may experience an overpressure up to 1.0 psf (see Figures 2–1 and 2–3 in the IHA application). During a contingency barge landing event, an overpressure of up to 2.0 psf would impact the Pacific Ocean at the contingency landing location approximately 50 km offshore of VAFB. San Miguel Island and Santa Rosa Island would experience a sonic boom between 0.1 and 0.2 psf, while sonic boom overpressures on the mainland would be between 0.2 and 0.4 psf.

SpaceX assumes that actual sonic booms that occur during the proposed activities will vary slightly from the modeled sonic booms; therefore, when estimating take based on areas anticipated to be impacted by sonic booms at or above 1.0 psf, haulouts within approximately 8.0 km (5 miles) of modeled contour lines for sonic booms at or above 1.0 psf were included to be conservative. Therefore, in estimating take for a VAFB landing, haulouts were included from the areas of Point Arguello and Point Conception, all of San Miguel Island, the north western half of Santa Rosa Island, and northwestern quarter of Santa Cruz Island (see Figure 2–2 and 2–3 in the IHA application). For a contingency landing event, sonic booms are far enough offshore so that only haulouts along the northwestern edge of San Miguel Island may be exposed to a 1.0 psf or greater sonic boom (see Figure 2–4 in the IHA application). As modeling indicates that substantially more haulouts would be impacted by a sonic boom at or above 1.0 psf in the event of a landing at VAFB versus a landing at the contingency landing location, estimated takes are substantially higher in the event of a VAFB landing versus a barge landing.

Description of Take Calculation

The take calculations presented here rely on the best data currently available for marine mammal populations in the project location. Data collected from marine mammal surveys represent the best available information on the occurrence of the six pinniped species in the project area. The quality of information available on pinniped abundance in the project area is varies depending on species; some species, such as California sea lions, are surveyed regularly at VAFB and the NCI, while for others, such as northern fur seals, survey data is largely lacking. See Table 5 for total estimated incidents of take. Take estimates were based on ''worst case scenario'' assumptions, as follows:

- All six proposed Falcon 9 First Stage recovery actions are assumed to result in landings at VAFB, with no landings occurring at the contingency barge landing location. This is a conservative assumption as sonic boom modeling indicates landings at VAFB are expected to result in a greater number of exposures to sound resulting in Level B harassment than would be expected for landings at the contingency landing location offshore. Some landings may ultimately occur at the contingency landing location; however, the number of landings at each location is not known in advance.
- All pinnipeds estimated to be in areas ensonified by sonic booms at or above 1.0 psf are assumed to be hauled out at the time the sonic boom occurs. This assumption is conservative as some animals may in fact be in the water with heads submerged when a sonic boom occurs and would therefore not be exposed to the sonic boom at a level that would result in Level B harassment.
- Actual sonic booms that occur during the proposed activities are assumed to vary slightly from the modeled sonic booms; therefore, when estimating take based on areas expected to be impacted by sonic booms at or above 1.0 psf, an additional buffer of 8.0 km (5 miles) was added to modeled sonic boom contour lines. Thus haulouts that are within approximately 8.0 km (5 miles) of modeled sonic booms at 1.0 psf and above were included in the take estimate. This is a conservative assumption as it expands the area of ensonification that would be expected to result in Level B harassment.

California sea lion—California sea lions are common offshore of VAFB and haul out on rocks and beaches along the coastline of VAFB, though pupping rarely occurs on the VAFB coastline. They haulout in large numbers on the NCI and rookeries exist on San Miguel and Santa Cruz islands. Based on modeling of sonic booms from Falcon 9 First Stage recovery activities, Level B harassment of California sea lions is expected to occur both at VAFB and at the NCI. Estimated take of California sea lions at VAFB was calculated using the largest count totals from monthly surveys of VAFB haulout sites from 2013–2015. These data were compared to the modeled sonic boom profiles. Counts from haulouts that were within the area expected to be ensonified by a sonic boom above 1.0 psf, plus the buffer of 8 km as described above, were included in take estimates; those haulouts outside the area expected to be ensonified by a sonic boom above 1.0 psf, plus the buffer of 8 km, were not included in the take estimate. The estimated number of California sea lion takes on the NCI and at Point Conception was derived from aerial survey data collected from 2002 to 2012 by the NOAA Southwest Fishery Science Center (SWFSC). The estimates are based on the largest number of individuals observed in the count blocks that fall within the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km, based on sonic boom modeling. Estimates of Level B harassment for California sea lions are shown in Table 5.

Harbor Seal—Pacific harbor seals are the most common marine mammal inhabiting VAFB, congregating on several rocky haul-out sites along the VAFB coastline. They also haul out, breed, and pup in isolated beaches and coves throughout the coasts of the NCI. Based on modeling of sonic booms from Falcon 9 First Stage recovery activities, Level B harassment of harbor seals is expected to occur both at VAFB and at the NCI. Estimated take of harbor seals at VAFB was calculated using the largest count totals from monthly surveys of VAFB haulout sites from 2013–2015. These data were compared to the modeled sonic boom profiles. Counts from haulouts that were within the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km were included in take estimates; those haulouts outside the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km were not included in the take estimate. The estimated number of harbor seal takes on the NCI and at Point Conception was derived from aerial survey data collected from 2002 to 2012 by the NOAA SWFSC. The estimates are based on the largest number of individuals observed in the count blocks that fall within the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km, based on sonic boom modeling.

It should be noted that total take estimates shown in Table 5 represent incidents of exposure to sound resulting in Level B harassment from the proposed activities, and not estimates of the number of individual harbor seals exposed. As described above, harbor seals display a high degree of site fidelity to their preferred haulout sites,

and are non-migratory, rarely traveling more than 50 km from their haulout sites. Thus, while the estimated abundance of the California stock of Pacific harbor seals is 30,968 (Carretta et al. 2015), a substantially smaller number of individual harbor seals is expected to occur within the project area. The number of harbor seals expected to be taken by Level B harassment, per Falcon 9 First Stage recovery action, is 2,157 (Table 5). We expect that, because of harbor seals' site fidelity to haulout locations at VAFB and the NCI, and because of their limited ranges, the same individuals are likely to be taken repeatedly over the course of the proposed activities (six Falcon 9 First Stage recovery actions). Estimates of Level B harassment for harbor seals are shown in Table 5.

Steller Sea Lion—Steller sea lions occur in small numbers at VAFB (maximum 16 individuals observed at any time) and on San Miguel Island (maximum 4 individuals recorded at any time). They have not been observed on the Channel Islands other than San Miguel Island and they not currently have rookeries on the NCI or at VAFB. Estimated take of Steller sea lions at VAFB was calculated using the largest count totals from monthly surveys of VAFB from 2013–2015. These data were compared to the modeled sonic boom profiles. Counts from haulouts that were within the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km were included in take estimates; those haulouts outside the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km were not included in the take estimate. Estimates of Level B harassment for Steller sea lions are shown in Table 5.

Northern elephant seal—Northern elephant seals haul out sporadically on rocks and beaches along the coastline of VAFB and at Point Conception, but they do not currently breed or pup at VAFB or at Point Conception. Northern elephant seals have rookeries on San Miguel Island and Santa Rosa Island. They are rarely seen on Santa Cruz Island and Anacapa Island. Based on modeling of sonic booms from Falcon 9 First Stage recovery activities, Level B harassment of harbor seals is expected to occur both at VAFB and at the NCI.

Estimated take of northern elephant seals at VAFB was calculated using the largest count totals from monthly surveys of VAFB haulout sites from 2013–2015. These data were compared to the modeled sonic boom profiles. Counts from haulouts that were within the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km were included in take estimates; those haulouts outside the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km were not included in the take estimate. The estimated number of northern elephant seal takes on the NCI and at Point Conception was derived from aerial survey data collected from 2002 to 2012 by the NOAA SWFSC. The estimates are based on the largest number of individuals observed in the count blocks that fall within the area expected to be ensonified by a sonic boom above 1.0 psf plus a radius of 8 km, based on sonic boom modeling.

As described above, monitoring data has shown that reactions to sonic booms among pinnipeds vary between species, with northern elephant seals consistently showing little or no reaction (Table 4). USAF launch monitoring data shows that northern elephant seals have never been observed responding to sonic booms. No elephant seal has been observed flushing to the water in response to a sonic boom. Because of the data showing that elephant seals consistently show little to no reaction to the sonic booms, we conservatively estimate that 10 percent of northern elephant seal exposures to sonic booms at or above 1.0 psf will result in Level B harassment. Estimates of Level B harassment for northern elephant seals are shown in Table 5.

Northern fur seal—Northern fur seals have rookeries on San Miguel Island, the only island in the NCI on which they have been observed. No haulout or rookery sites exist for northern fur seals at VAFB or on the mainland coast, thus take from sonic booms is only expected on San Miguel Island and not on the mainland. Comprehensive count data for northern fur seals on San Miguel Island are not available. Estimated take of northern fur seals was derived from northern fur seals pup and bull census data (Testa 2013), and personal communications with subject matter experts based at the NMFS National Marine Mammal Laboratory. Northern fur seal abundance on San Miguel Island varies substantially depending on the season, with a maximum of 6,000–8,000 seals hauled out on the western end of the island and at Castle Rock (~1 km northwest of San Miguel Island) during peak pupping season in July; the number of seals on San Miguel Island then decreases steadily from August until November, when very few seals are present. The number of seals on the island does not begin to increase again until the following June (pers. comm., T. Orr, NMFS NMML, to J. Carduner, NMFS, 2/27/16). As the dates of Falcon 9 First Stage recovery activities are not known, the activities could occur when the maximum number or the minimum number of fur seals is present, depending on season. We therefore estimated an average of 5,000 northern fur seals would be present in the area affected by sonic booms above 1.0 psf.

As described above, monitoring data has shown that reactions to sonic booms among pinnipeds vary between species, with northern fur seals consistently showing little or no reaction (Table 4). As described above, launch monitoring data shows that northern fur seals sometimes alert to sonic booms but have never been observed flushing to the water in response to sonic booms. Because of the data showing that fur seals consistently show little to no reaction to sonic booms, we conservatively estimate that 10 percent of northern fur seal exposures to sonic booms at or above 1.0 psf will result in Level B harassment. Estimates of Level B harassment for northern fur seals are shown in Table 5.

Guadalupe fur seal—There are estimated to be approximately 20–25 individual Guadalupe fur seals that have fidelity to San Miguel Island. The highest number of individuals observed at any one time on San Miguel Island is thirteen. No haul-out or rookery sites exist for Guadalupe fur seals on the mainland coast, including VAFB. Comprehensive survey data on Guadalupe fur seals in the NCI is not readily available. The estimated number of takes of Guadalupe fur seals was based the maximum number of Guadalupe fur seals observed at any one time on San Miguel Island (pers. comm., J. LaBonte, ManTech, to J. Carduner, NMFS, Feb 29, 2016). Estimates of Level B harassment for Guadalupe fur seals are shown in Table 5.

As described above, the take estimates shown in Table 5 are considered reasonable estimates of the number of marine mammal exposures to sound resulting in Level B harassment that are likely to occur over the course of the project, and not necessarily the number of individual animals exposed.

TABLE 5—NUMBER OF POTENTIAL INCIDENTAL TAKES OF MARINE MAMMALS, AND PERCENTAGE OF STOCK ABUNDANCE, AS A RESULT OF THE PROPOSED ACTIVITIES

Species	Geographic location	Estimated takes per Falcon 9 First Stage recovery action	Total estimated takes over the duration of the proposed IHA^	Percentage of stock abundance estimated taken
Harbor Seal	VAFB [a]	366	12,942	7%*
	Pt. Conception [b]	488.		
	San Miguel Island [b]	752.		
	Santa Rosa Island [b]	412.		
	Santa Cruz Island [b]	139.		
California Sea Lion	VAFB [a]	416	56,496	19%
	Pt. Conception	n/a.		
	San Miguel Island [c]	9,000.		
	Santa Rosa Island [c].			
	Santa Cruz Island [c].			
Northern Elephant Seal	VAFB [a]	19	960	0.5%
	Pt. Conception [d]	1.		
	San Miguel Island [c].			
	Santa Rosa Island [c]	150.		
	Santa Cruz Island [c].			
Steller Sea Lion	VAFB [a]	16	120	0.2%
	Pt. Conception	n/a.		
	San Miguel Island	4.		
	Santa Rosa Island	n/a.		
	Santa Cruz Island	n/a.		
Northern Fur Seal	VAFB	n/a	3,000	23%
	Pt. Conception	n/a.		
	San Miguel Island [c]	500.		
	Santa Rosa Island	n/a.		
	Santa Cruz Island	n/a.		
Guadalupe Fur Seal	VAFB	n/a	18	0.2%
	Pt. Conception	n/a.		
	San Miguel Island [e]	3.		
	Santa Rosa Island	n/a.		
	Santa Cruz Island	n/a.		

[a] VAFB monthly marine mammal survey data 2013–2015 (ManTech SRS Technologies, Inc. 2014, 2015 and VAFB, unpubl. data).
[b] NOAA Fisheries aerial survey data June 2002 and May 2004 (M. Lowry, NOAA Fisheries, unpubl. data).
[c] Testa 2013; USAF 2013; pers. comm., T. Orr, NMFS NMML, to J. Carduner, NMFS, Feb 27, 2016.
[d] NOAA Fisheries aerial survey data February 2010 (M. Lowry, NOAA Fisheries, unpubl. data).
[e] DeLong and Melin 2000; J. Harris, NOAA Fisheries, pers. comm.
^ Based on six Falcon 9 First Stage recovery actions, with SLC–4W landings, per year.
* For harbor seals, estimated percentage of stock abundance taken is based on estimated number of individuals taken versus estimated total exposures.

Analyses and Preliminary Determinations

Negligible Impact Analysis

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, we consider other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

To avoid repetition, the discussion of our analyses applies to all the species listed in Table X, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is no information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

Activities associated with the proposed Falcon 9 First Stage recovery project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from in-air sounds generated from sonic booms. Potential takes could occur if marine mammals are hauled out in areas where a sonic boom above 1.0 psf occurs, which is considered likely given the modeled acoustic footprint of the proposed activities and the occurrence of pinnipeds in the project area. Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from similar activities that have received incidental take authorizations from NMFS, will likely be limited to reactions such as alerting to the noise, with some animals possibly moving toward or entering the water, depending on the species and the psf associated with the sonic boom. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some

small subset of the overall stock is unlikely to result in any significant realized decrease in fitness to those individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable impact through use of mitigation measures described above.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Flushing of pinnipeds into the water has the potential to result in mother-pup separation, or could result in stampede, either of which could potentially result in serious injury or mortality and thereby could potentially impact the stock or species. However, based on the best available information, no serious injury or mortality of marine mammals is anticipated as a result of the proposed activities.

Even in the instances of pinnipeds being behaviorally disturbed by sonic booms from rocket launches at VAFB, no evidence has been presented of abnormal behavior, injuries or mortalities, or pup abandonment as a result of sonic booms (SAIC 2013). These findings came as a result of more than two decades of surveys at VAFB and the NCI (MMCG and SAIC, 2012). Post-launch monitoring generally reveals a return to normal patterns within minutes up to an hour or two of each launch, regardless of species. For instance, eight space vehicle launches occurred from north VAFB, near the Spur Road and Purisima Point haul-out sites, during the period 7 February 2009 through 6 February 2014. Of these eight Delta II and Taurus launches, three occurred during the harbor seal pupping season. The continued use of the Spur Road and Purisima Point haulout sites indicates that it is unlikely that these rocket launches (and associated sonic booms) resulted in long-term disturbances of pinnipeds using the haulout sites. Moreover, adverse cumulative impacts from launches were not observed at this site. San Miguel Island represents the most important pinniped rookery in the lower 48 states, and as such extensive research has been conducted there for decades. From this research, as well as stock assessment reports, it is clear that VAFB operations (including associated sonic booms) have not had any significant impacts on San Miguel Island rookeries and haulouts (SAIC 2012). Based on this extensive record, we believe the likelihood of serious injury or mortality of any marine mammal as a result of the proposed activities is so low as to be discountable. Thus we do not anticipate Level A harassment will occur as a result of the proposed activities and do not propose to authorize take in the form of Level A harassment.

The activities analyzed here are substantially similar to other activities that have received MMPA incidental take authorizations previously, including Letters of Authorization for USAF launches of space launch vehicles at VAFB, which have occurred for over 20 years with no reported injuries or mortalities to marine mammals, and no known long-term adverse consequences to marine mammals from behavioral harassment. As described above, several cetacean species occur within the project area, however no cetaceans are expected to be affected by the proposed activities.

In summary, this negligible impact analysis is founded on the following factors:

1. The possibility of injury, serious injury, or mortality may reasonably be considered discountable;

2. The anticipated incidences of Level B harassment consist of, at worst, temporary modifications in behavior (*i.e.,* short distance movements and occasional flushing into the water with return to haulouts within at most two days), which are not expected to adversely affect the fitness of any individuals;

3. The considerable evidence, based on over 20 years of monitoring data, suggesting no long-term changes in the use by pinnipeds of rookeries and haulouts in the project area as a result of sonic booms; and

4. The presumed efficacy of planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact.

In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will be short-term on individual animals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, we preliminarily find that the total marine mammal take from SpaceX's Falcon 9 First Stage recovery activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

The numbers of proposed authorized takes would be considered small relative to the relevant stocks or populations (23 percent for northern fur seals; 19 percent for California sea lions; 7 percent for Pacific harbor seals; less than 1 percent each for northern elephant seals, Guadalupe fur seals and Steller sea lions). But, it is important to note that the number of expected takes does not necessarily represent of the number of individual animals expected to be taken. Our small numbers analysis accounts for this fact. Multiple exposures to Level B harassment can accrue to the same individuals over the course of an activity that occurs multiple times in the same area (such as SpaceX's proposed activity). This is especially likely in the case of species that have limited ranges and that have site fidelity to a location within the project area, as is the case with Pacific harbor seals.

As described above, harbor seals are non-migratory, rarely traveling more than 50 km from their haul-out sites. Thus, while the estimated abundance of the California stock of Pacific harbor seals is 30,968 (Carretta *et al.* 2015), a substantially smaller number of individual harbor seals is expected to occur within the project area. We expect that, because of harbor seals' site fidelity to locations at VAFB and the NCI, and because of their limited ranges, the same individuals are likely to be taken repeatedly over the course of the proposed activities (maximum of six Falcon 9 First Stage recovery actions). Therefore the number of exposures to Level B harassment over the course of proposed authorization (the total number of takes shown in Table 5) is expected to accrue to a much smaller number of individuals. The maximum number of harbor seals expected to be taken by Level B harassment, per Falcon 9 First Stage recovery action, is 2,157. As we believe the same individuals are likely to be taken repeatedly over the course of the proposed activities, we use the estimate of 2,157 individual animals taken per Falcon 9 First Stage recovery activity for the purposes of estimating the percentage of the stock abundance likely to be taken.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals

and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we preliminarily find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Potential impacts resulting from the proposed activities will be limited to individuals of marine mammal species located in areas that have no subsistence requirements. Therefore, no impacts on the availability of marine mammal species or stocks for subsistence use are expected.

National Environmental Policy Act (NEPA)

The U.S. Air Force has prepared a Draft Environmental Assessment (EA) in accordance with NEPA and the regulations published by the Council on Environmental Quality. It will be posted on the NMFS Web site (at *www.nmfs.noaa.gov/pr/permits/incidental/)* concurrently with the publication of this proposed IHA. NMFS will independently evaluate the EA and determine whether or not to adopt it. We may prepare a separate NEPA analysis and incorporate relevant portions of USAF's EA by reference. Information in SpaceX's application, the EA, and this notice collectively provide the environmental information related to proposed issuance of the IHA for public review and comment. We will review all comments submitted in response to this notice as we complete the NEPA process, including a decision of whether to sign a Finding of No Significant Impact (FONSI), prior to a final decision on the IHA request.

Endangered Species Act (ESA)

There is one marine mammal species (Guadalupe fur seal) listed under the ESA with confirmed occurrence in the area expected to be impacted by the proposed activities. The NMFS West Coast Region Protected Resources Division has determined that the NMFS Permits and Conservation Division's proposed authorization of SpaceX's Falcon 9 First Stage recovery activities are not likely to adversely affect the Guadalupe fur seal. Therefore, formal ESA section 7 consultation on this proposed authorization is not required.

Proposed Authorization

As a result of these preliminary determinations, we propose to issue an IHA to SpaceX, to conduct the described Falcon 9 First Stage recovery activities at Vandenberg Air Force Base, in the Pacific Ocean offshore Vandenberg Air Force Base, and at the Northern Channel Islands, California, from June 30, 2016 through June 29, 2017, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid from June 30, 2016 through June 29, 2017.

(a) This IHA is valid only for Falcon 9 First Stage recovery activities at Vandenberg Air Force Base, in the Pacific Ocean offshore Vandenberg Air Force Base, and at the Northern Channel Islands, California.

2. General Conditions

(a) A copy of this IHA must be in the possession of SpaceX, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are the Pacific harbor seal (*Phoca vitulina richardii*), California sea lion (*Zalophus californianus*), Steller sea lion (eastern Distinct Population Segment, or DPS) (*Eumetopias jubatus*), northern elephant seal (*Mirounga angustirostris*), northern fur seal (*Callorhinus ursinus*), and Guadalupe fur seal (*Arctocephalus townsendi*).

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 5 in the proposed IHA authorization for numbers of take authorized.

(d) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

3. Mitigation Measures

The holder of this Authorization is required to implement the following mitigation measure:

(a) Unless constrained by other factors including human safety or national security concerns, launches will be scheduled to avoid, whenever possible, boost-backs and landings during the harbor seal pupping season of March through June.

4. Monitoring

The holder of this Authorization is required to conduct marine mammal and acoustic monitoring as described below.

(a) SpaceX must notify the Administrator, West Coast Region, NMFS, by letter or telephone, at least 2 weeks prior to activities possibly involving the taking of marine mammals;

(b) To conduct monitoring of Falcon 9 First Stage recovery activities, SpaceX must designate qualified, on-site individuals approved in advance by NMFS;

(c) If sonic boom model results indicate that a peak overpressure of 1.0 psf or greater is likely to impact VAFB, then acoustic and biological monitoring at VAFB will be implemented.

(d) If sonic boom model results indicate that a peak overpressure of 1.0 psf or greater is predicted to impact the Channel Islands between March 1 and June 30, greater than 1.5 psf between July 1 and September 30, and greater than 2.0 psf between October 1 and February 28, monitoring of haulout sites on the Channel Islands will be implemented. Monitoring will be conducted at the haulout site closest to the predicted sonic boom impact area;

(e) Monitoring will be conducted for at least 72 hours prior to any planned Falcon 9 First Stage recovery and continue until at least 48 hours after the event;

(f) For launches during the harbor seal pupping season (March through June), follow-up surveys will be conducted within 2 weeks of the Falcon 9 First Stage recovery to monitor for any long-term adverse effects on marine mammals;

(g) If Falcon 9 First Stage recovery is scheduled during daylight, time-lapse photography or video recording will be used to document the behavior of marine mammals during Falcon 9 First Stage recovery activities;

(h) Monitoring will include multiple surveys each day that record the species, number of animals, general behavior, presence of pups, age class, gender and reaction to noise associated with Falcon 9 First Stage recovery, sonic booms or other natural or human caused disturbances, in addition to recording environmental conditions such as tide, wind speed, air temperature, and swell; and

(i) Acoustic measurements of the sonic boom created during boost-back at the monitoring location will be recorded to determine the overpressure level.

5. Reporting

The holder of this Authorization is required to:

(a) Submit a report to the Office of Protected Resources, NMFS, and the West Coast Regional Administrator, NMFS, within 60 days after each Falcon

9 First Stage recovery action. This report must contain the following information:

(1) Date(s) and time(s) of the Falcon 9 First Stage recovery action;

(2) Design of the monitoring program; and

(3) Results of the monitoring program, including, but not necessarily limited to:

(i) Numbers of pinnipeds present on the haulout prior to the Falcon 9 First Stage recovery;

(ii) Numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have moved more than one meter or entered the water as a result of Falcon 9 First Stage recovery activities;

(iii) For pinnipeds estimated to have entered the water as a result of Falcon 9 First Stage recovery noise, the length of time pinnipeds remained off the haulout or rookery;

(v) Any other observed behavioral modifications by pinnipeds that were likely the result of Falcon 9 First Stage recovery activities, including sonic boom; and

(vi) Results of acoustic monitoring including comparisons of modeled sonic booms with actual acoustic recordings of sonic booms.

(b) Submit an annual report on all monitoring conducted under the IHA. A draft of the annual report must be submitted within 90 calendar days of the expiration of this IHA, or, within 45 calendar days of the renewal of the IHA (if applicable). A final annual report will be prepared and submitted within 30 days following resolution of comments on the draft report from NMFS. The annual report will summarize the information from the 60-day post-activity reports, including but not necessarily limited to:

(1) Date(s) and time(s) of the Falcon 9 First Stage recovery action;

(2) Design of the monitoring program; and

(3) Results of the monitoring program, including, but not necessarily limited to:

(i) Numbers of pinnipeds present on the haulout prior to the Falcon 9 First Stage recovery;

(ii) Numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of Falcon 9 First Stage recovery activities;

(iii) For pinnipeds estimated to have moved more than one meter or entered the water as a result of Falcon 9 First Stage recovery noise, the length of time pinnipeds remained off the haulout or rookery;

(v) Any other observed behavioral modifications by pinnipeds that were likely the result of Falcon 9 First Stage recovery activities, including sonic boom;

(vi) Any cumulative impacts on marine mammals as a result of the activities, such as long term reductions in the number of pinnipeds at haulouts as a result of the activities; and

(vii) Results of acoustic monitoring including comparisons of modeled sonic booms with actual acoustic recordings of sonic booms.

(c) Reporting injured or dead marine mammals:

(1) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA (as determined by the lead marine mammal observer), such as an injury (Level A harassment), serious injury, or mortality, SpaceX will immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

C. Status of all Falcon 9 First Stage recovery activities in the 48 hours preceding the incident;

D. Description of all marine mammal observations in the 48 hours preceding the incident;

E. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

F. Species identification or description of the animal(s) involved;

G. Fate of the animal(s); and

H. Photographs or video footage of the animal(s).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with SpaceX to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SpaceX may not resume their activities until notified by NMFS via letter, email, or telephone.

(2) In the event that SpaceX discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), SpaceX will immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 6(c)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident and makes a final determination on the cause of the reported injury or death. NMFS will work with SpaceX to determine whether additional mitigation measures or modifications to the activities are appropriate.

(3) In the event that SpaceX discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), SpaceX will report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. SpaceX will provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. The cause of injury or death may be subject to review and a final determination by NMFS.

6. Modification and suspension

(a) This IHA may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines that the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analysis, the draft authorization, and any other aspect of this Notice of Proposed IHA for SpaceX Falcon 9 First Stage recovery activities. Please include with your comments any supporting data or literature citations to help inform our final decision on SpaceX's request for an MMPA authorization.

Dated: March 25, 2016.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–07191 Filed 3–30–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

United States Global Change Research Program

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Request for Public Nominations for Technical Contributors.

SUMMARY: The U.S. Global Change Research Program (USGCRP) is initiating an Interagency Special Report on Physical Climate Science (referred to as ''the Report'' throughout this notice). The focus of the Report will be an update to the physical climate science presented in the 2014 National Climate Assessment (NCA). Specifically, the Report will update Chapter 2 and Appendices 3 and 4 of the 2014 NCA (*http://www.globalchange.gov/nca3-downloads-materials*). The report will provide updated climate science findings and projections, and will be an important input to the authors of the next quadrennial NCA, expected in 2018.

The Report will be a product of the USGCRP, organized and led by an interagency team. This request for public engagement seeks nominations for technical contributors with expertise in climate data sets and trends, climate processes and feedbacks, global/regional climate models and associated projections, climate extremes, attribution and detection studies, and particular components of the Earth system, as well as other physical science disciplines. Refer to the Report prospectus (accessible via *www.globalchange.gov/notices* for further information on the goals, outline, and timeline for the report, as well as the process for technical contributors' involvement.

The report will adhere to the Information Quality Act requirements *http://www.cio.noaa.gov/services_programs/info_quality.html* for quality, transparency, and accessibility as appropriate for a Highly Influential Scientific Assessment (HISA).

DATES: Nominations for technical contributors must be received by the USGCRP within 15 days after the publication date of this notice.

ADDRESSES: Nominations for technical contributors must be submitted electronically via a web form accessible via *https://www.globalchange.gov/notices.* A short CV of no more than 4 pages must be included.

Instructions: Response to this notice is voluntary. Responses to this notice may be used by the government for program planning on a non-attribution basis. NOAA therefore requests that no business proprietary information or copyrighted information be submitted in response to this notice. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: USGCRP Contact: David Dokken; telephone 202–419–3473; or email: *ddokken@usgcrp.gov*.

SUPPLEMENTARY INFORMATION:

Call for Nominations for Technical Contributors

This notice seeks nominations for technical contributors to the Report with pertinent subject matter expertise and scientific background. Potential technical contributors should be accomplished scholarly writers and have demonstrated scientific and technical expertise and academic proficiency in at least one of the physical climate science topics outlined in the prospectus, accessible via *https://www.globalchange.gov/notices*. Submissions must demonstrate that nominees have demonstrated technical backgrounds such that they could contribute to the development of a robust scientific, technical assessment as subject matter experts in one or more of the topics listed in the prospectus.

Responses to this request must be made within the 15-day call for nominations for technical contributors, beginning the publication date of this notice. Users can access the nominations form via *www.globalchange.gov/notices*. Interested persons may nominate themselves or third parties, and may nominate more than one person. Each nomination must include: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; (3) a short description of his/her qualifications relative to contributing to the report; and (4) a current resume [maximum length four (4) pages]. Nominations will be reviewed by a scientific steering committee, and nominees may be invited to participate as technical contributors to the Report. Selected experts would be informed no later than two weeks after close of the nominations window.

Dated: Wednesday, March 16, 2016.

Dan Barrie,

Program Manager, Assessments Program, NOAA, Climate Program Office.

Dated: March 25, 2016.

Gary C. Matlock,

Acting Deputy Assistant Administrator, Oceanic and Atmospheric Research.

[FR Doc. 2016–07208 Filed 3–30–16; 8:45 am]

BILLING CODE P

COMMISSION OF FINE ARTS

[BAC: 6330–01]

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for 21 April 2016, at 9:00 a.m. in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW., Washington, DC 20001–2728. Items of discussion may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *www.cfa.gov.* Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *cfastaff@cfa.gov;* or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: March 21, 2016, in Washington, DC.

Thomas Luebke,

Secretary.

[FR Doc. 2016–07114 Filed 3–30–16; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 16–26]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Heather N. Harwell, DSCA/LMO, (703) 697–9217.

The following is a copy of a letter to the Speaker of the House of Representatives,

Transmittal 16–26 with attached Policy Justification and Sensitivity of Technology.

Dated: March 28, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–C

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAR 2 1 2016

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16-26, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to the United Kingdom for defense articles and services estimated to cost $3.2 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 16–26

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* United Kingdom

(ii) *Total Estimated Value:*

Major Defense Equipment *	$1.8 billion
Other	$1.4 billion
Total	$3.2 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Nine (9) P–8A Patrol Aircraft, which include:

Tactical Open Mission Software (TOMS)
Electro-Optical (EO) and Infrared (IR) MX–20HD
AN/AAQ–2(V)1 Acoustic System
AN/APY–10 Radar
ALQ–240 Electronic Support Measures (ESM)
Twelve (12) Multifunctional Informational Distribution System (MIDS) Joint Tactical Radio Systems (JTRS)
Twelve (12) Guardian Laser Transmitter Assemblies (GLTA) for AN/AAQ–24(V)N
Twelve (12) System Processors for AN/AAQ–24(V)N
Twelve (12) Missile Warning Sensors for AN/AAR–54 (for AN/AAQ–24(V)N)
Nine (9) LN–251 with Embedded Global Positioning Systems/Inertial Navigation System (EGI)

Non-Major Defense Equipment (Non-MDE):

Associated training, training devices, and support

(iv) *Military Department:* U.S. Navy (SAN, Basic Aircraft Procurement Case; LVK, Basic Training Devices Case; TGO, Basic Training Case)

(v) *Prior Related Cases, if any:* UK–P–FBF, total case value $5.6M, implemented January 27, 2015.

(vi) *Sales Commission, Fee. etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See attached Annex

(viii) *Date Report Delivered to Congress:* 24 March 2016

*as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Kingdom—P–8A Aircraft and Associated Support

The Government of the United Kingdom (UK) has requested notification for the possible procurement of up to nine (9) P–8A Patrol Aircraft, associated major defense equipment, associated training, and support. The estimated cost is $3.2 billion.

The UK is a close ally and an important partner on critical foreign policy and defense issues. The proposed sale will enhance U.S. foreign policy and national security objectives by enhancing the UK's capabilities to provide national defense and contribute to NATO and coalition operations.

The proposed sale will allow the UK to reestablish its Maritime Surveillance Aircraft (MSA) capability that it divested when it cancelled the Nimrod MRA4 Maritime Patrol Aircraft (MPA) program. The United Kingdom has retained core skills in maritime patrol and reconnaissance following the retirement of the Nimrod aircraft through Personnel Exchange Programs (PEPs). The MSA has remained the United Kingdom's highest priority unfunded requirement. The P–8A aircraft would fulfill this requirement. The UK will have no difficulty absorbing these aircraft into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor involved in this sale is The Boeing Company, Seattle, WA. Implementation of the proposed sale will require approximately sixty-four (64) personnel hired by Boeing to support the program in the United Kingdom. Additional contractors include:

ViaSat, Carlsbad, CA
GC Micro, Petaluma, CA
Rockwell Collins, Cedar Rapids, IA
Spirit Aero, Wichita, KS
Raytheon, Waltham, MA
Telephonics, Farmingdale, NY
Pole Zero, Cincinnati, OH
Northrop Grumman Corp, Falls Church, VA
Exelis, McLean, VA
Terma, Arlington, VA
Symmetrics, Canada
Arnprior Aerospace, Canada
General Electric, UK
Martin Baker, UK

There are no known offset agreements proposed in connection with this potential sale.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 16–26

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex Item No. vii

(vii) *Sensitivity of Technology*

1. The P–8A aircraft is a militarized version of the Boeing 737–800 Next Generation (NG) commercial aircraft. The P–8A is replacing the P–3C as the Navy's long-range anti-submarine warfare (ASW), anti-surface warfare (ASuW), intelligence, surveillance, and reconnaissance (ISR) aircraft capable of broad-area, maritime and littoral operations.

2. P–8A mission systems include:

(a) Tactical Open Mission Software (TOMS). TOMS functions include environment planning tactical aids, weapons planning aids, and data correlation. TOMS includes an algorithm for track fusion which automatically correlates tracks produced by on-board and off-board sensors.

(b) Electro-Optical (EO) and Infrared (IR) MX–20HD. The EO/IR system processes visible EO and IR spectrum to detect and image objects.

(c) AN/AAQ–2(V)1 Acoustic System. The Acoustic sensor system is integrated within the mission system as the primary sensor for the aircraft ASW missions. The system has multi-static active coherent (MAC) 64 sonobuoy processing capability and acoustic sensor prediction tools.

(d) AN/APY–10 Radar. The aircraft radar is a direct derivative of the legacy AN/APS–137(V) installed in the P–3C. The radar capabilities include Global Positioning System (GPS), selective availability anti-spoofing, Synthetic Aperture Radar (SAR), and Inverse Synthetic Aperture Radar (ISAR) imagery resolutions, and periscope detection mode.

(e) ALQ–240 Electronic Support Measures (ESM). This system provides real time capability for the automatic detection, location, measurement, and analysis of Radio-Frequency (RF) signals and modes. Real time results are compared with a library of known emitters to perform emitter classification and specific emitter identification (SEI).

(f) Electronic Warfare Self Protection (EWSP). The aircraft EWSP consists of the ALQ–213 Electronic Warfare Management System (EWMS), ALE–47 Countermeasures Dispensing System (CMDS), and the AN/AAQ–24 Directional Infrared Countermeasures (DIRCM)/AAR–54 Missile Warning Sensors (MWS). The EWSP includes threat information.

3. If a technologically advanced adversary was to obtain access to the P–8A specific hardware and software elements, systems could be reverse engineered to discover U.S. Navy capabilities and tactics. The consequences of the loss of this technology, to a technologically advanced or competent adversary, could result in the development of countermeasures or equivalent systems, which could reduce system effectiveness or be used in the development of a system with similar advance capabilities.

4. A determination has been made that the United Kingdom can provide substantially the same degree of protection for the technology being released as the U.S. Government. Support of the P–8A Patrol Aircraft to the Government of the United Kingdom is necessary in the furtherance of the U.S. foreign policy and national security objectives.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the United Kingdom.

[FR Doc. 2016–07267 Filed 3–30–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Integrated Feasibility Report Including Environmental Impact Statement/ Environmental Impact Report (Integrated Feasibility Report) for the East San Pedro Bay Ecosystem Restoration Feasibility Study, Los Angeles County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The Los Angeles District of the U.S. Army Corps of Engineers (Corps) and the City of Long Beach intend to prepare a draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the East San Pedro Bay Ecosystem Restoration Feasibility Study, Los Angeles County, California. The components of the EIS/EIR will be contained in an Integrated Feasibility Report (IFR) that also includes a Feasibility Report.

DATES: Two public scoping meetings will be held on April 7, 2016, at 2:00 p.m. and at 6:00 p.m. Submit written comments concerning this notice no later than May 7, 2016.

ADDRESSES: The location for the scoping meetings is: Bixby Park Community Center, 130 Cherry Avenue, Long Beach, CA 90802.

Mail written comments, suggestions, and/or request to be placed on the mailing list for announcements to: Naeem A. Siddiqui, U.S. Army Corps of Engineers, Los Angeles District, CESPL–PDR–N, 915 Wilshire Blvd., Los Angeles, CA 90017–3401 or by email to: *Naeem.A.Siddiqui@usace.army.mil*.

FOR FURTHER INFORMATION CONTACT: Naeem A. Siddiqui, Project Environmental Coordinator, 213–452–3852, *Naeem.A.Siddiqui@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The Feasibility Study is being conducted as a partial response to Senate Resolution, dated June 25, 1969, reading in part:

Resolved by the Committee on Public Works of the United States Senate, that the Board of Engineers for Rivers and Harbors, created under Section 3 of the River and Harbor Act, approved June 13, 1902, be, and is hereby requested to review the report of the Chief of Engineers on the Los Angeles and San Gabriel Rivers and Ballona Creek, California, published as House Document Numbered 838, Seventy-sixth Congress, and other pertinent reports, with a view to determining whether any modifications contained herein are advisable at the present time, in the resources in the Los Angeles County Drainage Area. . . .

The study area is located offshore of the City of Long Beach, California, in the easternmost part of San Pedro Bay. It includes the area between the Long Beach shoreline, the Long Beach Breakwater and the Los Angeles River estuary.

The Corps is the lead agency in preparing the EIS in accordance with the National Environmental Policy Act (NEPA). The City of Long Beach is the non-Federal sponsor of the Feasibility Study and the lead agency in preparing the EIR in accordance with the California Environmental Quality Act. The Corps and City of Long Beach have agreed to jointly prepare an IFR including EIS/EIR to optimize efficiency and avoid duplication.

1. Description. The study will evaluate opportunities to restore aquatic habitat such as kelp, rocky reef, coastal wetlands and other types of sufficient quality and quantity to support diverse resident and migratory species, and to improve water circulation sufficient to support and sustain aquatic habitat, within East San Pedro Bay, California. Recreational opportunities will also be explored, although the primary objective will be ecosystem restoration.

The Corps completed a Reconnaissance Report in August 2010 which identified a federal interest in addressing issues such as loss of historic coastal wetlands, lack of rocky reef/hard bottom habitat, loss of kelp habitat, poor water circulation and tidal action, and other degraded ecosystem conditions. The study is now entering the feasibility phase in which alternatives will be developed, a tentatively selected plan and ultimately a proposed project will be identified, and environmental documentation will be completed.

2. Alternatives. Potential measures that would meet the objectives of the study are currently being developed and may include the addition of rocks out side of navigational channels to create underwater rocky reef and form a base for kelp beds; creation of sandy islands to provide suitable habitat for eelgrass; and various modifications to the Long Beach Breakwater such as removal and/or notching to improve water circulation. Measures will be grouped into discrete alternatives and analyzed in the IFR. In addition, the study will also evaluate the No Action alternative pursuant to NEPA.

3. Scoping and Analysis. a. The Corps intends to hold a public scoping meeting for the Draft IFR to aid in the determination of significant environmental issues associated with the proposed project, and to assist with alternative development. Affected federal, state and local resource agencies, Native American groups and concerned interest groups/individuals are invited to participate in the scoping process. Public participation is critical in defining the scope of analysis in the Draft IFR, identifying significant environmental issues in the Draft IFR, providing useful information such as published and unpublished data, sharing knowledge about relevant issues, and recommending potential measures or alternatives that may be considered for the purpose of meeting study objectives.

b. Potential impacts associated with the proposed project will be fully evaluated during the feasibility study. Identified planning constraints and considerations such as navigational operations, existing major utilities and infrastructure, minimizing flood risks will be considered. Resource categories that will be analyzed include: Physical environment, geology, biological resources, navigation/land use, air quality, water quality, recreational usage, aesthetics, cultural resources, transportation, noise, hazardous waste, socioeconomics and safety.

c. Throughout the feasibility study, the Corps and the City of Long Beach will coordinate and, or consult with other State and Federal regulatory and permitting agencies to ensure compliance with environmental laws and regulations including but not limited to the Coastal Zone Management Act, Clean Water Act, Endangered Species Act, U.S. Fish and Wildlife Coordination Act, Magnuson-Stevens Fishery Management and Conservation Act, as amended, National Historic Preservation Act, and the Clean Air Act.

4. Public Scoping Meetings: The Corps and City of Long Beach will jointly conduct two public scoping meetings at the date and address indicated above. The purpose of the scoping meeting is to gather information from the general public or interested organizations about issues and concerns that they would like to see addressed in the Draft IFR. Comments may be delivered in writing or verbally at the meeting. All comments will be entered into the public record.

5. Availability of the Draft IFR: The Draft IFR including Draft EIS/EIR is anticipated to be available for public review and comment in the spring or summer of 2017.

Dated: March 23, 2016.

Kirk E. Gibbs,

Colonel, U.S. Army, Commander and District Engineer.

[FR Doc. 2016–07284 Filed 3–30–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for The Coastal Texas Protection and Restoration Feasibility Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE) intends to prepare a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR–EIS) for the Coastal Texas Protection and Restoration Feasibility Study. This study will identify and evaluate the feasibility of developing a comprehensive plan for flood risk management, hurricane and storm risk management, and ecosystem restoration for the coastal areas of the State of Texas. The study will focus on providing for the protection, conservation, and restoration of wetlands, barrier islands, shorelines, and related lands and features that protect critical resources, habitat, and infrastructure from the impacts of coastal storms, hurricanes, erosion, and subsidence. This notice announces the USACE's intent to determine the scope of the issues to be addressed and for identifying the significant resources related to a proposed action.

DATES: Comments on the scope of the DIFR–EIS will be accepted through May 9, 2016.

ADDRESSES: Scoping comments may be sent by electronic mail to: *CoastalTexas@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Galveston District Public Affairs Office at 409–766–3004 or *swgpao@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Authority.* The Coastal Texas Protection and Restoration Feasibility Study is authorized under Section 4091, Water Resources Development Act (WRDA) of 2007, Public Law 110–114, to develop a comprehensive plan to determine the feasibility of carrying out projects for flood risk management, hurricane and storm risk management, and ecosystem restoration in the coastal areas of the State of Texas.

2. *Proposed Action.* The study will identify critical data needs and recommend a comprehensive strategy for reducing coastal storm flood risk through structural and nonstructural measures that take advantage of natural features like barrier islands and storm surge storage in wetlands. Structural alternatives to be considered include improvements to existing systems (such as existing hurricane protection projects at Port Arthur, Texas City, Freeport, and Lynchburg, and seawalls at Galveston, Palacios, Corpus Christi, North and South Padre Island), and the creation of new structural plans for hurricane storm risk management. Ecosystem restoration alternatives to be considered include estuarine marsh restoration, beach and dune restoration, rookery island restoration, oyster reef restoration, and seagrass bed restoration. The study will evaluate potential benefits and impacts of the proposed action including direct, indirect and cumulative effects to the human, water and natural environments that balance the interests of flood risk management, hurricane and storm risk management, and ecosystem restoration purposes for Texas and the Nation.

3. *Scoping.* In August, 2014, early scoping meetings were held in League City, Palacios, Corpus Christi, and the City of South Padre Island, Texas. Comments were received for 30 days following the last scoping meeting. Additional input from Federal, state and local agencies, Indian tribes, and other interested private organizations and parties is being solicited with this notice. The USACE requests public scoping comments to: (a) Identify the affected public and agency concerns; (b) identify the scope of significant issues to be addressed in the DIFR–EIS; (c) identify the critical problems, needs, and significant resources that should be considered in the DIFR–EIS; and (d) identify reasonable measures and alternatives that should be considered in the DIFR–EIS. A Scoping Notice announcing the USACE's request for public scoping comments will be sent via electronic mail to affected and interested parties. Scoping comments are requested to be sent by May 9, 2016.

4. *Coordination.* Further coordination with environmental agencies will be conducted under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Clean Water Act, the Clean Air Act, the National Historic and Preservation Act, the Magnuson-Stevens Fishery Conservation and Management Act, and the Coastal Zone Management Act under the Texas Coastal Management Program.

5. *Availability of DIFR–EIS.* The DIFR–EIS will be available for public review and comment in July 2018.

Dated: March 23, 2016.

Richard P. Pannell,

Colonel, U.S. Army, Commanding.

[FR Doc. 2016–07283 Filed 3–30–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

Record of Decision in re Application of Clean Line Energy Partners LLC

AGENCY: Department of Energy.

ACTION: Record of decision.

SUMMARY: Section 1222 of the Energy Policy Act of 2005 (EPAct 2005) grants the Secretary of Energy the authority to design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, and owning new electric power transmission facilities and related facilities located within any state in which the Southwestern Power Administration (Southwestern) operates. In response to an application submitted by Clean Line Energy Partners LLC on behalf of itself and several corporate affiliates (collectively, Clean Line or the Applicant) the Department of Energy (DOE or the Department) announces its decision to participate in the development of approximately 705 miles of ±600 kilovolt (kV) overhead, high-voltage direct current (HVDC) electric transmission facilities and related facilities from western Oklahoma to the eastern state-line of Arkansas near the Mississippi River (the Project). This decision implements DOE's preferred alternative in Oklahoma and Arkansas as described in the *Final Environmental Impact Statement for the Plains & Eastern Clean Line Transmission Line Project* (Final EIS) (DOE/EIS–0486). Clean Line, acting on its own and without the Department's participation, would build additional facilities that would connect to the Project in Texas and Tennessee.

Collectively, the facilities built by Clean Line would have the capacity to deliver approximately 4,000 megawatts (MW) from renewable energy generation facilities, located in the Oklahoma Panhandle and potentially Texas Panhandle regions, to the electrical grid in Arkansas and Tennessee. The potential environmental impacts associated with the Project, plus the additional facilities in Texas and Tennessee, are analyzed in the Final EIS. DOE's review included consultations in accordance with Section 7 of the Endangered Species Act (ESA) and Section 106 of the National Historic Preservation Act (NHPA). DOE's decision requires the implementation of mitigation measures, and a complete list of these measures can be found in the Mitigation Action Plan (MAP).

ADDRESSES: Information regarding Section 1222 of EPAct 2005 can be found on the DOE Web site at *http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222.* The determination by the Secretary of Energy, Summary of Findings, and Participation Agreement are available on the DOE Web site at *http://energy.gov/oe/services/electricity-*

policy-coordination-and-implementation/transmission-planning/section-1222-0. The Final EIS, associated errata, MAP, and this Record of Decision (ROD) are available on the DOE National Environmental Policy Act (NEPA) Web site at *http://energy.gov/nepa* and on the Plains & Eastern EIS Web site at *http://www.plainsandeasterneis.com/.*

FOR FURTHER INFORMATION CONTACT: For information on the Section 1222 process, contact Mr. Christopher Lawrence, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; email at *Christopher.Lawrence@hq.doe.gov;* or phone (202) 586–5260.

For information on the EIS or the consultation processes under Section 106 of the NHPA (54 U.S.C. 300101) or Section 7 of the ESA (16 U.S.C. 1531 *et seq.*), contact Jane Summerson, Ph.D., DOE NEPA Document Manager, U.S. Department of Energy, DOE NNSA, Post Office Box 5400, Building 391, Kirtland Air Force Base East, Albuquerque, NM 87185; email at *Jane.Summerson01@nnsa.doe.gov;* or phone (505) 845–4091.

For general information about the DOE NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; or phone at (202) 586–4600; voicemail at (800) 472–2756; or email at *askNEPA@hq.doe.gov.* Additional information regarding DOE's NEPA activities is available on the DOE NEPA Web site at *http://energy.gov/nepa.*

SUPPLEMENTARY INFORMATION:

Background

Section 1222 of EPAct 2005, 42 U.S.C. 16421, grants the Secretary of Energy authority, acting through the Western Area Power Administration (WAPA), Southwestern, or both, to design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, and owning new electric power transmission facilities and related facilities located within any state in which WAPA or Southwestern operates. In June 2010, the Department issued *Request for Proposals for New or Upgraded Transmission Line Projects Under Section 1222 of the Energy Policy Act of 2005* (75 FR 32940; June 10, 2010). In response to the request for proposals (RFP), Clean Line Energy Partners LLC of Houston, Texas, the parent company of Plains and Eastern Clean Line LLC and Plains and Eastern Clean Line Oklahoma LLC, submitted a proposal to DOE in July 2010 for the Plains & Eastern Clean Line Project. In August 2011, Clean Line modified the proposal and, at DOE's request, subsequently submitted additional information (referred to as the Part 2 Application) in January 2015.

This ROD uses two terms that describe related elements of the application being discussed. The Project [1] refers to those facilities in Oklahoma and Arkansas included in DOE's decision to participate, *e.g.,* approximately 705 miles of ±600 kV overhead, HVDC electric transmission facilities running from western Oklahoma to the eastern state-line of Arkansas near the Mississippi River and related facilities, including a converter station in Arkansas. Applicant Proposed Project [2] refers to the Project plus the additional facilities that Clean Line, acting on its own and without the Department's participation, would build in Texas and Tennessee to connect to the Project. Collectively, the facilities would have the capacity to deliver approximately 4,000 MW from renewable energy generation facilities, located in the Oklahoma Panhandle and potentially Texas Panhandle regions, to the electrical grid in Arkansas (500 MW) and Tennessee (3,500 MW).

Section 1222 Authority

Parallel with the NEPA process, DOE evaluated Clean Line's application under Section 1222 of the EPAct 2005. This evaluation under Section 1222 included a review of the application against statutory eligibility criteria and certain evaluation factors listed in the 2010 RFP. To aid in this review, Clean Line's Part 2 Application was made available for public comment from April 28, 2015 until July 13, 2015 (80 FR 23520 and 34626). Clean Line's application remains available on DOE's Web site at *http://www.energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222-0.* The results of DOE's evaluation under Section 1222 are addressed under the Decision section below in this ROD.

NEPA Review

DOE prepared the EIS and this ROD pursuant to NEPA (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) NEPA regulations (40 Code of Federal Regulations [CFR] parts 1500 through 1508), and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's purpose and need for agency action is to implement Section 1222 of the EPAct 2005. In the Final EIS, DOE analyzed the potential environmental impacts from the Applicant Proposed Project, as the term is used in this ROD, the range of reasonable alternatives, and a No Action Alternative.

Major facilities associated with the Applicant Proposed Project include converter stations in Oklahoma, Arkansas, and Tennessee; approximately 720-miles of ±600 kV HVDC transmission line facilities; an alternating current (AC) collection system; and access roads.

In response to public comments on the Draft EIS, DOE and Clean Line developed 23 route variations for the Applicant Proposed Route [3] for the HVDC transmission line, which were evaluated in the Final EIS. These route variations involved minor changes to the segment lengths and were developed with the intent of reducing land use conflicts or minimizing potential environmental impacts of the route as analyzed in the Draft EIS. In all but one instance, Clean Line concluded that the route variations were technically feasible and expressed support for DOE's adoption of these route variations (the instance is described under the Basis for Decision section below in this ROD).

The analysis of potential environmental impacts for the HVDC transmission facilities, including the 23 route variations addressed in the Final EIS, was based on a representative 200-foot-wide right of way (ROW) within a 1,000-foot-wide corridor. The final location of the transmission line ROW could be anywhere within this 1,000-foot-wide corridor and would be determined following the issuance of this ROD based on the completion of final engineering design, federal and state related construction permits and authorizations, ROW acquisition activities, and the incorporation of all measures identified in the MAP. Determination of this final location of

[1] In the Final EIS, ''the Project'' is used as a broad term that generically refers to elements of the project as proposed by Clean Line and/or DOE Alternatives when differentiation between the two is not necessary. The definition of ''the Project'' used in the Final EIS is distinct from the meaning of ''the Project'' in this ROD.

[2] In the Final EIS, the term ''Applicant Proposed Project'' refers to the project as described in Clean Line's modified proposal to DOE. This is described in Section S.5.2 of the Final EIS and does not include the converter station in Arkansas or alternative routes for the HVDC transmission line that are referred to in the Final EIS as ''DOE Alternatives.''

[3] The Applicant Proposed Route, as used in the Final EIS and this ROD, refers to the single 1,000-foot-wide route alternative defined by Clean Line to connect the converter station in the Oklahoma Panhandle to the converter station in western Tennessee. The Applicant Proposed Route is described in Section S.5.3.2 of the Final EIS.

the ROW within the 1,000-foot-wide corridor is referred to as micrositing.

In addition to the HVDC transmission facilities, the Applicant Proposed Project would include construction, operation, and maintenance of an AC collection system. The collection system would consist of four to six AC transmission lines up to 345 kV from the Oklahoma converter station to points in the Oklahoma Panhandle region and potentially Texas Panhandle region to facilitate efficient interconnection of wind energy generation. The Final EIS evaluated 13 possible routes, each consisting of a 2-mile-wide corridor within which a 200-foot-wide ROW could be located. The specific locations of these transmission lines cannot be known at this time and would depend on the locations of future wind farms in this area. DOE's analysis in the Final EIS also includes the potential environmental impacts resulting from connected actions (wind energy generation and currently identified substation and transmission upgrades related to the Applicant Proposed Project).

On February 26, 2016, DOE issued errata to correct errors, inconsistencies, and omissions in the Final EIS. These included, for example, correcting inconsistencies in two tables identifying the lengths of the HVDC transmission line routes, updating emissions estimates for air quality impacts, correcting socioeconomic and transportation impact estimates to account for the Arkansas converter station, and including and responding to 26 comment documents that were inadvertently left out of Appendix Q of the Final EIS. DOE considered each of the errata individually and collectively and determined that they do not represent significant new information relevant to environmental consequences and do not change the conclusions in the Final EIS.

Cooperating Agencies

DOE was the lead federal agency for the preparation of the EIS and, pursuant to 40 CFR 1501.6, prepared the EIS in consultation with the following cooperating agencies: Bureau of Indian Affairs (BIA), Natural Resources Conservation Service (NRCS), Tennessee Valley Authority (TVA), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency, and U.S. Fish and Wildlife Service (USFWS).

BIA, NRCS, TVA, USACE, and USFWS can, to the extent permitted by law, rely on the Final EIS to fulfill their obligations under NEPA for any action, permit, or approval by these agencies for the Applicant Proposed Project. TVA conducted studies that indicate certain upgrades to its transmission system would be necessary for TVA to interconnect with the Applicant Proposed Project while maintaining reliable service to its customers. Additionally, TVA would need to construct a new 500 kV transmission line to enable the injection of 3,500 MW of power from the Applicant Proposed Project. TVA would complete its own NEPA review, tiering from DOE's Final EIS, to assess the impact of the upgrades and the new 500 kV line. The USACE may consider the routing alternatives in Oklahoma, Arkansas, Texas, and Tennessee as presented in the Final EIS when making its permit decisions and can use the analysis contained in the Final EIS to inform all of its permit decisions for the Applicant Proposed Project.

Consultation

DOE is the lead agency for consultation required under Section 106 of the NHPA. In accordance with 36 CFR 800.8(c), DOE is using the NEPA process and documentation required for the EIS to comply with Section 106 of the NHPA in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. This approach is consistent with the recommendations set forth in the CEQ NEPA regulations, 40 CFR 1500.2, and *NEPA and NHPA: A Handbook for Integrating NEPA and Section 106,* issued in 2013 by CEQ and the Advisory Council on Historic Preservation, which encourage federal agencies to integrate the NEPA process with other planning and environmental reviews, such as Section 106 of the NHPA.

DOE invited certain federal, state, Indian Tribes or Nations, and local agencies to consult under Section 106 of the NHPA in accordance with 36 CFR 800.2(c). The Programmatic Agreement, which satisfies DOE's Section 106 responsibilities, was executed on December 7, 2015. The Programmatic Agreement describes roles and responsibilities for DOE and the consulting parties; the tribal consultation protocol; the area of potential effects; the phased process to address historic properties, including continued consultation; procedures to address the unanticipated discovery of cultural resources or inadvertent discovery of human remains, graves or associated funerary objects; the communication plan; the historic properties management plan for operations and maintenance activities, annual reporting and close out report requirements; and dispute resolution requirements. The Programmatic Agreement is included as Appendix A of the MAP.

In March 2015, DOE and TVA requested the initiation of formal consultation and conference with the USFWS under Section 7(a)(2) of the ESA and submitted a Biological Assessment (BA) regarding the Applicant Proposed Project and its potential effects on listed species and designated critical habitat. DOE responded to USFWS's request for additional information with a revised BA in May 2015. In July 2015, DOE submitted an addendum to the revised BA to address route variations based on public comments on the Draft EIS. The USFWS issued its Biological Opinion on November 20, 2015, which concluded formal consultation. The Biological Opinion is included as Appendix B of the MAP. The Biological Opinion concluded that implementation of the Applicant Proposed Project is not likely to jeopardize the continued existence of the affected species, but likely will result in incidental take of certain species and, therefore, includes an enforceable incidental take statement. DOE's decision is conditioned on the Applicant complying with the incidental take statement and taking all practicable means to avoid or minimize environmental harm from the selected alternative as required by USFWS in the Biological Opinion. These conditions are further described under the Mitigation section below in this ROD. DOE also acknowledges that re-initiation of formal ESA consultation may be required in accordance with 50 CFR 402.16.

Public Comments

On December 21, 2012, DOE issued a Notice of Intent (NOI) (77 FR 75623) to prepare an EIS for the Plains & Eastern Clean Line Transmission Project. DOE conducted 13 public scoping meetings. DOE considered input from scoping in preparing the Draft EIS, which was issued on December 17, 2014. The 90-day public comment period for the Draft EIS began on December 19, 2014, and was scheduled to end on March 19, 2015 (79 FR 78079). On February 12, 2015, DOE announced in the **Federal Register** that it was extending the comment period until April 20, 2015 (80 FR 7850). As part of this public comment period, DOE invited comments on the NHPA Section 106 process and any potential adverse impacts to historic properties.

The Final EIS and errata considered and responded to all comments submitted on the Draft EIS. During the comment period, DOE held 15 public hearings in the following locations:

Woodward, Oklahoma; Guymon, Oklahoma; Beaver, Oklahoma; Perryton, Texas; Muskogee, Oklahoma; Cushing, Oklahoma; Stillwater, Oklahoma; Enid, Oklahoma; Newport, Arkansas; Searcy, Arkansas; Marked Tree, Arkansas; Millington, Tennessee; Russellville, Arkansas; Fort Smith, Arkansas; and Morrilton, Arkansas.

In addition to numerous comments that provided a statement of general opposition to or support for the Project, the primary topics raised in comments on the Draft EIS included, but were not limited to: Concern about electric and magnetic fields; concern about reductions in property value; concern about impacts to agricultural resources such as crop production, irrigation, and aerial spraying; concern about the use of eminent domain; and concern about visual impacts.

Analysis of Potential Environmental Impacts

The EIS analyzes potential environmental impacts associated with the alternatives for each of the following resource areas: Agricultural resources; air quality and climate change; electrical environment; environmental justice; geology, paleontology, minerals, and soils; groundwater; health, safety, and intentional destructive acts; historic and cultural resources; land use; noise; recreation; socioeconomics; special status wildlife and fish, aquatic invertebrate, and amphibian species; surface water; transportation; vegetation communities and special status plant species; visual resources; wetlands, floodplains, and riparian areas; wildlife, fish, and aquatic invertebrate species; and cumulative impacts.

Analysis of the potential environmental impacts of the Applicant Proposed Project and DOE Alternatives on each resource area (Chapter 3 of the Final EIS) assumes the implementation of all Applicant-proposed environmental protection measures (EPMs) to avoid or minimize adverse impacts (summarized in Appendix F of the Final EIS). In some resource sections, DOE identified best management practices (BMPs) that could further avoid or minimize potential adverse impacts. BMPs are summarized in Table 2.7–1 of Chapter 2 in the Final EIS.

In accordance with DOE's *Compliance with Floodplain and Wetland Environmental Review Requirements* (10 CFR part 1022), DOE prepared a floodplain assessment and has determined that the Applicant Proposed Project would avoid floodplains to the maximum extent practicable, that appropriate measures to minimize adverse effects on human health and safety and the functions and values provided by floodplains would be taken, and that the Applicant Proposed Project would comply with applicable floodplain protection standards. The Floodplain Statement of Findings (Appendix N of the Final EIS) relied on the implementation of the EPMs developed and committed to by the Applicant and BMPs identified in consultation with USACE.

DOE's selected route for the HVDC transmission line is the Applicant Proposed Route (with one exception, as noted under the Basis for Decision section below in this ROD). Because DOE's selected route is the HVDC route alternative with the lowest potential for environmental impacts when compared against the other HVDC route alternatives, DOE has designated it as the environmentally preferable HVDC route alternative with associated facilities. DOE's selected route incorporates input on potential environmental impacts that DOE received from the public and agencies (during scoping and in comments on the Draft EIS). The selected route was developed through a series of stages including the preliminary routing process, refinements during DOE's independent verification of that process, and further changes to address public and agency input.

While the No Action Alternative would avoid the environmental impacts identified in the EIS, adoption of this alternative would not meet DOE's purpose and need to implement Section 1222 of the EPAct 2005.

Comments Received on the Final EIS

DOE distributed the Final EIS to congressional members and committees; state and local governments; other federal agencies; certain American Indian Tribes or Nations; non-governmental organizations; and other stakeholders, including members of the public who requested the Final EIS. The Final EIS also was made available to the public via the Internet. DOE subsequently received eight comment documents. As discussed in Appendix A to this ROD, DOE has concluded that these comment documents do not identify a need for further NEPA analysis.

Decision

DOE has decided to participate in the Project as defined in this ROD. Thus, this decision implements the preferred alternative described in Section 2.14 of the Final EIS for the Project, which is defined in this ROD as facilities in Oklahoma and Arkansas. Concurrent with this ROD, the Secretary of Energy has issued a determination that the Project meets the criteria of Section 1222 and merits the Department's participation. (*http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222-0*).

Basis for Decision

The decision to participate in the Project considered the analysis of potential environmental impacts in the Final EIS, other statutory requirements (*e.g.,* ESA and Section 106 of the NHPA), and the Department's review of Clean Line's application against the eligibility criteria in Section 1222 and the evaluation factors identified in the Department's 2010 RFP. The Department's analysis of the statutory eligibility criteria and the RFP evaluation factors is contained in the Summary of Findings, which the Department is publishing concurrent with this ROD and is incorporated herein. Also relevant to the Department's decision is the Participation Agreement, which sets forth the terms and conditions under which the Department will participate. (Both the Summary of Findings and the Participation Agreement are available at *http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222-0*).

There is no ''impact-free'' routing choice for a large transmission line. In some regions, where there are multiple resource conflicts, the HVDC alternative routes impact certain resources differently, and some alternative routes were included in DOE's analysis to emphasize protection of one resource or land value over another. The Final EIS analyzed potential impacts for the HVDC transmission line by resource and highlighted substantive differences between the Applicant Proposed Route, route variations, and HVDC alternative routes. A detailed discussion of the route development and basis for identification of the Applicant Proposed Route is included in Appendix G of the Final EIS. To respond to public comments on the Draft EIS, DOE and the Applicant developed 23 route variations for the Applicant Proposed Route. These route variations were developed with the intent of reducing land use conflicts or minimizing potential environmental impacts of the Applicant Proposed Route from the levels of potential impacts described in the Draft EIS. In all but one instance, the route variations replaced their corresponding segments of the Applicant Proposed Route. This exception (Region 4, Applicant

Proposed Route Link 3, Variation 2; approximately 3 miles northwest of Sallisaw, Oklahoma) was carried forward as an additional alternative for comparative analysis in the Final EIS with the corresponding segment of the Applicant Proposed Route.

DOE has decided to implement the Applicant Proposed Route presented in the Final EIS, with one exception (Region 4, Applicant Proposed Route Link 3, Variation 2). The basis for DOE's selection of this route variation over the corresponding segment of the Applicant Proposed Route includes the following: (1) The route variation crosses 32 percent fewer land parcels (17 versus 25); (2) the route variation parallels more than twice the length of existing infrastructure, including transmission lines and roads (4.42 miles versus 1.85 miles); (3) the representative ROW of the route variation would be located within 500 feet of 8 fewer residences (1 versus 9); and (4) the route variation would avoid a private airstrip whose operations could be impacted by the Applicant Proposed Route.

DOE has considered the alternatives analyzed in the Final EIS and taken into consideration the comparison of potential impacts for each resource area along with comments received on the Draft EIS and the Final EIS.

Mitigation

DOE's environmental analyses in the Final EIS and consultations under Section 106 of the NHPA and Section 7 of the ESA have identified all practicable means to avoid or minimize environmental harm. DOE's decision to participate in the Project is contingent upon the Applicant implementing all of the EPMs in the Final EIS to avoid or minimize potential adverse effects resulting from construction, operations and maintenance, and decommissioning. Furthermore, the Applicant will be required to develop and implement all of the project plans listed in Appendix F of the Final EIS. DOE's decision also requires that the Applicant implement the BMPs, set forth in the Final EIS and developed by DOE and in consultation with other agencies, to further avoid or minimize potential adverse impacts. Chapter 2 of the Final EIS (Table 2.7–1) summarizes the BMPs identified for applicable resource areas analyzed in Chapter 3.

DOE's decision to participate requires that the Applicant comply with the Biological Opinion issued by USFWS on November 20, 2015. This includes adhering to the terms of the incidental take statement, and implementing all reasonable and prudent measures and implementing terms and conditions described in the Biological Opinion.

The Programmatic Agreement executed in accordance with Section 106 of the NHPA addresses historic properties identification and evaluation, assessment of effects, and resolution of effects, including avoidance, minimization, and mitigation. Federal agencies that do not adopt the executed Programmatic Agreement, but whose involvement constitutes an undertaking pursuant to 36 CFR 800.16(y) would conduct consultations with State Historic Preservation Offices and/or Tribal Historic Preservation Offices and/or other appropriate parties in accordance with 36 CFR part 800. Clean Line, as a signatory to the Programmatic Agreement, will be required to implement the stipulations as agreed to in the executed Programmatic Agreement as a condition of DOE's decision to participate.

The Applicant is responsible for implementing all of the measures identified above (EPMs, BMPs, the USFWS Biological Opinion, and stipulations in the executed Programmatic Agreement), as set forth in the MAP. Additional required actions will be identified as a result of ongoing consultations (*e.g.,* regarding Clean Water Act Section 404) between the Applicant and state and federal agencies as part of approval and permitting processes.

The MAP lists the mitigation requirements and provides for the development of the implementation and monitoring of the EPMs, BMPs, reasonable and prudent measures and other requirements identified in the Biological Opinion, and mitigation measures contained in the Programmatic Agreement. DOE will track and annually report progress made in implementing, and the effectiveness of, the mitigation commitments made in this ROD. The MAP is posted on the DOE NEPA Web site at *http://energy.gov/nepa* and on the Plains & Eastern EIS Web site at *http://www.plainsandeasterneis.com/.*

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

Ernest J. Moniz,

Secretary of Energy.

Appendix A: Public Comments Received After the Publication of the Final EIS

DOE received eight comment documents regarding the Final EIS after its publication. In order of their receipt, these documents were submitted by the following individuals or groups: (1) Bob Hardy; (2) Paul Nedlose; (3) Steve Clair on behalf of residents of Walnut Valley Estates (north of Dover, Arkansas); (4) Residents of Walnut Valley Estates; (5) Residents of Walnut Valley Estates; (6) J.D. Dyer; (7) Mark Fuksa; and (8) Steve Clair on behalf of residents of Walnut Valley Estates. Comment documents 4, 5, and 8 contain the same information as was presented in comment document 3.

DOE considered all comments contained in these documents. DOE has concluded that these comment documents do not identify a need for further NEPA analysis. Six of these comment documents are similar to, and in most cases the same as, comments submitted on the Draft EIS, to which DOE responded in the Final EIS. DOE responses to comments similar to Mr. Hardy's concerns regarding communication can be found in the General NEPA Process and Compliance section of Appendix Q, Chapter 3 of the Final EIS (beginning on page 3–27 of that appendix). Mr. Nedlose's comment expresses that he does not want the Project on his property. DOE responses to similar comments can be found in the Easements and Property Rights/Values and the General Opposition Comments sections of Appendix Q, Chapter 3 of the Final EIS (beginning on pages 3–103 and 3–473, respectively, of that appendix). Letters expressing similar concerns from residents of Walnut Valley Estates were submitted to DOE. Comment summaries and DOE's responses can be found on pages 3–161 and 3–338 to 3–339 of Appendix Q, Chapter 3 in the Final EIS. The discussion below summarizes the comment documents from J.D. Dyer and Mark Fuksa, which include comments that were not addressed in the Final EIS, and presents DOE's responses.

Comment. Mr. Dyer described a flooding issue associated with a section of the Applicant Proposed Route in the area of Dyer, Arkansas, within the 1,000-foot-wide corridor in Region 4, Link 6. Mr. Dyer stated that transmission towers could fail during a flooding event and would be difficult to repair for a considerable amount of time. Mr. Dyer expressed concern that there could be long periods of time when the transmission line would be unable to deliver electricity to customers.

Response. The Final EIS evaluates the potential impacts related to floodplains. Appendix N of the Final EIS includes a Floodplain Statement of Findings in accordance with DOE's *Compliance with Floodplain and Wetland Environmental Review Requirements* (10 CFR part 1022). Appendix N states, ''All structures and facilities would be designed to be consistent with the intent of the standards and criteria of the National Flood Insurance Program (44 CFR part 60, Criteria for Land Management and Use).''

Additionally, Appendix N explains that transmission line structures would not prohibit the flow of water within floodplains, because water can flow around structure foundations. Transmission structure foundation dimensions are shown in the Final EIS (Chapter 2; Table 2.1–4).

Section 7 of Appendix N includes EPMs and BMPs that would minimize potential impacts associated with flooding. Appendix N explains that the ''first measure to be taken to minimize potential adverse effects to floodplains would be avoidance.'' In the case

of siting the transmission line, the span between structures would also provide some flexibility for avoiding floodplains. That is, in some areas it would be reasonable to minimize the number of structures in a floodplain by controlling the spans or to place the structures outside the floodplain, which would then be spanned by the transmission line.''

If a transmission structure would be required to be sited in a floodplain, it would be designed and constructed to meet the anticipated design loads from a maximally-credible flooding event in accordance with applicable regulatory standards. Therefore, a flooding event would be unlikely to result in the failure of a transmission structure.

In the unlikely event that structure failure did occur as a result of a flooding event, the system repair would be similar to failures from other off-normal events. As presented in the Final EIS comment response document (Appendix Q, page 3–307), ''Temporary interruption of the power transmission system could occur to the Project from a variety of off-normal events such as natural disasters, terrorism, or accidents. The Project would be designed to prevent outages from these events to the maximum extent practicable. While it stands to reason that interruption of a smaller regional power transmission system would impact a smaller customer base than a larger system, neither situation is necessarily considered disastrous. There are multiple thousands of miles of aboveground electrical transmission lines providing electrical power to consumers over long distances in the United States. Interruptions of power have occurred to power transmission systems in the past and have been mitigated and power restored through standard industry, engineering, and security practices. The Project alone would not represent a critically high percentage of power transmission service to consumers nationally and therefore temporary disruption of the grid would be considered manageable. The Applicant would operate the system and respond to any unplanned outages according to those practices and identified EPMs, BMPs, plans and procedures, and applicable regulatory requirements.''

Clean Line has provided additional information in their Operations and Maintenance Plan (Section 3.12; Corrective Actions), which states, ''To minimize the frequency and duration of corrective activities, Clean Line has designed robust structures that incorporate the appropriate NESC [National Electric Safety Code] requirements. Current engineering plans call for stop-structures every 5–10 miles to prevent cascading events. Clean Line plans to utilize weather-monitoring systems currently in place in the project area . . . and to communicate elevated risk levels to interconnecting utilities in order to ensure operational readiness. A spare parts inventory will be put in place along the route to address both high and low probability weather events. Standby contracts for labor and emergency equipment will provide for quick responses to any outages. A spare parts inventory will include information on critical components and parts, storage location, and lead times/current availability for replacement parts.''

Comment. Mr. Fuksa's email states that the National Park Service added the Fuksa portion of the Chisholm Trail to the National Registry of Historic Places (NRHP) in September 2015, and designated the John and Mary Fuksa Family Farm (including dustbowl-era farmyard, buildings, and structures) as a national historic area and added it to the NRHP in December 2015. Mr. Fuksa urges DOE to adopt Alternative Route 2B instead of the Applicant Proposed Route in this location.

Response. The location of the Chisholm Trail relative to the Applicant Proposed Route is identified and discussed in Section 3.9.5.2 of the Final EIS. Impacts to property structures would be addressed through micrositing within the 1,000-foot-wide corridor and implementing EPM LU–5, which states that Clean Line will make reasonable efforts, consistent with design criteria, to accommodate requests from individual landowners to adjust the siting of the ROW on their properties. These adjustments may include consideration of routes along or parallel to existing divisions of land (*e.g.,* agricultural fields and parcel boundaries) and existing compatible linear infrastructure (*e.g.,* roads, transmission lines, and pipelines), with the intent of reducing the impact of the ROW on private properties. DOE has developed a Programmatic Agreement that, in accordance with the regulations that implement Section 106 of the NHPA, provides a framework for the assessment of potential Project effects to historic properties (this would include potential effects to the Fuksa portion of the Chisholm Trail and the John and Mary Fuksa Family Farm), and adoption of strategies to resolve potential effects.

[FR Doc. 2016–07282 Filed 3–30–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Extension of Rate Schedules

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of Rate Extension.

SUMMARY: The Deputy Secretary of the Department of Energy confirmed and approved an extension of Rate Schedules JW–1–J and JW–2–F through September 30, 2016. This short 11 day extension will allow the billing and rate terms to align going forward in the new rate to be proposed effective October 1, 2016 and to be announced in a separate **Federal Register** Notice.

DATES: Approval of extension of the rate schedules is effective September 20, 2016.

FOR FURTHER INFORMATION CONTACT: Virgil G. Hobbs III, Assistant Administrator, Finance & Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Commission, by Order issued December 22, 2011, in Docket No. EF11–12–000, confirmed and approved Wholesale Power Rate Schedules JW–1–J and JW–2–F for a period ending September 19, 2016.

Dated: March 25, 2016.

Elizabeth Sherwood-Randall,

Deputy Secretary.

Department of Energy

Deputy Secretary

Rate Order No. SEPA–60.

In the Matter of: Southeastern Power Administration—Jim Woodruff Project Power Rates

Order Confirming and Approving Power Rates On an Interim Basis

Pursuant to Sections 302(a) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (''Southeastern'' or ''SEPA'') were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated to Southeastern's Administrator the authority to develop power and transmission rates, delegated to the Deputy Secretary of Energy the authority to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (''Commission'') the authority to confirm, approve, and place into effect on a final basis or to disapprove rates developed by the Administrator under the delegation. This rate order is issued by the Deputy Secretary pursuant to said delegation.

Pursuant to 10 CFR 903.23(b), an existing rate may be extended on a temporary basis by the Deputy Secretary without advanced notice or comment. The Deputy Secretary shall publish said extension in the **Federal Register** and promptly advise the Commission of the extension.

Background

Power from the Jim Woodruff Project is presently sold under Wholesale Power Rate Schedules JW–1–J and JW–2–F. These rate schedules were approved by the Commission on December 22, 2011, for a period ending September 19, 2016 (137 FERC ¶62,248). Effective June 21, 2015, Southeastern, Duke Energy Florida, and

the preference customers agreed to a change in the billing cycle to conform to the calendar month. Previously, the billing cycle occurred on the 20th of each month. This rate extension is to cover the transition period in the billing cycle before implementing new rate schedules.

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in February, 2016, for the Jim Woodruff Project, shows that with the extended rates, all system power costs are paid within the 50-year repayment period required by existing law and DOE Order RA 6120.2.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded the extended rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. The proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies, and other supporting materials, is available for public review in the offices of Southeastern Power Administration, 1166 Athens Tech Road, Elberton, Georgia 30635–6711.

[FR Doc. 2016–07288 Filed 3–30–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Docket Number: EERE–2016–BT–STD–0013]

Notice of Application From Green Electronics for a Small Business Exemption Regarding Certain Products From the Department of Energy's External Power Supply Energy Conservation Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of application for exemption and request for comment.

SUMMARY: This notice announces receipt of and publishes an application submitted by Green Electronics for a small business exemption from the U.S. Department of Energy's (DOE) energy conservation standards for direct operation external power supplies (application) pertaining to certain basic models imported by Green Electronics. Specifically, the application requests a one-year exemption from compliance with the standard beginning on February 10, 2016, the compliance date for such standard. DOE is publishing the non-confidential portion of Green Electronics' application and soliciting comments, data, and information concerning Green Electronics' application.

DATES: DOE will accept comments, data, and information until May 31, 2016.

ADDRESSES: You may submit comments, identified by docket/case number, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: ExemptionExtPowerSupply2016STD0013@ee.doe.gov.* Include ''docket/case number'' in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Building Technologies Office, Mail Stop EE–5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ashley.armstrong@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.;* ''EPCA'' or, in context, ''the Act'') sets forth a variety of provisions designed to improve energy efficiency. (All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act of 2015—Pub. L. 114–11 (April 30, 2015).) Part B of title III, which for editorial reasons was re-designated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–6309, as codified), establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' External power supplies are among the products affected by these provisions.

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) making representations about the efficiency of those products. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.

Consistent with EPCA, DOE has undertaken several rulemakings concerning external power supplies (''EPSs''). Specifically, DOE issued a final rule on March 27, 2009, that defined and added terms and definitions relevant to EPSs to 10 CFR part 430, subpart B, Appendix Z (hereafter referred to as Appendix Z). See 74 FR 13318. In June 2011, DOE further amended Appendix Z by adding a test method for multiple-voltage EPSs. 76 FR 31750 (June 1, 2011). In addition to the test procedure rulemaking activities, DOE undertook a rulemaking to establish energy conservation standards for EPSs. After releasing a preliminary analysis and issuing a notice of proposed rulemaking, DOE published a final rule (hereafter referred to as 2014 standards rulemaking) prescribing new standards for some non-Class A EPSs and amended standards for some Class A EPSs. See 79 FR 7845 (Feb. 10, 2014). As part of this rulemaking, DOE established new definitions for direct operation EPSs and indirect operation EPSs in 10 CFR 430.2. Direct operation EPSs, regardless of whether they are Class A or non-Class A EPSs, are subject to more stringent standards than the statutorily-prescribed Level IV standard requirements. The standards for direct operation EPSs are identified via a Level VI marking per 10 CFR 430.32(w)(4) and are hereafter referred to as Level VI standards in this document. DOE did not establish any standards for indirect operation EPSs. However, indirect operation EPSs that meet the definition of a Class A EPS, are required to meet the statutory Level IV standards already established in EPCA. While the Level IV standards have been

in effect since July 1, 2008, as of February 10, 2016, all newly-manufactured or imported direct operation EPSs must comply with the new Level VI standards.[1]

II. Application for Exemption

Green Electronics submitted its application requesting a one-year small business exception for specified models of Smart Irrigation Appliance products that use an AC–AC External Power supply (11OV to 24VAC 750mA), part number HELMS–MAN; UA5420240075G. This adapter is a class IV linear transformer and cannot comply with the no load power consumption as required by the February 10, 2016, direct operation standards. These irrigation devices are used to conserve water and are tested to meet EPA's Federal WaterSense certification program.

Green Electronics is asking for an exemption from the current EPS energy conservation standard on the basis of its status as a small business. According to Green Electronics, failure to receive a small business exemption will result in lessening of competition in the market for irrigation controllers.

Under 42 U.S.C. 6295(t), DOE may grant an exemption from an applicable energy conservation standard to a manufacturer if DOE finds that the annual gross revenues of such manufacturer from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000 for the 12-month period preceding the date of the application. In making this finding, DOE must account for the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer. The Secretary may not grant an exemption with respect to any type (or class) of covered product subject to an energy conservation standard unless the Secretary makes a finding, after obtaining the written views of the Attorney General, that a failure to allow an exemption would likely result in a lessening of competition.

IV. Summary and Request for Comments

DOE announces receipt of Green Electronics' application for a small business exemption of certain products from the energy conservation standards that apply to external power supplies. DOE is publishing Green Electronics' application for exemption in its entirety.

DOE solicits comments from interested parties on all aspects of the application. Any person submitting written comments must also send a copy of such comments to the applicant. The contact information for the applicant is: Andrei Bulucea, CTO, Green Electronics LLC, 47801 Fremont Boulevard, Fremont, California 94538. 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).

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential, and one copy of the document with 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 March 24, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

From: Andrei Bulucea,
CTO
Green Electronics LLC
47801 Fremont Bvd
Fremont, CA 94588
Tel: 510–304–3262

To: U.S. Department of Energy
Small Business Exemption
Appliance Efficiency Standards
Assistant Secretary for Conservation and Renewable Energy,
Forrestal Building
1000 Independence Avenue SW.,
Washington, DC 20585.

We are requesting a 1 year exemption for our Irrigation appliance product that is using an AC–AC External Power supply (11OV to 24VAC 750mA), part number HELMS–MAN; UA5420240075G. This adapter is a class IV linear transformer no load power consumption as required by Level VI regulatory framework.

This external AC–AC adapter is used to power our Smart Irrigation Appliance that in turn actuate irrigation valves that require 24VAC. More info about our products can be found at *www.rainmachine.com*

NOTE: These devices are primarily used to conserve water and they are tested to meet EPA's Federal WaterSense certification program.

We are asking for an exemption from this energy conservation standard based on the fact that our business is generating less than $8M/year in operations. We are attaching necessary documentation about our company, Green Electronics LLC.

Failure to get this exemption will result in lessening of competition in our field of irrigation controllers.

We are the manufacturer of our Irrigation appliances and we do not control or are being controlled by, or we are under common control with another manufacturer or manufacturing entity.

Thank you for your consideration,

Andrei Bulucea
CTO, Green Electronics

[FR Doc. 2016–07281 Filed 3–30–16; 8:45 am]

BILLING CODE 6450–01–P

[1] Generally, a covered product must comply with the relevant standard in effect as of the date the product is manufactured. For products imported into the U.S., this is the date of importation. See 42 U.S.C. 6291(10) (''The term 'manufacture' means to manufacture, produce, assemble or import.'')

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–92–000.
Applicants: ITC Interconnection LLC.
Description: Application under Section 203 for Acquisition of Assets by ITC Interconnection LLC.
Filed Date: 3/24/16.
Accession Number: 20160324–5057.
Comments Due: 5 p.m. ET 4/14/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–2239–003.
Applicants: NextEra Energy Transmission West, LLC.
Description: Compliance Filing of NextEra Energy Transmission West, LLC.
Filed Date: 3/23/16.
Accession Number: 20160323–5218.
Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–1265–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2016–03–23 Minimum Load PMin Rerate Bidding Rules Enhancements Amdt to be effective 5/23/2016.
Filed Date: 3/23/16.
Accession Number: 20160323–5195.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–1266–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2016–03–24_Schedule 2 Revisions re Continuing Support for Reactive Power to be effective 4/1/2016.

Filed Date: 3/24/16.

Accession Number: 20160324–5071.

Comments Due: 5 p.m. ET 4/14/16.

Docket Numbers: ER16–1267–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: AECC East Fayetteville Delivery Point Agreement to be effective 3/1/2016.

Filed Date: 3/24/16.

Accession Number: 20160324–5145.

Comments Due: 5 p.m. ET 4/14/16.

Docket Numbers: ER16–1268–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1067R6 East Texas Electric Cooperative NITSA and NOA to be effective 3/1/2016.

Filed Date: 3/24/16.

Accession Number: 20160324–5148.

Comments Due: 5 p.m. ET 4/14/16.

Docket Numbers: ER16–1269–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Interconnection Service Agreement No. 4421, Queue No. Y3–039/Y3–040 to be effective 2/24/2016.

Filed Date: 3/24/16.

Accession Number: 20160324–5159.

Comments Due: 5 p.m. ET 4/14/16.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES16–23–000.

Applicants: Southern Indiana Gas and Electric Company.

Description: Supplement to February 26, 2016 Application of Southern Indiana Gas and Electric Company, Inc. for Authority to Issue Short-Term Debt.

Filed Date: 3/24/16.

Accession Number: 20160324–5046.

Comments Due: 5 p.m. ET 4/14/16.

Docket Numbers: ES16–25–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Application Under Section 204 of the Federal Power Act to Issue Securities of the Midcontinent Independent System Operator, Inc.

Filed Date: 3/24/16.

Accession Number: 20160324–5128.

Comments Due: 5 p.m. ET 4/14/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07238 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1254–000]

MMP SCO, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of MMP SCO, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 12, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 23, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07244 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1131–000]

DifWind Farms Limited II; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of DifWind Farms Limited II's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07248 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1152–000]

Jericho Rise Wind Farm LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Jericho Rise Wind Farm LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07251 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14765–000]

Energy Resources USA Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 4, 2016, the Energy Resources USA Inc. filed an application for a preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed Mississinewa Lake Dam Hydroelectric Project No. 14765–000, to be located at the existing Mississinewa Lake Dam on the Mississinewa River, near the City of Peru, in Miami County, Indiana. The Mississinewa Lake Dam is owned by the United States government and operated by the U.S. Army Corps of Engineers.

The proposed project would consist of: (1) A new 15-foot by 10-foot by 90-foot-long concrete conduit; (2) a new 98-foot by 45-foot reinforced concrete powerhouse containing two 4-megawatt (MW) vertical Kaplan turbine-generators having a total combined generating capacity of 8 MW; (3) a new 300-foot-long by 95-foot-wide tailrace; (4) a new 60-foot-long by 50-foot-wide substation with a 10-mega-volt-ampere 4.16/69-kilovolt three-phase step-up transformer; (5) a new 2-mile-long, 69-kilovolt transmission line; and (6) appurtenant facilities. The project would have an estimated annual generation of 22.0 gigawatt-hours.

Applicant Contact: Mr. Ander Gonzalez, 350 Lincoln Road, 2nd Floor, Miami, FL 33139; telephone (954) 248–8425.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance,

please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14765–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14765) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07233 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–93–000.

Applicants: Atlas Power Finance, LLC, Dynegy Inc., Energy Capital Partners III, LLC, GDF Suez Energy North America, Inc.

Description: Joint Application for Authorization under FPA Section 203 of Atlas Power Finance, LLC, Dynegy Inc., Energy Capital Partners III, LLC, and GDF SUEZ Energy North America, Inc.

Filed Date: 5/24/16.

Accession Number: 20160325–5113.

Comments Due: 5 p.m. ET 4/15/16.

Docket Numbers: EC16–94–000.

Applicants: Dynegy Inc., Energy Capital Partners III, LLC.

Description: Joint Application under FPA Section 203 of Dynegy Inc. and Energy Capital Partners III, LLC.

Filed Date: 5/24/16.

Accession Number: 20160325–5131.

Comments Due: 5 p.m. ET 4/15/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–770–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2016–03–25 ZDB Deficiency Response Filing to be effective 3/25/2016.

Filed Date: 3/25/16.

Accession Number: 20160325–5130.

Comments Due: 5 p.m. ET 4/15/16.

Docket Numbers: ER16–1270–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4430; Queue Position #AB1–099 to be effective 2/24/2016.

Filed Date: 3/24/16.

Accession Number: 20160324–5190.

Comments Due: 5 p.m. ET 4/14/16.

Docket Numbers: ER16–1271–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2016–03–25_SA 2907 ATC–ROCKGEN GIA (J382) to be effective 3/26/2016.

Filed Date: 3/25/16.

Accession Number: 20160325–5051.

Comments Due: 5 p.m. ET 4/15/16.

Docket Numbers: ER16–1272–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: 2016 TACBAA Update to be effective 6/1/2016.

Filed Date: 3/25/16.

Accession Number: 20160325–5082.

Comments Due: 5 p.m. ET 4/15/16.

Docket Numbers: ER16–1273–000.

Applicants: American Electric Power Service Corporation, Michigan Electric Transmission Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: AEP submits Original Interconnection Agreement No. 4251 with METC to be effective 3/25/2016.

Filed Date: 3/25/16.

Accession Number: 20160325–5088.

Comments Due: 5 p.m. ET 4/15/16.

Docket Numbers: ER16–1274–000.

Applicants: Verso Androscoggin Power LLC.

Description: Notice of Cancellation of Market-Based Rate Tariff of Verso Androscoggin Power LLC.

Filed Date: 3/25/16.

Accession Number: 20160325–5145.

Comments Due: 5 p.m. ET 4/15/16.

Docket Numbers: ER16–1275–000.

Applicants: Innovative Solar 46, LLC.

Description: Baseline eTariff Filing: Baseline Tariff to be effective 12/31/9998.

Filed Date: 3/25/16.

Accession Number: 20160325–5192.

Comments Due: 5 p.m. ET 4/15/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07259 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP14–517–000; CP14–518–000]

Golden Pass Products, LLC and Golden Pass Pipeline, LLC; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Golden Pass LNG Export Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Golden Pass Liquefied Natural Gas (LNG) Export Project, proposed by Golden Pass Products, LLC and Golden Pass Pipeline, LLC (collectively referred to as Golden Pass) in the above-referenced docket. Golden Pass requests authorization to expand and modify the existing Golden Pass LNG Import Terminal to allow the export of LNG, which would require construction and operation of various liquefaction, LNG distribution, and appurtenant facilities. The Project would also include construction of approximately 2.6 miles of 24-inch pipeline, three new compressor stations, and interconnections for bi-directional transport of natural gas to and from the Golden Pass LNG Export terminal.

The draft EIS assesses the potential environmental effects of the construction and operation of the Golden Pass LNG Export Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with the mitigation measures recommended in the EIS, would result in some adverse environmental impact; however, those impacts would not be significant with

implementation of Golden Pass' proposed mitigation and the additional measures recommended in the draft EIS.

The U.S. Army Corps of Engineers, U.S. Coast Guard (Coast Guard), U.S. Department of Energy, U.S. Department of Transportation, and U.S. Environmental Protection Agency participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. Although the cooperating agencies provided input to the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the project.

The draft EIS addresses the potential environmental effects of the construction and operation of the following project facilities:

- Liquefaction facilities at the existing Golden Pass Export Terminal including three liquefaction trains, a truck unloading facility, refrigerant and condensate storage, safety and control systems, and associated infrastructure;
- a supply dock and alternate marine delivery facilities at the Terminal;
- three miles of a new 24-inch-diameter pipeline loop [1] adjacent to the existing Golden Pass pipeline;
- three new compressor stations;
- five new pipeline interconnections and modifications at existing pipeline interconnections; and
- miscellaneous appurtenant facilities.

The FERC staff mailed copies of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. Paper copy versions of this EIS were mailed to those specifically requesting them; all others received a CD version. In addition, the draft EIS is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

[1] A loop is a segment of pipe that is installed adjacent to an existing pipeline and connected to it at both ends. A loop generally allows more gas to move through the system.

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before May 16, 2016.

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP14–517–000 or CP14–518–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the public comment meetings its staff will conduct in the project area to receive comments on the draft EIS, scheduled as follows:

Date and time	Location
Wednesday, April 19, 2016, 7:00 p.m.	VFW Post 4759, 4402 Highway 12, Starks, Louisiana 70661, (337) 743–6409
Thursday, April 20, 2016, 7:00 p.m.	Sabine Pass ISD, 5641 South Gulfway Drive, Sabine Pass, Texas 77655, (409) 971–2321

We will begin our sign up of speakers at 6:30 p.m. The scoping meetings will begin at 7:00 p.m. with a description of our environmental review process by Commission staff, after which speakers will be called. The meetings will end once all speakers have provided their comments or at 9:00 p.m., whichever comes first. Please note that there may be a time limit of three minutes to present comments, and speakers should structure their comments accordingly. If time limits are implemented, they will be strictly enforced to ensure that as many individuals as possible are given an opportunity to comment. The meetings will be recorded by a stenographer to ensure comments are accurately recorded. Transcripts will be entered into the formal record of the Commission proceeding.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR part 385.214).[2] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Questions?

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP14–517 or CP14–518). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676; for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings

[2] See the previous discussion on the methods for filing comments.

by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: March 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07260 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2077–104]

TransCanada Hydro Northeast, Inc.; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of fish passage plan.

b. *Project No.:* 2077–104.

c. *Date Filed:* March 8, 2016.

d. *Applicant:* TransCanada Hydro Northeast, Inc.

e. *Name of Project:* Fifteen Mile Falls Project.

f. *Location:* Connecticut River, near the town of Littleton in Grafton County, New Hampshire, and Caledonia County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. John L. Ragonese, License Manager, TransCanada, U.S. Northeast Hydro Region, 4 Park Street, Suite 402 Concord, NH 04347 (603) 225–5528.

i. *FERC Contact:* Mr. Joseph Enrico, (212) 273–5917, *joseph.enrico@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. Please include the project number (P–2077–104 on any comments, motions, or recommendations filed.

k. *Description of Request:* The applicant requests that the Commission suspend the requirement or permanently amend the license to eliminate or suspend the requirement to provide downstream fish passage under Articles 409 and 413 at the Fifteen Mile Falls Project. Due to suspension of the Atlantic salmon restoration program in the Connecticut River basin by the U.S. Fish and Wildlife Service in 2012, the applicant believes that continued operation of the skimmer gate for downstream smolt passage at the McIndoes Falls development should be discontinued. In addition, the requirement to conduct studies to monitor the effectiveness of the downstream fish passage facilities and associated operational flows to pass Atlantic salmon smolts downstream at the Moore and McIndoes developments, should also be discontinued.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field (P–2077) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the application. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: March 23, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07245 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1129–000]

VPI Enterprises, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of VPI Enterprises, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for

blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07243 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1130–000]

DifWind Farms Limited I; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of DifWind Farms Limited I's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07247 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–44–000]

Talen Energy Marketing, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On March 22, 2016, the Commission issued an order in Docket No. EL16–44–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Talen Energy Marketing, LLC's reactive power rate for its fleet in the PPL Zone of PJM Interconnection, L.L.C. *Talen Energy Marketing, LLC,* 154 FERC ¶ 61,226 (2016).

The refund effective date in Docket No. EL16–44–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07240 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1258–000]

Grande Prairie Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Grande Prairie Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426,

in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 14, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07262 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8436–153]

Eugene Water & Electric Board, Smith Creek Hydro, LLC; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On January 20, 2016, Eugene Water & Electric Board (transferor) and Smith Creek Hydro, LLC (transferee) filed an application for transfer of license of the Smith Creek Project No. 8436. The project is located on the Smith Creek in Boundary County, Idaho. The project occupies lands of the United States within the Panhandle National Forest.

The applicants seek Commission approval to transfer the license for the Smith Creek Project from the transferor to the transferee. On March 17, 2016, the Commission issued a notice on the transfer application providing 30 days for filing comments, motions to intervene and protests. On March 22, 2016, Eugene Water & Electric Board and Smith Creek Hydro, LLC filed a motion to expedite the date of Commission action on the application for transfer. Based on the information supplied in the joint motion for expedited consideration, the comment period will be abbreviated.

Applicant Contact: For transferor: Ms. Patty Boyle, Principal Project Manager, Eugene Water & Electric Board, P.O. Box 10148, Eugene, OR 97440–2148, telephone: 541–685–7406, email: *patty.boyle@eweb.org* and Mr. Tom Grim, Cable Huston LLP, 1001 SW. Fifth Ave, Suite 2000, Portland, OR 97204, telephone: 503–224–3092, email: *tgrim@cablehuston.com.* For transferee: Mr. Thom A. Fischer, Manager, Smith Creek Hydro, LLC, 1800 James Street, Suite 201, Bellingham, WA 98225, telephone: 360–738–9999, email: *thom@tollhouseenergy.com* and Mr. Todd G. Glass and Mr. Keene M. O'Connor, Wilson Sonsini Goodrich & Rosati, PC, 701 5th Avenue, Suite 5100, Seattle, WA 98104, telephone: 206–883–2500, email: *tglass@wsgr.com* and *kmoconnor@wsgr.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735, *patricia.gillis@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: 15 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–8436–153.

Dated: March 23, 2016.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. 2016–07246 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–49–000]

Calpine Corporation, Dynegy Inc., Eastern Generation, LLC, Homer City Generation, L.P., NRG Power Marketing LLC, GenOn Energy Management, LLC, Carroll County Energy LLC, C.P. Crane LLC, Essential Power, LLC, Essential Power OPP, LLC, Essential Power Rock Springs, LLC, Lakewood Cogeneration, L.P., GDF SUEZ Energy Marketing NA, Inc., Oregon Clean Energy, LLC and Panda Power Generation Infrastructure Fund, LLC v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on March 21, 2016, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e (2012), and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2015), Calpine Corporation, Dynegy Inc., Eastern Generation, LLC, Homer City Generation, L.P., NRG Power Marketing LLC, GenOn Energy Management, LLC, Carroll County Energy LLC, C.P. Crane LLC, Essential Power, LLC, Essential Power OPP, LLC, Essential Power Rock Springs, LLC, Lakewood Cogeneration, L.P., GDF SUEZ Energy Marketing NA, Inc., Oregon Clean Energy, LLC and Panda Power Generation Infrastructure Fund, LLC (collectively, Complainants) filed a formal complaint against PJM Interconnection, L.L.C. (Respondent) alleging the Respondent's Open Access Transmission Tariff is unjust and unreasonable because it does not include provisions to prevent the artificial suppression of prices by existing generation resources that are the beneficiaries of out-of-market revenues.

Complainants certify that copies of the complaint were served on the contacts for Respondent, as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 11, 2016.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07242 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1132–000]

DifWind Farms Limited V; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of DifWind Farms Limited V's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07249 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1153–000]

Breadbasket LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Breadbasket LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email

FERCOnlineSupport@ferc.gov. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07252 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1154–000]

Parrey, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Parrey, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07253 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–730–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming OPASA Filing (SRP) to be effective 4/1/2016.

Filed Date: 3/21/16..

Accession Number: 20160321–5100.

Comments Due: 5 p.m. ET 4/4/16.

Docket Numbers: RP16–731–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 03/22/16 Negotiated Rates—Mercuria Energy Gas Trading LLC (RTS) 7540–06 to be effective 4/1/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5119.

Comments Due: 5 p.m. ET 4/4/16.

Docket Numbers: RP16–732–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 03/22/16 Negotiated Rates—Mercuria Energy Gas Trading LLC (RTS) 7540–07 to be effective 4/1/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5127.

Comments Due: 5 p.m. ET 4/4/16.

Docket Numbers: RP16–733–000.

Applicants: Enable Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Fuel Tracker Filing Effective May 1 2016 to be effective 5/1/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5151.

Comments Due: 5 p.m. ET 4/4/16.

Docket Numbers: RP16–734–000.

Applicants: Enable Gas Transmission, LLC.

Description: Annual Revenue Crediting Filing of Enable Gas Transmission, LLC.

Filed Date: 3/22/16.

Accession Number: 20160322–5201.

Comments Due: 5 p.m. ET 4/4/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 23, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07256 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–90–000.

Applicants: Virginia Electric and Power Company.

Description: Application for Authorization under Section 203 of the FPA and Requests for Waivers, Shortened Comment Period and Expedited Consideration of Virginia Electric and Power Company.

Filed Date: 3/22/16.

Accession Number: 20160322–5045.

Comments Due: 5 p.m. ET 4/12/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–75–000.

Applicants: Antelope Big Sky Ranch LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Antelope Big Sky Ranch LLC.

Filed Date: 3/22/16.

Accession Number: 20160322–5076.

Comments Due: 5 p.m. ET 4/12/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–746–001.

Applicants: Constellation Power Source Generation, LLC.

Description: Tariff Amendment: Response to Defiency Letter to be effective 2/1/2016.

Filed Date: 3/21/16.

Accession Number: 20160321–5210.

Comments Due: 5 p.m. ET 4/11/16.

Docket Numbers: ER16–768–001.

Applicants: RE Garland LLC.

Description: Compliance filing: RE Garland LGIA Co-Tenancy Agreement Compliance Filing to be effective 3/28/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5135.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–769–001.

Applicants: RE Garland A LLC.

Description: Compliance filing: RE Garland A LGIA Co-Tenancy Agreement Compliance Filing to be effective 3/28/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5136.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–895–002.

Applicants: RDAF Energy Solutions, LLC.

Description: Tariff Amendment: Re-File Amendment RDAF Energy Solutions to be effective 3/22/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5153.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–1250–000.

Applicants: Avangrid Renewables, LLC.

Description: § 205(d) Rate Filing: Notice of Succession to be effective 3/22/2016.

Filed Date: 3/21/16.

Accession Number: 20160321–5212.

Comments Due: 5 p.m. ET 4/11/16.

Docket Numbers: ER16–1251–000.

Applicants: Entergy Louisiana, LLC.

Description: § 205(d) Rate Filing: ELL MSS–4 Agreements to be effective 9/1/2016.

Filed Date: 3/21/16.

Accession Number: 20160321–5213.

Comments Due: 5 p.m. ET 4/11/16.

Docket Numbers: ER16–1252–000.

Applicants: Monongahela Power Company, Pennsylvania Electric Company, American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ATSI, Penelec, and Monongahela submit SA Nos. 4343, 4362, 4369, 4370, and 4371 to be effective 5/21/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5048.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–1253–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Second Amendment of LGIA, Service Agreement No. 171 to be effective 5/21/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5058.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–1254–000.

Applicants: MMP SCO, LLC.

Description: Baseline eTariff Filing: MMP SCO, LLC Application for MBR Authorization to be effective 3/22/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5087.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–1255–000.

Applicants: Antelope Big Sky Ranch LLC.

Description: Baseline eTariff Filing: Antelope Big Sky Ranch LLC MBR Tariff to be effective 5/21/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5095.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–1256–000.

Applicants: Panda Liberty LLC.

Description: Initial rate filing: Reactive Supply and Voltage Control from Generation or Other Sources Service to be effective 5/1/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5133.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–1257–000.

Applicants: Westerly Hospital Energy Company, LLC.

Description: Tariff Cancellation: Cancellation of MBR Tariff to be effective 3/22/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5137.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER16–1258–000.

Applicants: Grande Prairie Wind, LLC.

Description: Baseline eTariff Filing: Grande Prairie LLC MBR Application to be effective 5/22/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5150.

Comments Due: 5 p.m. ET 4/12/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07236 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–48–000]

NextEra Energy Power Marketing, LLC and Northeast Energy Associates, a Limited Partnership v. ISO New England Inc.; Notice of Amendment to the Complaint

Take notice that on March 21, 2016, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e (2012), and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2015), NextEra Energy Power Marketing, LLC and Northeast Energy Associates, a Limited Partnership (collectively, Complainants) filed an amendment to revise a number of sentences in the text of the original complaint filed on March 18, 2016 against ISO New England Inc. (Respondent), alleging that Respondent violated its Transmission, Markets and Services Tariff in preventing the Significant Increase at NEA's Bellingham Energy Center (Bellingham) from being added to Bellingham's summer Qualified Capacity in the tenth Forward Capacity Auction that was held on February 8, 2016.

Complainants certify that copies of the complaint were serve on contacts for Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and

Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 7, 2016.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07241 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP15–115–000	3–7–2016	Mary Kudla
2. CP15–500–000	3–7–2016	Ron Sommers
3. CP15–554–000	3–7–2016	Floyd William Drinkwater
4. CP16–21–000	3–7–2016	Mass Mailing [1]
5. CP16–21–000	3–8–2016	Mass Mailing [2]
6. CP15–115–000	3–8–2016	Holly Dawson
7. CP16–21–000	3–9–2016	Mass Mailing [3]
8. CP16–21–000	3–10–2016	Erin O'Loughlin
9. CP16–21–000	3–11–2016	Mass Mailing [4]
10. CP16–21–000	3–14–2016	Mass Mailing [5]
11. CP16–21–000	3–15–2016	Mass Mailing [6]
Exempt:		
1. CP15–554–000, CP16–10–000	3–7–2016	State of Virginia Delegate Stephen E. Heretick
2. CP16–21–000	3–7–2016	Town of Bethleham
3. CP16–21–000	3–8–2016	U.S. Senators [7]
4. P–13563–003	3–9–2016	FERC Staff [8]
5. ER16–307–000	3–15–2016	U.S. Congress Members [9]

[1] 10 letters have been sent to FERC Commissioners and staff under this docket number.
[2] 3 letters have been sent to FERC Commissioners and staff under this docket number.
[3] 2 letters have been sent to FERC Commissioners and staff under this docket number.
[4] 4 letters have been sent to FERC Commissioners and staff under this docket number.
[5] 5 letters have been sent to FERC Commissioners and staff under this docket number.
[6] 5 letters have been sent to FERC Commissioners and staff under this docket number.
[7] Senators Charles E. Schumer and Kirsten Gillibrand.
[8] Telephone Communication Record from March 9, 2016 call with Duff Mitchell of Juneau Hydropower, Inc.
[9] House Representatives Joseph P. Kennedy, Richard E. Neal, William R. Keating, James P. McGovern, Stephen F. Lynch, Seth Moulton, Michael E. Capuano, Niki Tsongas, and Katherine Clark. Senators Edward J. Markey, Elizabeth Warren, and Bernard Sanders.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07234 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1148–000]

Tenaska Energia de Mexico, S. de R. L. de C.V. ; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Tenaska Energia de Mexico, S. de R. L. de C.V.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07250 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–9–000]

Algonquin Gas Transmission, LLC; Maritimes & Northeast Pipeline, LLC; Notice of Schedule for Environmental Review of the Atlantic Bridge Project

On October 22, 2015, Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC, collectively referred to as the Applicants filed an application in Docket No. CP16–9–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7 of the Natural Gas Act to construct, abandon, and operate certain natural gas pipeline facilities. The proposed project is known as the Atlantic Bridge Project (Project), and would allow the Applicants to provide an additional 132.7 million standard cubic feet per day of natural gas to customers in Massachusetts, Maine, and Canada.

On November 5, 2015, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA May 2, 2016
90-day Federal Authorization Decision Deadline July 31, 2016

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The proposed Project includes replacing about 6.3 miles of existing 26-inch-diameter mainline pipeline with 42-inch-diameter pipeline in two segments in Westchester County, New York and Fairfield County, Connecticut.

In addition to the pipeline facilities, the Applicants propose to modify or construct four compressor stations in Rockland County, New York; New Haven and Windham Counties, Connecticut; and Norfolk County, Massachusetts adding a total of 26,500 horsepower. The Applicants also propose to modify/construct/remove seven metering and/or regulating stations in New York, Connecticut, Massachusetts, and Maine.

Background

On April 27, 2015, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Planned Atlantic Bridge Project and Request for Comments on Environmental Issues* (NOI). The NOI was issued during the pre-filing review of the Project in Docket No. PF15–12–000 and was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. Major issues raised during scoping primarily focused on a variety of environmental impacts from the proposed Weymouth Compressor Station in Massachusetts. Commenters also stated concerns about impacts on water supplies, wetlands, vegetation, wildlife, air quality, and safety. The U.S. Environmental Protection Agency is a federal cooperating agency in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs

at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP16–9), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: March 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07261 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Technical Conference

	Project No.
FFP Missouri 12, LLC	13755–002
FFP Missouri 5, LLC	13757–002
FFP Missouri 6, LLC	13761–002
Solia 6 Hydroelectric, LLC	13768–002

On Wednesday, April 6, 2016, Commission staff will hold a technical conference to discuss cultural resources related to Rye Development, LLC's proposed Allegheny Lock and Dam No. 2 Hydroelectric Project No. 13755, Emsworth Locks and Dam Hydroelectric Project No. 13757, Emsworth Back Channel Dam Hydroelectric Project No. 13761, and Montgomery Locks and Dam Hydroelectric Project No. 13768.

The technical conference will begin at 2:00 p.m. Eastern Standard Time. The conference will be held at the Federal Energy Regulatory Commission headquarters building located at 888 1st Street NE., Washington, DC, and will include teleconference capabilities.

All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate. There will be no transcript of the conference, but a summary of the meeting will be prepared for the project record. If you are interested in participating in the meeting you must contact Allyson Conner at (202) 502–6082 or *allyson.conner@ferc.gov* by April 4, 2016 to receive specific instructions on how to participate.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07232 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR16–13–000]

Saddlehorn Pipeline Company, LLC; Notice of Petition for Declaratory Order

Take notice that on March 22, 2016, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2015), Saddlehorn Pipeline Company, LLC (Saddlehorn), filed a petition for a declaratory order concerning the supplemental open season that Saddlehorn conducted from December 2015 to January 2016, to accommodate the restructuring of the original Saddlehorn project into an undivided joint interest pipeline with Grand Mesa Pipeline, LLC, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on April 15, 2016.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07235 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–91–000.

Applicants: Summer Solar LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment of Summer Solar LLC.

Filed Date: 3/22/16.

Accession Number: 20160322–5204.

Comments Due: 5 p.m. ET 4/12/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–60–011; ER10–1632–011; ER10–1628–009; ER10–1624–005; ER10–1617–009; ER10–1597–005; ER10–1594–009; ER10–1585–009.

Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, Kiowa Power Partners, L.L.C., New Mexico Electric Marketing, LLC, Tenaska Power Management, LLC, Tenaska Power Services Co., Texas Electric Marketing, LLC, Tenaska Gateway Partners, Ltd.

Description: Supplement to December 31, 2015 Updated Market Power Analysis in the Southwest Power Pool region of the Tenaska MBR Sellers.

Filed Date: 3/23/16.

Accession Number: 20160323–5148.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER13–102–009.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: NYISO compliance filing Order No. 1000 RTPP to be effective 4/1/2016.

Filed Date: 3/22/16.

Accession Number: 20160322–5168.

Comments Due: 5 p.m. ET 4/12/16.

Docket Numbers: ER15–1047–004.

Applicants: R.E. Ginna Nuclear Power Plant, LLC.

Description: Compliance filing: Compliance2 to 134 to be effective 4/1/2015.

Filed Date: 3/23/16.

Accession Number: 20160323–5183.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–456–002.

Applicants: Baltimore Gas and Electric Company, Potomac Electric Power Company, Delmarva Power & Light Company, Atlantic City Electric Company, PJM Interconnection, L.L.C.

Description: Compliance filing: BGE, Delmarva, et al. submit compliance filing per 2/23/2016 order to be effective 3/8/2016.

Filed Date: 3/23/16.

Accession Number: 20160323–5143.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–792–001.

Applicants: New Harquahala Generating Company, LLC.

Description: Tariff Amendment: Amendment to New Harquahala Revised MBR Tariff to be effective 3/28/2016.

Filed Date: 3/23/16.

Accession Number: 20160323–5114.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–793–001.

Applicants: Talen Montana, LLC.

Description: Tariff Amendment: Amendment to Talen Montana Revised MBR Tariff to be effective 3/28/2016.

Filed Date: 3/23/16.

Accession Number: 20160323–5116.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–795–001.

Applicants: Talen Energy Marketing, LLC.

Description: Tariff Amendment: Amendment to Talen Energy Marketing MBR Tariff to be effective 3/28/2016.

Filed Date: 3/23/16.

Accession Number: 20160323–5115.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–1259–000.

Applicants: Southwest Power Pool, Inc.

Description: Notice of Cancellation of Letter Agreement (SA 1121) of Southwest Power Pool, Inc.

Filed Date: 3/23/16.

Accession Number: 20160323–5015.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–1260–000.

Applicants: Southwest Power Pool, Inc.

Description: Notice of Cancellation of Letter Agreement (SA 1287) of Southwest Power Pool, Inc.

Filed Date: 3/23/16.

Accession Number: 20160323–5016.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–1261–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3186 KCP&L and KEPCO Interconnection Agreement to be effective 3/22/2016.

Filed Date: 3/23/16.

Accession Number: 20160323–5045.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–1262–000.

Applicants: Midcontinent Independent System Operator, Inc., Montana-Dakota Utilities Co., Division of MDU Resources Inc.

Description: § 205(d) Rate Filing: 2016–03–23_SA 2908 MDU-Basin Electric Facility Sharing Agreement to be effective 1/1/2016.

Filed Date: 3/23/16.

Accession Number: 20160323–5062.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–1263–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amendment to Exhibit A of Distribution Service Agreement with SCE–RAP for CREST to be effective 5/23/2016.

Filed Date: 3/23/16.

Accession Number: 20160323–5117.

Comments Due: 5 p.m. ET 4/13/16.

Docket Numbers: ER16–1264–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amended SGIA and Distribution Service Agmt SEPV Mojave West, LLC to be effective 3/24/2016.

Filed Date: 3/23/16.

Accession Number: 20160323–5118.

Comments Due: 5 p.m. ET 4/13/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 23, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07237 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–554–001; PF15–6–000]

Atlantic Coast Pipeline, LLC; Notice of Amendment to Application

Take notice that on March 14, 2016, Atlantic Coast Pipeline, LLC (ACP), 120 Tredgar Street, Richmond, Virginia 23219, filed an amendment to its application under section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations requesting authorization to install, construct, own, operate and maintain certain natural gas pipeline facilities for its Atlantic Coast Pipeline project.

ACP's pending application seeks authorization of: (i) Approximately 564.1 miles of various diameter pipeline; (ii) three greenfield compressor stations totaling 117,545 horsepower (HP) of compression; and (iii) various appurtenant and auxiliary facilities designed to transport up to approximately 1.5 million dekatherms per day (MMDth/d) of natural gas. In the amendment, ACP proposes a major route change near the Monongahela and George Washington National Forests that would affect landowners in Randolph and Pocahontas Counties, West Virginia, and Highland, Bath and Augustana Counties, Virginia. Other, smaller route changes proposed in the amendment would affect landowners in Randolph and Pocahontas Counties, West Virginia, Bath, Nelson and Dinwiddie Counties, Virginia, and Cumberland and Johnston Counties, North Carolina. The amended facilities would increase the total length of the pipeline to 599.7 miles and compressor station HP from 40,715 HP to 53,515 HP at the proposed Buckingham County, Virginia compressor station, all as more fully described in the application.

The filings may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, (202) 502–8659.

Any questions regarding ACP's or DTI's projects should be directed to Angela Woolard, Gas Transmission Certificates, Dominion Transmission, Inc., 701 East Cary Street, Richmond, Virginia 23219; telephone: 866–319–3382.

Within 90 days after the Commission issues a Notice of Amendment to Application for the ACP, the

Commission staff will issue a Notice of Schedule for Environmental Review that will indicate the anticipated date for the Commission's staff issuance of the final EIS analyzing ACP's amended proposal, as well as Dominion Transmission, Inc.'s and Atlantic Coast Pipeline, LLC and Piedmont Natural Gas Company, Inc.'s associated proposals pending in Docket Nos. CP15–555–000 and CP15–556–000, respectively. The issuance of a Notice of Schedule for Environmental Review will also serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's final EIS.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order. At a future date, the Commission will issue a *Supplemental Notice of Intent to Prepare an Environmental Impact Statement* that opens a supplemental scoping period and announces procedures to solicit environmental comments on the amended application. This Notice will be mailed to all parties on the Commission's environmental mailing list for this docket.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on April 12, 2016.

Dated: March 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–07239 Filed 3–30–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Jim Woodruff Project

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of proposed rate adjustment.

SUMMARY: Southeastern proposes a new rate schedule JW–1–K to replace Wholesale Power Rate Schedules JW–1–J for a five-year period from October 1, 2016, to September 30, 2021. Rate schedule JW–1–K would be applicable to Southeastern power sold to existing preference customers in the Duke Energy Florida (formerly Florida Power Corporation) service area. In addition, Southeastern proposes to extend Wholesale Power Rate Schedules JW–2–F, applicable to Duke Energy Florida to September 30, 2021.

DATES: Written comments are due on or before June 29, 2016. A public information and public comment forum will be held at 12:00 Noon, Thursday, May 5, 2016. Persons desiring to speak at the forum are requested to notify Southeastern at least seven (7) days before the forum is scheduled so that a list of forum participants can be prepared. Others present may speak if time permits. Persons desiring to attend the forum should also notify Southeastern at least seven (7) days before the forum is scheduled. If Southeastern has not been notified by close of business on April 28, 2016, that at least one person intends to be present at the forum, the forum may be canceled with no further notice.

ADDRESSES: Written comments should be submitted to: Kenneth E. Legg, Administrator, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711. The public comment forum will meet at the Jim Woodruff Project Site Managers Office Conference Room, 2382 Boosterclub Road, Chattahoochee, FL 32324, Phone (229) 662–2001.

FOR FURTHER INFORMATION CONTACT: Virgil G. Hobbs III, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711, Phone (706) 213–3800.

SUPPLEMENTARY INFORMATION: Existing rate schedules are supported by a June 2011 Repayment Study and other supporting data contained in FERC Docket No. EF11–12–000. A repayment study prepared in January 2016 shows that the existing rates are adequate to meet repayment criteria and generate a surplus. Southeastern is proposing a rate reduction to eliminate this surplus. A revised study with a revenue reduction of $2,316,000 per year demonstrates the rates are adequate to meet repayment criteria. The rate adjustment is a reduction of about 24 percent.

In the proposed rate schedule JW–1–K, which is available to preference customers, the capacity charge would be reduced from $10.29 per kilowatt per month to $7.74 per kilowatt per month. The energy charge would be reduced from 26.51 mills per kilowatt-hour to 20.44 mills per kilowatt-hour. Rate schedule JW–2–F, available to Duke Energy Florida (DEF), would continue the current rate of 100 percent of DEF's fuel cost.

In addition to the capacity and energy charges, each preference customer will

continue to be charged for power purchased by Southeastern on behalf of the preference customer. This pass-through will continue to be computed as described in the current rate schedules, with the modification that the billing cycle conforms to the calendar month. Previously, the billing cycle occurred on the 20th of each month.

The proposed rate schedules are available for examination at 1166 Athens Tech Road, Elberton, Georgia, 30635–6711, as is the January 2016 repayment study.

Dated: March 28, 2016.

Kenneth E. Legg,

Administrator.

[FR Doc. 2016–07289 Filed 3–30–16; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID No. EPA–HQ–ORD–2014–0211; FRL–9943–69–ORD]

Announcement on the Availability of the IRIS Program General Comments Docket; Announcement of the IRIS Program Public Science Meetings for Calendar Year 2016

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the availability of the IRIS Program General Comments Docket and the IRIS Program public science meetings for calendar year 2016.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of an IRIS Program General Comments Docket (Docket ID #EPA–HQ–ORD–2014–0211) open for public comments that have broad applicability to the IRIS Program. This docket was opened in 2014 and will remain open continuously. Stakeholders interested in submitting general comments to the IRIS Program are encouraged to use this docket. EPA is also announcing the dates for the 2016 IRIS public science meetings. Meetings will be held on May 10, 2016; June 29–30, 2016; September 7–8, 2016; and October 26–27, 2016. All future notices about the availability of draft IRIS assessments for public comment (Step 4a) or IRIS public science meetings will be posted on the IRIS Web site at *http://www.epa.gov/iris.* Comments related to specific IRIS chemicals should continue to be directed to the appropriate chemical-specific docket (see the IRIS Web site at *www.epa.gov/iris*). To determine the status of specific IRIS assessments, visit the ''Assessments in Development'' page on the IRIS Web site. The IRIS Program is committed to open communication and maintains a public listserv to make program announcements. For information about how to register for the IRIS Bulletin listserv or for the latest information on the availability of materials for ongoing IRIS assessments, visit *http://www.epa.gov/iris.*

DATES: Meetings will be held on May 10, 2016; June 29–30, 2016; September 7–8, 2016; and October 26–27, 2016

ADDRESSES: IRIS' Web site at *http://www.epa.gov/iris* or the public docket at *http://www.regulations.gov, Docket ID:* EPA–HQ–ORD–2014–0211.

FOR FURTHER INFORMATION CONTACT: For information on submitting comments to this docket, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.*

For technical information on the IRIS Program, contact Vicki Soto, NCEA; telephone: 703–347–0290; facsimile: 703–347–8689; or email: *soto.vicki@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About IRIS

EPA's IRIS Program is a human health assessment program that evaluates quantitative and qualitative risk information on effects that may result from exposure to chemicals found in the environment. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities and decisions to protect public health. The IRIS database contains information on chemicals that can be used to support the first two steps (hazard identification and dose-response evaluation) of the human health risk assessment process. When supported by available data, IRIS provides health effects information and toxicity values for health effects (including cancer and effects other than cancer). Government and others combine IRIS toxicity values with exposure information to characterize public health risks of chemicals; this information is then used to support risk management decisions designed to protect public health.

II. Information on the IRIS Program General Comments Docket

EPA created the IRIS Program General Comments Docket in 2014, based in part on stakeholder's requests, to allow the public to submit comments that have broad applicability to the IRIS Program. Commenters are asked to identify themselves and provide contact information to promote an open dialogue on issues. Examples of the types of comments appropriate for this docket include comments on general scientific issues that apply to all assessments as well as other general comments (not chemical-specific) about the IRIS Program. By having a docket for general comments, stakeholders will no longer have to submit the same general comment to individual chemical dockets that are established for each IRIS assessment.

III. Future Notifications on the Availability of Draft IRIS Assessments for Public Comment

In order to provide information to stakeholders in a timely and efficient manner, the IRIS Program has considered methods of more effectively communicating information to the public. As a result of these efforts, EPA will now announce public comment periods, docket numbers, and information on the availability of draft IRIS assessments, solely on the IRIS Web site (*http://www.epa.gov/iris*). EPA will no longer announce the availability of draft IRIS assessments for public comment in the **Federal Register**. This change only applies to assessments released by the IRIS Program for comment and discussion at future IRIS public science meetings and does not apply to external peer review draft IRIS assessments managed by EPA's Science Advisory Board (SAB) Staff Office. For more information on the IRIS Program, including registering for the Human Health Risk Assessment (HHRA) and IRIS Bulletin listservs, visit the IRIS Web site: *http://www.epa.gov/iris.*

IV. How To Submit Comments to the Docket at www.regulations.gov

EPA invites the public to submit comments and other relevant information regarding the IRIS program and processes to the General Docket. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2014–0211, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The ORD Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC.

The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2014–0211. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Dated: March 16, 2016.

Mary A. Ross,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. 2016–07181 Filed 3–30–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011284–076.

Title: Ocean Carrier Equipment Management Association Agreement.

Parties: Alianca Navegacao e Logistica Ltda.; APL Co. Pte Ltd.; American President Lines, Ltd.; A.P. Moller-Maersk A/S; CMA CGM, S.A.; Atlantic Container Line; China Shipping Container Lines Co., Ltd; China Shipping Container Lines (Hong Kong) Co., Ltd.; COSCO Container Lines Company Limited; Evergreen Line Joint Service Agreement; Hamburg-Süd; Hapag-Lloyd AG; Hapag-Lloyd USA LLC; Ltd.; Hyundai Merchant Marine Co. Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mediterranean Shipping Company, S.A.; Mitsui O.S.K. Lines Ltd.; Nippon Yusen Kaisha Line; Orient Overseas Container Line Limited; United Arab Shipping Co.; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Jeffrey F. Lawrence, Esq. and Donald J. Kassilke, Esq.; Cozen O'Connor; 1200 Nineteenth Street NW., Washington, DC 20036.

Synopsis: The Amendment would add Wan Hai Lines Ltd. as a party to the Agreement. The parties have requested expedited review.

Agreement No.: 011463–012.

Title: East Coast North America to West Coast South America and Caribbean Cooperative Working Agreement.

Parties: Hamburg Sudamerikanische Dampfschifffahrts-Gesellschaft KG a/b/a CCNI; Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft KG and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Conner; 1200 Nineteenth Street NW., Washington, DC 20036.

Synopsis: The amendment would revise language in the agreement to change the notice required for a party to terminate the agreement.

Agreement No.: 012397.

Title: The National Shipping Company of Saudi Arabia (Bahri) and Rickmers-Linie GmbH & Cie. KG (Rickmers-Linie) Space Charter Agreement.

Parties: The National Shipping Company of Saudi Arabia and Rickmers-Linie GmbH & Cie. KG.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor LLP; 1200 Nineteenth St. NW., Washington, DC 200036.

Synopsis: The Agreement authorizes the parties to charter space from one another in the trade between the U.S. East and Gulf Coasts on the one hand, and Saudi Arabia, Egypt, Jordan, Kuwait, the United Arab Emirates, Iraq and Yemen on the other hand.

By Order of the Federal Maritime Commission.

Dated: March 25, 2016.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2016–07177 Filed 3–30–16; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 15, 2016.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *William Stuart Perry, Howard Steven Perry, and Edmond Lewis Perry, all of Nashville, Georgia, and Sara Amelia Perry Parkerson,* Greensboro, Georgia; to retain voting shares of The Nashville Holding Company, and thereby indirectly retain voting shares of The Citizens Bank, both in Nashville, Georgia.

B. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *James Poepl and Jacob Poepl, both of Hastings, Minnesota, and Matthew Poepl,* St. Paul, Minnesota, as members of the Poepl Family Group; to acquire additional voting shares of Vermillion Bancshares, Inc., and thereby indirectly acquire additional voting shares of Vermillion State Bank, both in Vermillion, Minnesota.

C. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Sharon Hall, Coon Rapids, Minnesota; Reed Anderson, Columbus, Nebraska; The Page Family Living Trust dated 03–15–06 and Lucia Page, trustee, Magnolia, Texas; Gina Page, Phoenix, Arizona; Lynsey Page, Co-Trustee of the Lynsey Page Trust UA 08–15–2007; Emily Page, Co-Trustee of the Emily Page Trust UA 12–21–2009; Caroline Page, Co-Trustee of the Caroline Page Trust UA 05–26–2011; and Brian Page, Co-Trustee of the Brian Page Trust UA 07–01–2011;* all as members of the Page Family Group; to retain voting shares of Page Bancshares, Inc., Liberty, Missouri, and thereby indirectly retain voting shares of Pony Express Bank, Braymer, Missouri.

In connection with this application, the Robin D. Page Trust dated 03–20–06 and Robin Page, trustee, Liberty, Missouri, also have applied to join the Page Family Group, and acquire voting shares of Page Bancshares, Inc., Liberty, Missouri, and thereby indirectly retain voting shares of Pony Express Bank, Braymer, Missouri.

Board of Governors of the Federal Reserve System, March 28, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–07278 Filed 3–30–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 25, 2016.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *BCP Fund I Virginia Holdings, LLC, The BankCap Association, which consists of BankCap Equity Fund, LLC, BankCap Partners GP, L.P., and BankCap Partners Fund I, L.P.; and BankCap Partners Opportunity Fund, L.P.,* all in Dallas, Texas; to acquire up to 7.1 percent of the voting shares of Hampton Roads Bankshares, Inc., and thereby indirectly acquire voting shares of Bank of Hampton Roads, both in Virginia Beach, Virginia.

2. *CapGen Capital Group VI LP, CapGen Capital Group VI LLC, both in New York, New York, and Hampton Roads Bankshares, Inc.,* all in Virginia Beach, Virginia; to merge with Xenith Bankshares, Inc., and thereby indirectly acquire Xenith Bank, both in Richmond, Virginia.

Board of Governors of the Federal Reserve System, March 28, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–07277 Filed 3–30–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the notices must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 25, 2016.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *Randolph Bancorp, Inc.,* Stoughton, Massachusetts; to acquire First Eastern Bankshares Corporation, and indirectly acquire First Federal Savings Bank of Boston, Boston, Massachusetts, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii).

Board of Governors of the Federal Reserve System, March 28, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–07276 Filed 3–30–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to conduct a survey of consumers to advance its understanding of the prevalence of consumer fraud and to allow the FTC to better serve people who experience fraud. The survey will be a follow-up to three previous surveys, the most recent of which was conducted between November 2011 and February 2012. Before gathering this information, the FTC is seeking public comments on its proposed consumer research. Comments will be considered before the FTC submits a request for the Office of Management and Budget (''OMB'') review under the Paperwork Reduction Act (''PRA'').

DATES: Comments on the proposed information requests must be received on or before June 13, 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: ''Consumer Fraud Survey 2016: Paperwork Comment, FTC File No. P105502'' on your comment and file the comment online at *https://ftcpublic.commentworks.com/ftc/fraudsurvey2016* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Keith B. Anderson, Economist, Bureau of Economics, Federal Trade Commission, 600 Pennsylvania Avenue NW., H–238, Washington, DC 20580, (202) 326–3428.

SUPPLEMENTARY INFORMATION:

Background: As part of its consumer protection mission, the FTC has brought hundreds of cases targeting perpetrators of consumer fraud and has committed significant resources to educational initiatives designed to protect consumers against such frauds. In order to ensure that its efforts in fighting fraud are as effective as possible, the Commission would like to make certain that it has current data on the prevalence of various types of consumer fraud.

The Commission has conducted three previous surveys designed to estimate the prevalence of consumer fraud among U.S. adults. The most recent survey was conducted between November 2011 and February 2012. A report describing the findings of that survey—*Consumer Fraud in the United States, 2011: The Third FTC Survey*—was released in April 2013 and can be found at *https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-2011-third-ftc-survey/130419fraudsurvey_0.pdf.*[1]

The 2011 survey asked about consumers' experiences with 15 specific and two more general types of fraud during the previous year. Among frauds covered by the survey were weight-loss products that did not work as the seller claimed they would; failure to deliver promised prize or lottery winnings after the consumer made a required purchase, paid money, or attended a required sales presentation; and buyers' club memberships that consumers had not agreed to purchase. Based on the survey results, during 2011, 25.6 million U.S. adults—10.8 percent of the U.S. adult population—were victims of one or more of the frauds covered by the survey.

Among the 15 specific frauds included in the survey, the most frequently reported was the purchase of a weight-loss product that the seller falsely represented would allow the user to lose a substantial amount of weight easily or lose the weight without diet or exercise. The survey results suggested that during 2011 5.1 million consumers—2.1 percent of the U.S. adult population—had tried such a product and found that they only lost a little of the weight they had expected to lose or failed to lose any weight at all.

Because the proposed survey will require obtaining answers from more than nine individuals, the Commission intends to seek OMB clearance under the PRA before conducting the survey. Under the PRA, 44 U.S.C. 3501–3521, federal agencies must obtain approval from OMB for each ''collection of information'' they conduct or sponsor if posed to ten or more entities within any twelve-month period. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB authorize the proposed collection of information.

The FTC invites comments on: (1) Whether the study is necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

Description of the Collection of Information and Proposed Use: The FTC proposes to conduct a telephone survey of up to 4,100 randomly-selected consumers nationwide age 18 and over—100 in a pretest and 4,000 in the main survey—in order to gather specific information on the incidence of consumer fraud in the general population. The proposed sample size is similar to that used in the previous surveys. Many of the questions will be similar to the 2005 and 2011 surveys.[2] As before, one of the focuses of the survey will be to determine the prevalence of fraud among certain groups of consumers. These may include racial minorities, the elderly, members of the military, and those with low incomes. In order to obtain a more reliable picture of the experiences of such groups, the survey may oversample members of some of these groups. All information will be collected on a voluntary basis, and information on the identities of participants will not be collected. Subject to OMB approval for the survey, the FTC plans to contract with a consumer research firm to identify consumers and conduct the survey. The results will assist the FTC in determining the incidence of consumer fraud in the general population and whether the type or

[1] Each survey was conducted under OMB Control Number 3084–0125. The first consumer fraud survey was conducted in May and June of 2003. The results of that survey are reported in ''Consumer Fraud in the United States: An FTC Survey'' (*https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-ftc-survey/040805confraudrpt.pdf*). The 2005 survey was conducted in November and December of 2005 and the findings of that survey are reported in ''Consumer Fraud in the United States: The Second FTC Survey,'' (*https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-second-federal-trade-commission-survey-staff-report-federal-trade/fraud.pdf*).

[2] The survey instrument for the 2011 Consumer Fraud Survey is included in the 2013 report as Appendix D.

frequency of consumer frauds is changing. This information will inform the FTC about how best to combat consumer fraud. The FTC may choose to conduct another follow-up survey in approximately five years.

Estimated Hours Burden: The FTC will pretest the survey on approximately 100 respondents to ensure that all questions are easily understood. This pretest will take approximately 17 minutes per person and 28 hours as a whole (100 respondents × 17 minutes each). Answering the consumer survey will require approximately 15 minutes per respondent and 1,000 hours as a whole (4,000 respondents × 15 minutes each). Thus, cumulative total burden hours for the first year of the clearance will approximate 1,028 hours.

Estimated Cost Burden: The cost per respondent should be negligible. Participation is voluntary and will not require start-up, capital, or labor expenditures by respondents.

Request for Comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 13, 2016. Write ''Consumer Fraud Survey 2016: Paperwork Comment, FTC File No. P105502'' 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 doesn't 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 must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/fraudsurvey2016,* by following the instructions on the web-based form. When this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Consumer Fraud Survey 2016: Paperwork Comment, FTC File No. P105502'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 13, 2016. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *http://www.ftc.gov/ftc/privacy.htm.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–07280 Filed 3–30–16; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–PM–2016–01; Docket No. 2016–0002; Sequence No. 3]

Record of Decision for the Federal Bureau of Investigation Central Records Complex in Winchester County, Virginia

AGENCY: General Services Administration (GSA).

ACTION: Notice of availability, Record of Decision (ROD).

SUMMARY: On March 22, 2016, GSA signed the ROD for the Federal Bureau of Investigation Central Records Complex in Winchester County, Virginia. The ROD states the decision to select the Arcadia Property as the location for the Central Records Complex. GSA will now move forward with the project by acquiring the Arcadia Property via site acquisition. Environmental consequences of implementing the action at the Arcadia Property are discussed in the ROD, along with the required minimization and mitigation measures.

DATES: *Effective:* March 31, 2016.

ADDRESSES: The ROD may be viewed online at *http://www.fbicrc-seis.com.* A printed copy is available for viewing at the following libraries:

- Handley Library, 100 West Piccadilly Street, P.O. Box 58, Winchester, VA 22604.
- Bowman Library, 871 Tasker Road, P.O. Box 1300, Stephens City, VA 22655.
- Smith Library, Shenandoah University, 718 Wade Miller Drive, Winchester, VA 22601.

FOR FURTHER INFORMATION CONTACT: Ms. Courtenay Hoernemann, Project Environmental Planner, 100 S. Independence Mall West, Philadelphia PA 19106; or email *frederick.va.siteacquisition@gsa.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the facility is to allow the FBI improved records management, including decreased response time of records retrieval, and improved security of the records stored by the FBI. The ROD announces GSA's decision on selecting the Arcadia Property based on information and analysis contained in the Final Supplemental Environmental Impact Statement (SEIS), the Draft SEIS, the Final EIS, technical studies, comments from the public and agencies, and the site selection criteria. The Final SEIS was made public on January 15, 2016 through an NOA in the **Federal Register** (Volume 81, Number 10, Page 2218) with a post filing waiting period ending on February 14, 2016.

Dated: March 24, 2016.

John Hofmann,

Division Director, Facilities Management & Services Programs Division, General Services Administration, Mid-Atlantic Region.

[FR Doc. 2016–07161 Filed 3–30–16; 8:45 am]

BILLING CODE 6820–89–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–16–16XD; Docket No. CDC–2016–0034]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a newly proposed information collection project entitled ''Practice Patterns Related to Opioid Use During Pregnancy and Lactation''. CDC seeks to collect data for the purpose of assessing obstetrician-gynecologists' knowledge, attitudes, and practices regarding screening for and treatment of maternal opioid use surrounding the time of pregnancy. CDC will need a one-year clearance from the Office of Management and Budget (OMB) to collect the necessary data.

DATES: Written comments must be received on or before May 31, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0034 by any of the following methods:

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

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Practice Patterns Related to Opioid Use During Pregnancy and Lactation—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Over the past decade, the prevalence of maternal opioid use during pregnancy has steadily increased. The use of opioids or other psychoactive substances, either by illicit abuse or by nonmedical abuse of prescription opioids, increases the risks for health and social problems for both mother and infant. For example, maternal substance abuse during pregnancy increases the risk of preterm birth, low birth weight, perinatal death, and neonatal abstinence syndrome (NAS). For many women, and some at-risk women in particular, prenatal visits may be the only time they routinely see a physician. Because obstetrician-gynecologists (OB/GYNs) are the principal health care providers for women, OB/GYNs are well situated to screen for substance use and to treat or encourage cessation of substance use during pregnancy. Thus, it is important to understand current provider knowledge, attitudes, and practices regarding maternal opioid use.

CDC, in collaboration with the American College of Obstetricians and Gynecologists (ACOG), plans to conduct a survey to address this gap in knowledge. Survey respondents will be ACOG Fellows and Junior Fellows who have a current medical license and are in medical practice focused on women's health. ACOG is separated into 11 districts, one of which represents OB/GYN members who are in the U.S. military. The remaining 10 ACOG districts correspond to geographic regions that encompass the entire United States and Canada. Survey invitations will be sent to a quasi-random sample of ACOG members in each district.

CDC and ACOG estimate that 1,500 individuals will be contacted in order to obtain a study target of 600 respondents. The initial invitation will be distributed by email with instructions on completing a web-based version of the questionnaire. Three to four months after the initial invitation, a paper version of the questionnaire will be

distributed to individuals who have not completed the online version. The estimated number of respondents for the full web-based or paper questionnaire is 420 and the estimated burden per response is 15 minutes. Approximately six weeks after the second recruitment attempt, ACOG will distribute a short version of the questionnaire to any non-responders. The estimated number of responses for the short version of the questionnaire is 180 and the estimated burden per response is 5 minutes. An overall 40% response rate is expected.

The survey will collect information about provider attitudes and beliefs regarding maternal opioid use, their screening and referral practices for pregnant or postpartum patients, barriers to screening and treating pregnant and postpartum patients for opioid use, and resources that are needed to improve treatment and referral.

No information will be collected about individual patients. Survey administration and data management will be conducted by ACOG, and participation is voluntary. De-identified response data will be shared with CDC for analysis.

Findings will be used to create recommendations for educational programs and patient care. There are no costs to participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
OB/GYNs caring for pregnant women.	Practice Patterns Related to Opioid Use During Pregnancy and Lactation.	420	1	15/60	105
	Practice Patterns Related to Opioid Use During Pregnancy and Lactation (short version).	180	1	5/60	15
Total	.....	.....	.....	.....	120

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–07226 Filed 3–30–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–16–1074]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Colorectal Cancer Control Program (CRCCP) Monitoring Activities

—Reinstatement with Change (OMB No. 0920–1074, exp. 12/31/2015)

—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a reinstatement with change of the information collect project assigned OMB Control Number 0920–1074, formerly entitled ''Annual Survey of Colorectal Cancer Control Activities Conducted by States and Tribal Organizations.'' In the previous OMB approval period, information collection consisted of an annual grantee survey. In the next OMB approval period, information collection will consist of a redesigned survey and a new clinic-level information collection. The number of respondents will increase and the total estimated annualized burden will increase.

Among cancers that affect both men and women, colorectal cancer (CRC) is the second leading cause of death from cancer in the United States. CRC screening has been shown to reduce incidence of and death from the disease. Screening for CRC can detect disease early when treatment is more effective and prevent cancer by finding and removing precancerous polyps. Of individuals diagnosed with early stage CRC, more than 90% live five or more years. Despite strong evidence supporting screening, only 65% of adults currently report being up-to-date with CRC screening as recommended by the U.S. Preventive Services Task Force, with more than 22 million age-eligible adults estimated to be untested. To reduce CRC morbidity, mortality, and associated costs, use of CRC screening tests must be increased among age-eligible adults with the lowest CRC screening rates.

CDC's Colorectal Cancer Control Program (CRCCP) currently provides funding to 31 grantees under ''Organized Approaches to Increase

Colorectal Cancer Screening'' (CDC–RFA–DP15–1502). CRCCP grantees include state governments or bona-fide agents, universities, and tribal organizations. The purpose of the new cooperative agreement program is to increase CRC screening rates among an applicant defined target population of persons 50–75 years of age within a partner health system serving a defined geographical area or disparate population.

The CRCCP was significantly redesigned in 2015 and has two components. Under Component 1, all 31 CRCCP grantees receive funding to support partnerships with health systems to implement up to four priority evidence-based interventions (EBIs) described in the Guide to Community Preventive Services, as well as other supporting strategies. Grantees must implement at least two EBIs in each partnering health system. Under Component 2, 6 of the 31 CRCCP grantees will provide direct screening and follow-up clinical services for a limited number of individuals aged 50–64 in the program's priority population who are asymptomatic, at average risk for CRC, have inadequate or no health insurance for CRC screening, and are low income.

Based on the redesigned CRCCP, the information collection plan has also been redesigned to address the two program components. The new cooperative agreement program (CDC–RFA–DP15–1502) requires that CDC monitor and evaluate the CRCCP and individual grantee performance using both process and outcome evaluation. Two forms are proposed. First, the CRCCP grantee survey was redesigned to align with new CRCCP goals. The grantee survey will be submitted to CDC annually. Second, CDC proposes to collect clinic-level information to assess changes in CDC's primary outcome of interest, *i.e.,* CRC screening rates within partner health systems. Each grantee will complete a clinic-level collection template once per year. All information will be reported to CDC electronically.

The information collection will enable CDC to gauge progress in meeting CRCCP program goals and to monitor implementation activities, evaluate outcomes, and identify grantee technical assistance needs. In addition, findings will inform program improvement and help identify successful activities that need to be maintained, replicated, or expanded.

OMB approval is requested for three years. Participation is required for CRCCP awardees. In the pilot test for the CRCCP annual grantee survey, the average time to complete the instrument was approximately 45 minutes. In the pilot test for the CRCCP clinic-level information collection, the average time to complete the instrument was approximately 30 minutes. CDC estimates an average of 12 responses per grantee annually to correspond with the number of health system partners. The total estimated annualized burden hours are 209. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)
CRCCP Grantees	CRCCP Annual Grantee Survey	31	1	45/60
	CRCCP Clinic-level Information Collection Template.	31	12	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–07225 Filed 3–30–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Substance Abuse Prevention and Treatment Block Grant Synar Report Format, FFY 2017–2019—(OMB No. 0930–0222)—Revision

Section 1926 of the Public Health Service Act [42 U.S.C. 300x–26] stipulates that funding Substance Abuse Prevention and Treatment Block Grant (SABG) agreements for alcohol and drug abuse programs for fiscal year 1994 and subsequent fiscal years require states to have in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18. This section further requires that states conduct annual, random, unannounced inspections to ensure compliance with the law; that the state submit annually a report describing the results of the inspections, the activities carried out by the state to enforce the required law, the success the state has achieved in reducing the availability of tobacco products to individuals under the age of 18, and the strategies to be utilized by the state for enforcing such law during the fiscal year for which the grant is sought.

Before making an award to a State under the SABG, the Secretary must make a determination that the state has maintained compliance with these requirements. If a determination is made that the state is not in compliance, penalties shall be applied. Penalties ranged from 10 percent of the Block Grant in applicable year 1 (FFY 1997 SABG Applications) to 40 percent in applicable year 4 (FFY 2000 SABG Applications) and subsequent years. Respondents include the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, Micronesia, and the Marshall Islands.

Regulations that implement this legislation are at 45 CFR 96.130, are approved by OMB under control number 0930–0163, and require that each state submit an annual Synar report to the Secretary describing their progress in complying with section 1926 of the PHS Act. The Synar report, due December 31 following the fiscal year

for which the state is reporting, describes the results of the inspections and the activities carried out by the state to enforce the required law; the success the state has achieved in reducing the availability of tobacco products to individuals under the age of 18; and the strategies to be utilized by the state for enforcing such law during the fiscal year for which the grant is sought. SAMHSA's Center for Substance Abuse Prevention will request OMB approval of revisions to the current report format associated with Section 1926 (42 U.S.C. 300x–26). The report format is not changing significantly. Any changes in either formatting or content are being made to simplify the reporting process for the states and to clarify the information as the states report it; both outcomes will facilitate consistent, credible, and efficient monitoring of Synar compliance across the states. All of the information required in the new report format is already being collected by the states. Specific changes are listed below:

Clarification Changes

To decrease the need for supplemental questions and reporting, additional instruction has been included in 3 portions of the report.

In Section I (Compliance Progress), the following clarification changes are being made with respect to the Annual Synar Report:

Question 1b: Changes to state law—This question asks about changes in state laws that impact the state's protocol for conducting Synar inspections and has been edited to include an option for changes to state law concerning changes in the definition of tobacco products. Many states are changing the definition of tobacco products in their state laws to include electronic nicotine delivery systems, which would impact the types of products that could be included in Synar surveys.

Question 1c: Changes to state law—This question asks about changes to state youth access to tobacco laws and has been edited to include an option for changes to state law concerning additional product categories to their youth tobacco access law. While some states have changed the definition in the state law to include electronic nicotine delivery systems, smokeless tobacco, and other tobacco products, other states have added these products as additional product categories in addition to tobacco products.

Question 2: Describe how the Annual Synar Report and the state plan were made public prior to submission of the ASR. This question asks states to describe how they make their ASR public prior to submission. States have been asked to provide a web address and the date the ASR was posted to that web address if they choose to post the ASR on an agency Web site. The ASR format has been clarified to provide a separate text box to enter both of these pieces of information. The time frame was corrected per the comments.

Questions 4d–f—Coordination with Agency that Receives the FDA State Enforcement Contract—These close-ended questions ask the state to list the agency that is under contract to the FDA to enforce federal youth access laws, to describe the relationship between the state's Synar program and this agency, and to identify if the state uses data from the FDA enforcement inspections for the Synar survey. This question has been edited to include skip logic and response options if a state does not have a current contract with the FDA.

Questions 5b, 5c, 5d, 5e, 5f: Enforcement Agencies, Evidence of Enforcement and Frequency of Enforcement—These questions have been clarified so it is clear that they refer to enforcement of state youth access laws, and not federal or local youth access laws. In addition, these questions have been re-ordered (but the wording has not been changed) to improve logical flow of the questions. In addition, question 5e has been edited to include separate response options to allow states to describe each of the additional activities listed in the question stem to encourage states to describe each of those activities fully. The timeframe for this question was corrected per the comments.

Questions 8a and 8b: Sampling Frame Coverage Study—Language was changed in these questions to emphasize the word sampling regarding the frame coverage study as requested during the comment period.

In Section II (Intended Use), the following clarification change is being made:

Question 3—State Challenges: This question asks states to identify and describe their challenges in implementing the Synar program. This question has been edited to include separate response options to allow states to describe each of the challenges listed in the question stem to encourage states to describe each of the challenges fully and to make targeted technical assistance requests.

In Appendix C (Synar Survey Inspection Protocol Summary), the following changes are being made:

Title: The title of this Appendix has been edited to reflect that it is the summary of the state's inspection protocol and that the Appendix itself is not detailed enough to serve as the entirety of the state's inspection protocol.

Questions 4—Type of Tobacco Products—These questions, which ask the state to define the type of tobacco products requested during Synar inspections and to describe the protocol for tobacco type selection, have been edited to separate the options of including small cigars and cigarillos and to add the option of including electronic nicotine delivery systems or electronic cigarettes.

Questions 5a and b—The previous question 5 has been separated into two sections to ensure states are able to fully describe the methods used to recruit, select and train adult supervisors for the survey separately from the methods used to recruit, select, and train youth inspectors.

Content Changes

The content of the Synar Report has changed little. The content changes that have been made address the need to (1) clarify the intent of information requested via the addition of clarifying questions, and (2) reduce the need for State Project Officers to ask additional questions to supplement the originally submitted Report. These additions and changes are essential to SAMHSA's ability to adequately assess state and jurisdictional compliance with the Synar regulation.

In Section I (Compliance Progress), the following changes are being made with respect to the Annual Synar Report:

Question 6: Changes to the sampling methodology—This question asks states if their sampling methodology has changed from the previous year. If there has been a change, a sub-question has been added to document how that change was communicated to SAMHSA. Since this change requires prior approval, a state that had not received prior approval will have the opportunity to discuss the process used to determine the need for a change. Language in the report format and the instructions was adjusted to reflect the comments. The time period was also corrected per the comments.

Question 9: Changes to the inspection protocol—This question asks states if its inspection protocol has changed from the previous year. If there has been a change, a sub-question has been added to document how that change was communicated to SAMHSA. Since this change requires prior approval, a state that had not received prior approval will have the opportunity to discuss the process used to determine the need for

a change. Existing questions 9a, 9b, and 9c have been renumbered to account for this new sub-question. Language in the report format and the instructions was adjusted to reflect the comments.

In Appendix B (Synar Survey Sampling Methodology), the following changes are being made:

Question 4—Vending machine inclusion in Synar Survey—This question, whether asks vending machines are included in the Synar survey and the reasons for their elimination if they are not included. Because many states have a contract with the FDA and are actively enforcing the vending machine requirements of the Family Smoking Prevention and Tobacco Control Act, some states that include vending machines in their sampling protocols do not sample any because there are few eligible vending machines remaining on their list frame. A second part has been added to this question to determine how vending machines are sampled.

There are no changes to Forms 1–5 or Appendix D.

ANNUAL REPORTING BURDEN

45 CFR Citation	Number of respondents [1]	Responses per respondents	Total number of responses	Hours per response	Total hour burden
Annual Report (Section 1—States and Territories) 96.130(e)(1–3)	59	1	59	15	885
State Plan (Section II—States and Territories) 96.130(e)(4,5)96.130(g)	59	1	59	3	177
Total	59				1,062

[1] Red Lake Indian Tribe is not subject to tobacco requirements.

Written comments and recommendations concerning the proposed information collection should be sent by May 2, 2016 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2016–07223 Filed 3–30–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Cessation of National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Food and Drug Administration (FDA) Using the Partner Government Agency (PGA) Message Set Through the Automated Commercial Environment (ACE)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: U.S. Customs and Border Protection (CBP) and the Food and Drug Administration (FDA) have determined that the National Customs Automation Program (NCAP) test concerning the electronic transmission of certain import data for all FDA-regulated commodities through the Automated Commercial Environment (ACE) has been a success as ACE is capable of accepting FDA-regulated electronic entries. Accordingly, this document announces that the pilot is ending and CBP encourages all importers of merchandise regulated by the FDA to now use ACE for their electronic filings. In the near future ACE will be the sole CBP-authorized Electronic Data Interchange (EDI) system for these filings.

DATES: The FDA test will end on May 2, 2016.

ADDRESSES: Comments concerning this notice and any aspect of this test may be submitted via email to Josephine Baiamonte, ACE Business Office (ABO), Office of International Trade, at *josephine.baiamonte@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: For CBP-related questions, contact Jeffrey Nii, Director, Inter-Agency Collaboration Division, Office of International Trade, at *jeffrey.c.nii@cbp.dhs.gov*. For FDA-related questions, contact Sandra Abbott at *sandra.abbott@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

The National Customs Automation Program (NCAP) was established by Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, December 8, 1993) (Customs Modernization Act). *See* 19 U.S.C. 1411. Through NCAP, the thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the legacy Customs Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing. ACE will streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for CBP and all its communities of interest. The ability to meet these objectives depends upon successfully modernizing CBP's business functions and the information technology that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionality, designed to introduce a

new capability or to replace a specific legacy ACS function.

Through the Customs Modernization Act and section 101.9 of title 19 of the Code of Federal Regulations (19 CFR 101.9), the Commissioner of CBP has authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. *See* Treasury Decision (T.D.) 95–21.

I. The FDA Partner Government Agency Message Set Test

On December 13, 2013, CBP published in the **Federal Register** a notice announcing a NCAP test called the Partner Government Agency (PGA) Message Set test. *See* 78 FR 75931 (December 13, 2013). The PGA Message Set is the data required to satisfy a PGA's reporting requirements through ACE, enabling the trade community to submit trade-related data required by the PGA only once to CBP, thus improving communications between the agency and filers, and shortening entry processing time. Also, by virtue of being electronic, the PGA Message Set eliminates the necessity for the submission and subsequent manual processing of paper documents.

On August 27, 2015, CBP published in the **Federal Register** a notice announcing CBP's plan to conduct a test concerning the submission of electronic Food and Drug Administration (FDA) data elements required by the FDA's cargo admissibility process under the auspices of ACE for those commodities regulated by the FDA that are being imported or offered for import into the United States. *See* 80 FR 52051 (August 27, 2015). Under the test, the new FDA PGA Message Set satisfied the FDA data requirements for formal and informal consumption entries through electronic filing in ACE and via the FDA PGA Message Set, enabling the trade community to have a CBP-managed ''single window'' for the submission of data required by the FDA during the cargo importation and review process.

In the notice, CBP stated that the FDA PGA Message Set test would continue until concluded by way of announcement in the **Federal Register** and that an evaluation would be conducted to assess the effect that the test had on expediting the submission of FDA importation-related data elements and the processing of FDA entries.

II. Conclusion of the Successful FDA PGA Message Set Test

This notice announces that CBP and FDA have determined that ACE is capable of accepting FDA regulated electronic entries in ACE via the FDA PGA Message Set and, having found the test to be successful, are concluding the test, effective May 2, 2016.

III. Use of ACE

On February 29, 2016, CBP published a notice in the **Federal Register** announcing that, starting on March 31, 2016, CBP will begin decommissioning the Automated Commercial System (ACS) for certain entry and entry summary filings, making ACE the sole CBP-authorized EDI system for processing those electronic filings. *See* 81 FR 10264 (February 29, 2016). CBP explained that it would announce the conclusion of PGA Message Set and Document Image System (DIS) pilots on a rolling basis and that, as each pilot was concluded, ACE would become the sole CBP-authorized EDI system for electronic entry and entry summary filings for merchandise subject to the specified PGA import requirements and that merchandise subject to the specified PGA import requirements would no longer be permitted in ACS.

Despite the FDA PGA Message Set test concluding, CBP is not, at this time, decommissioning the Automated Commercial System (ACS) for transmitting FDA data. Nonetheless, ACE is capable of accepting FDA-regulated electronic entries and CBP encourages all importers of merchandise regulated by the FDA to now use ACE for their electronic filings. Making the transition to ACE now will benefit the filing community when ACE will become the sole CBP-authorized EDI system for these filings.

Dated: March 28, 2016.

Brenda B. Smith,

Assistant Commissioner, Office of International Trade.

[FR Doc. 2016–07255 Filed 3–30–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0022]

Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee management; request for applicants for appointment to the Federal Emergency Management Agency's Technical Mapping Advisory Council.

SUMMARY: The Federal Emergency Management Agency (FEMA) is requesting qualified individuals interested in serving on the Technical Mapping Advisory Council (TMAC) to apply for appointment. As provided for in the *Biggert-Waters Flood Insurance Reform Act of 2012,* the TMAC makes recommendations to the FEMA Administrator on how to improve, in a cost-effective manner, the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps (FIRMs) and risk data; and performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States. Applicants will be considered for appointment in the event that there are vacancies on the TMAC.

DATES: Applications will be accepted until 11:59 p.m. E.S.T. on April 30, 2016.

ADDRESSES: Applications for membership should be submitted by one of the following methods:

- *Email: FEMA–TMAC@fema.dhs.gov.*
- *Mail:* FEMA, Federal Insurance and Mitigation Administration, Risk Analysis Division, Attn: Kathleen Boyer, 1800 South Bell Street, Arlington, VA 20598–3030.

FOR FURTHER INFORMATION CONTACT: Kathleen Boyer (Designated Federal Officer for the TMAC); address: FEMA, 1800 South Bell Street, Arlington, VA 20598–3030; telephone: (202) 646–4023; and email: *FEMA–TMAC@fema.dhs.gov.* The TMAC Web site is: *http://www.fema.gov/TMAC.*

SUPPLEMENTARY INFORMATION: The TMAC is an advisory committee that was established by the *Biggert-Waters Flood Insurance Reform Act of 2012,* 42 U.S.C. 4101a, and in accordance with provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. App. (Pub. L. 92–463). The TMAC is required to review and makes recommendations to FEMA on mapping-related issues and activities. This includes mapping standards and guidelines, performance metrics and milestones, map maintenance, interagency and intergovernmental coordination, map accuracy, funding strategies, and other mapping-related issues and activities. In addition, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) A description of the activities of the Council; (2) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator. In late 2015, the TMAC submitted its first annual report, as well as a one-time Future Conditions report.

Members of the TMAC will be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using FIRMs. To the maximum extent practicable, FEMA will ensure that membership of the TMAC has a balance of Federal, State, local, Tribal, and private members, and includes geographic diversity.

FEMA is requesting qualified individuals who are interested in serving on the TMAC to apply for appointment. Applicants will be considered for appointment for vacancies on the TMAC, the terms of which start on October 1, 2016. Certain members of the TMAC, as described below, will be appointed to serve as Special Government Employees (SGE) as defined in section 202(a) of title 18 United States Code. Candidates selected for appointment as SGEs are required to complete a Confidential Financial Disclosure Form (Office of Government Ethics (OGE) Form 450). This form can be obtained by visiting the Web site of the Office of Government Ethics (*http://www.oge.gov*). Please do not submit this form with your application. Qualified applicants will be considered for one or more of the following membership categories:

a. One member of a recognized professional surveying association or organization (SGE appointment);

b. One member of a recognized professional mapping association or organization (SGE appointment);

c. One member of a recognized professional engineering association or organization (SGE appointment);

d. One representative of a State national flood insurance coordination office;

e. One member of a recognized regional flood and storm water management organization (SGE appointment);

f. One representative of a State government agency that has entered into a cooperating technical partnership with the FEMA Administrator and has demonstrated the capability to produce FIRMs;

g. One representative of a local government agency that has entered into a cooperating technical partnership with the FEMA Administrator and has demonstrated the capability to produce FIRMs;

h. One member of a recognized floodplain management association or organization (SGE appointment);

i. One member of a recognized risk management association or organization (SGE appointment); and

j. One State mitigation officer (SGE appointment).

Members of the TMAC will serve terms of office for two years. There is no application form. However, applications must include the following information: The applicant's full name, home and business phone numbers, preferred email address, home and business mailing addresses, current position title and organization, resume or curriculum vitae, and the membership category of interest (*e.g.,* State mitigation officer). Contact information is provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

The TMAC will meet not less than twice a year. Members may be reimbursed for travel and per diem, and all travel for TMAC business must be approved in advance by the Designated Federal Officer. The Department of Homeland Security (DHS) does not discriminate in employment 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 its recruitment actions. Registered lobbyists, current FEMA employees, Disaster Assistance Employees, and reservists will not be considered for appointments for these positions.

Dated: March 22, 2016.

Roy Wright,

Associate Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 2016–07189 Filed 3–30–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0023]

Agency Information Collection Activities: Application To Register Permanent Residence or Adjust Status, Form I–485, and Adjustment of Status Under Section 245(i), Supplement A to Form I–485; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until May 31, 2016.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0023 in the subject box, the agency name and Docket ID USCIS–2009–0020. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2009–0020;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov*;

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Acting Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2009–0020 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking

Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application To Register Permanent Residence or Adjust Status and Adjustment of Status Under Section 245(i).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–485 and Supplement A to Form I–485; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected is used to determine eligibility to adjust status under section 245 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the paper version of Form I–485 is 344,400 and the estimated hour burden per response is 6.25 hours. The estimated total number of respondents for the electronic version of Form I–485 is 229,600 and the estimated hour burden per response is 5.25 hours. The estimated total number of respondents for the paper version of Form I–485A is 21,600 and the estimated hour burden per response is .5 hours. The estimated total number of respondents for the electronic version of the Form I–485A is 14,400 and the estimated hour burden per response is .17 hours. The estimated total number of respondents for the Biometric Processing is 460,991 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,910,508 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $196,882,000.

Dated: March 28, 2016.

Samantha Deshommes,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–07265 Filed 3–30–16; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2015–N228; BAC–4333–99]

Monomoy National Wildlife Refuge; Barnstable County, MA; Record of Decision for Final Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; record of decision and comprehensive conservation plan.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the record of decision (ROD) and final comprehensive conservation plan (CCP) for Monomoy National Wildlife Refuge (NWR). We prepared the ROD pursuant to the National Environmental Policy Act of 1969 (NEPA) and its implementing regulations. The Service is furnishing this notice to advise the public and other agencies of our decision and of the availability of the ROD and CCP.

DATES: The ROD was signed on March 18, 2016.

ADDRESSES: You may view or obtain copies of the final CCP and ROD by any of the following methods.

Agency Web site: Download a copy of the document at *http://www.fws.gov/refuge/Monomoy/what_we_do/conservation.html.*

Email: Send requests to *libby_herland@fws.gov;* include ''Monomoy NWR CCP'' in the subject line of your email.

U.S. Mail: Elizabeth A. Herland, Project Leader, Eastern Massachusetts NWR Complex, 73 Weir Hill Road, Sudbury, MA 01776.

In-Person Viewing or Pickup: Visit during regular business hours at Eastern Massachusetts NWR Complex (see address above), or at Monomoy NWR, 30 Wikis Way, Chatham, MA 02633.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Herland, Project Leader, Eastern Massachusetts NWR Complex, 73 Weir Hill Road, Sudbury, MA 01776; 978–443–4661 ext. 11 (phone); *libby_herland@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Monomoy NWR. We officially began this process through a notice of intent in the **Federal Register** (64 FR 9166) on February 24, 1999. That notice announced our intent to prepare one CCP for all eight refuges in the Eastern Massachusetts NWR Complex, including Monomoy NWR. In two subsequent notices in the **Federal Register**, published on February 15, 2001 (66 FR 10506), and December 13, 2004 (69 FR 72210), we explained our intent to reorganize our CCP planning effort for the eight refuges, including Monomoy NWR. For more information on the early planning process history, see the December 13, 2004, notice. On April 10, 2014, we announced the release of the draft CCP/Environmental Impact Statement (EIS) to the public and requested comments in a notice of availability (NOA) in the **Federal Register** (79 FR 19920). We subsequently extended the public comment period on the draft document in another notice in the **Federal Register** (79 FR 36553) on June 27, 2014. We released the final CCP/EIS for public review on October 30, 2015 (80 FR 66928). In addition, the Environmental Protection Agency (EPA) published **Federal Register** notices announcing the availability of our draft and final CCP/EIS coincident with our notices as

required under Section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.*). EPA's notice of availability of the draft CCP/EIS was published on April 18, 2014, and EPA's notice of the final document was published on November 6, 2015.

In the draft and final CCP/EIS, we evaluated three alternatives for managing the refuge and completed a thorough analysis of the environmental, social, and economic considerations of each alternative. Alternative B was identified as the Service-preferred alternative in both draft and final documents. Based on comments we received during the public review period for the draft CCP/EIS, we made several modifications to alternative B in the final CCP/EIS. All substantive issues were addressed through revisions made to text in the final CCP/EIS, or in our responses to comments contained in appendix K of final CCP/EIS. None of the comments received on the final CCP/EIS raised significant new issues, nor require significant changes to either alternative B or our analysis of impacts. All substantive comments were previously addressed in appendix K. However, in response to some of the final CCP/EIS comments, we felt we should clarify our intent for certain management strategies in the CCP. Those clarifications are detailed in the ROD.

In accordance with NEPA (40 CFR 1506.6(b)) requirements, this notice announces the availability of the ROD and final CCP for Monomoy NWR, which further detail our decision to select alternative B for implementation. The final CCP will guide our management and administration of the refuges over the next 15 years.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each NWR. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and goals and contributing to the mission of the National Wildlife Refuge System (Refuge System). CCPs should be consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies, as well as respond to key issues and public concerns. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years, in accordance with the Refuge Administration Act.

CCP Alternatives

During the scoping phase of the planning process, we identified a variety of issues and concerns based on input from the public; town of Chatham, Massachusetts, officials; State or Federal agencies; other Service programs; and our planning team. We developed refuge management alternatives to address these issues and local community concerns; help achieve refuge goals, objectives, and purposes; and support the Refuge System mission. Our draft CCP/EIS (79 FR 19920) and final CCP/EIS (80 FR 66928) fully analyze three alternatives for the future management of the refuge: (1) Alternative A, Current Management; (2) Alternative B, Enhanced Management of Habitat and Public Uses; and (3) Alternative C, Natural Processes. Alternative A satisfies the NEPA requirement of a ''No Action'' alternative. Both the draft and final plans identify alternative B as the Service-preferred alternative. Please refer to the final CCP/EIS for more details on each of the alternatives.

Basis for Selected Alternative

Our decision is to adopt alternative B, as described in the final CCP/EIS. We provide a brief summary of our decision below. For the full basis of our decision, please see the ROD (see **ADDRESSES**).

This decision to adopt alternative B for implementation was made after considering the follow factors: (1) How well the alternative achieves the stated purpose and need for a CCP and the six goals presented in chapter 1 of the final CCP/EIS; (2) How well the alternative addresses the relevant issues, concerns, and opportunities identified in the planning process and summarized in chapter 1 of final CCP/EIS; (3) The results of public, partner, town of Chatham, Federal and State agency, and other stakeholder comments on the draft and final CCP/EISs; (4) The projected impacts identified in chapter 4 of the final CCP/EIS; and, (5) Other relevant factors, including fulfilling the purposes for which the refuge was established, contributing to the mission and goals of the Refuge System and National Wilderness Preservation System, and statutory and regulatory guidance.

Compared to the other two alternatives, alternative B includes the suite of actions that best meet the factors above, using the most balanced, reasonable, practicable, and integrated approach, and with due consideration for impacts on both the biological and human environment. The refuge's establishment purposes emphasize the conservation of migratory birds and the protection of wilderness character and values; thus, protecting those resources on Monomoy NWR is paramount. Alternative B will best fulfill the refuge's biological goal by managing for migratory birds and other Federal trust species and habitats that are of national and regional conservation concern. Under alternative B, there is clear direction under goal 1, establishing which Federal trust species will be a management priority in each of the habitat types. The objectives and strategies under goal 1 further establish the priority actions we will pursue to achieve this goal.

Under alternative B, the objectives and strategies under goal 4 best ensure wilderness resource protection and management will be achieved over the long term. Alternative B also increases inventory and monitoring efforts to help evaluate the effectiveness of our actions and to ensure our management into the future is adaptive and strategic, including considerations of the impacts of climate change. Alternative B, under goal 2, is best at promoting wildlife-dependent recreation on the refuge, with additional opportunities for our six priority public uses: Hunting, fishing, wildlife observation, wildlife photography, environmental education, and interpretation. These programs will provide high-quality experiences for our visitors while providing sufficient protection for wildlife and wilderness resources. However, we have also determined that there are some activities of interest to the public that are inappropriate and not compatible with resource protection and will not be allowed. Our rationale for allowing certain activities, and not allowing others, is detailed in appendix D.

Alternative B best recognizes how important Monomoy NWR is to the local community and the larger social and economic region of the Outer Cape. It includes strategies for improving communications and coordination with the town of Chatham; State fish, wildlife, and marine agency officials; and the National Park Service; these entities collectively represent the other entities with management authority in the area surrounding the refuge. Goal 3 and its objectives and strategies also specifically identify actions to improve outreach and engagement within the local community, and to increase appreciation and enjoyment of the refuge.

Alternative B complies with all major Federal laws that apply to this type of Federal action. The final CCP/EIS was developed to comply with NEPA. The CCP/EIS was developed with sufficient detail to account for the greatest potential impacts that could result from proposed actions identified under all alternatives. However, additional NEPA analysis will be necessary for certain types of actions, even once we adopt a final CCP. We identified some of the actions we anticipate will require further NEPA analysis and public involvement in chapter 3 of the final CCP/EIS. Appendix M in the CCP includes documentation of compliance with the Coastal Zone Management Act (Public Law 92–583, as amended); Endangered Species Act (Public Law 93–205, as amended); and National Historic Preservation Act (Public Law 89–665).

In summary, we selected alternative B for implementation because it best meets the factors identified above when compared to alternatives A and C. Alternative B provides the greatest number of opportunities for Monomoy NWR to contribute to the conservation of fish, wildlife, habitat, and wilderness resources at local, regional, and national levels. It will also increase our capacity to meet refuge purposes, contribute to the Refuge System mission, and enhance visitor use and enjoyment, and it will provide the means to better respond to changing ecological conditions within the surrounding environment.

Public Availability of Documents

You can view or obtain the final CCP and ROD as indicated under **ADDRESSES**.

Dated: March 23, 2016.

Kenneth Elowe,

Acting Regional Director, Northeast Region, U.S. Fish and Wildlife Service.

[FR Doc. 2016–07158 Filed 3–30–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2015–N021; FXES11130500000–167–FF05E00000]

Endangered and Threatened Wildlife and Plants; Draft Recovery Plan for the Gulf of Maine Distinct Population Segment of Atlantic Salmon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft recovery plan for the endangered Gulf of Maine Distinct Population Segment (DPS) of Atlantic salmon. This draft plan has been prepared jointly by the Service and the National Marine Fisheries Service (NMFS). The draft recovery plan includes specific recovery objectives and a set of criteria that, when met, would allow us to consider reclassifying the DPS from endangered to threatened under the Endangered Species Act of 1973, as amended (Act), and, ultimately, to remove the GOM DPS of Atlantic salmon from the Federal List of Endangered and Threatened Wildlife. We request review of and comment on this draft recovery plan from Federal, State, and local agencies; Tribes; nongovernmental organizations; and the public.

DATES: *Submitting Comments:* In order to be considered, comments on the draft recovery plan must be received by May 31, 2016.

Public Information Meetings: Informational meetings in Maine have been scheduled for April 19, 2016, from 6:30 p.m. to 8:30 p.m. in Brewer, and for April 20, 2016, from 6:30 p.m. to 8:30 p.m. in Waterville (see **ADDRESSES**). Each meeting will include a presentation on the draft recovery proposals and a question and answer period with staff from the Service and NMFS.

ADDRESSES: *Obtaining Documents:* If you wish to review the draft recovery plan or have questions, you may contact Steve Shepard, via U.S. mail at U.S. Fish and Wildlife Service, Maine Field Office, 17 Godfrey Drive, Suite 2, Orono, ME 04473; via telephone at 207–866–3344 x1116; or via email at *steve_shepard@fws.gov;* or Dan Kircheis, National Marine Fisheries Service, 17 Godfrey Drive, Orono, ME 04473; via telephone at 207–866–7320; or via email at *dan.kircheis@noaa.gov.* You can also download a copy by visiting *http://atlanticsalmonrestoration.org/resources/documents/atlantic-salmon-recovery-plan-2015.*

Submitting Comments: If you wish to comment, you may submit your comments by one of the following methods:

1. You may mail written comments and materials to Steve Shepard, at the above address.

2. You may hand-deliver written comments to Steve Shepard at the above address, or fax them to 207–866–3351.

3. You may send comments by email to *steve_shepard@fws.gov.*

4. You may submit handwritten comments at either of the two public information meetings announced in this notice.

For additional information about submitting comments, see *Request for Public Comments.*

Public Information Meetings: Meetings will be held in the following Maine locations: at Jeff's Catering, East/West Industrial Park, 15 Littlefield Way in Brewer, and at the Best Western PLUS Motel, 375 Main Street, Exit 130 in Waterville. See **DATES** above for the date and time of each meeting.

FOR FURTHER INFORMATION CONTACT: Steve Shepard, U.S. Fish and Wildlife Service; or Dan Kircheis, National Marine Fisheries Service (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft recovery plan for the endangered Gulf of Maine (GOM) Distinct Population Segment (DPS) of Atlantic salmon (*Salmo salar*). This draft plan has been prepared jointly by the Service and the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration. The draft recovery plan includes specific recovery objectives and a set of criteria that, when met, would allow us to consider reclassifying the DPS from endangered to threatened under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* Act), and, ultimately, to remove the GOM DPS of Atlantic salmon from the Federal List of Endangered and Threatened Wildlife. The plan also includes site-specific management actions and time and cost estimates, as required by the Act. We request review of and comment on this draft recovery plan from Federal, State, and local agencies; Tribes; nongovernmental organizations; and the public.

Background

The GOM DPS of Atlantic salmon was originally listed as an endangered species under the Act (16 U.S.C. 1531 *et seq.*) on November 17, 2000 (65 FR 69459), and a recovery plan for the DPS was approved on December 2, 2005. Based on a second status review, the DPS listing was revised on June 19, 2009 (74 FR 29344), to cover an expanded range that encompassed additional large river systems in Maine found to contain Atlantic salmon population genetically similar to those in the previously listed coastal river populations. Critical habitat for the GOM DPS was also designated at this time (June 19, 2009; 74 FR 29300).

The expanded DPS includes all anadromous Atlantic salmon in a

freshwater range covering the watersheds from the Androscoggin River northward along the Maine coast to the Dennys River. The listing includes all associated conservation hatchery populations used to supplement these natural populations. The critical habitat rule divided the DPS range into three recovery units, termed Salmon Habitat Recovery Units, or SHRUs: (1) The Merrymeeting Bay SHRU, which covers the Androscoggin and Kennebec basins, and extends east to include the Sheepscot, Pemaquid, Medomak, and St. George watersheds; (2) the Penobscot Bay SHRU, which covers the entire Penobscot basin and extends west to and includes the Ducktrap watershed; and (3) the Downeast SHRU, including all coastal watersheds from the Union River east to the Dennys River.

The 2009 listing rule recognized three primary threats to Atlantic salmon: Dams, inadequacy of regulatory mechanisms related to dams, and marine survival. In addition, numerous secondary threats were identified, including habitat quality and accessibility, commercial and recreational fisheries, disease and predation, inadequacy of regulatory mechanisms related to water withdrawal and water quality, aquaculture, artificial propagation, climate change, competition, and depleted diadromous fish communities. Collectively, these stressors were deemed a fourth major threat. Since listing, our understanding of threats to the DPS has continued to grow. New and emerging threats, all of which are considered to constitute significant impediments to recovery, include road stream crossings that impede fish passage, international intercept fisheries, and the effects of climate change.

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of our endangered species program. To help guide the recovery effort, we prepare recovery plans for most listed species.

Under the Act, to the maximum extent practicable, recovery plans must describe site-specific actions considered necessary for conservation of the species, establish criteria for delisting the species, and provide time and cost estimates for taking the actions necessary to recover the species to the point where it can be delisted.

The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires us to provide public notice and an opportunity for public review and comment during recovery plan development. We will consider all input provided during the public comment period prior to approval of each new or revised recovery plan. We and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Recovery of the GOM DPS of Atlantic salmon has been designated a joint responsibility of the Service and NMFS, with lead responsibility for this recovery plan assigned to the Service. We note that this draft recovery plan for the GOM DPS of Atlantic salmon follows a new planning approach endorsed by the Service and, for this plan, by NMFS. The new approach, termed the Recovery Enhancement Vision (REV), focuses on the three recovery plan elements required by the Act: Site-specific management actions; objective, measurable criteria for delisting; and the estimated time and costs needed to achieve delisting and intermediate steps toward that goal. The recovery actions are presented at the scale of the SHRUs. These actions address both survival and recovery needs and are site-specific as required by section 4(f)(1)(B)(i) of the Act, taking into account both the comprehensive nature and long timeframe needed to reach reclassification and delisting objectives.

All relevant supporting information and analyses, as well as short-term implementation strategies for the recovery actions in the plan, are posted on the Atlantic Salmon Restoration Web site, at *http://atlanticsalmonrestoration.org/resources/documents/atlantic-salmon-recovery-plan-2015.* The draft plan contains hyperlinks that allow readers to readily access additional supporting information, including SHRU-level workplans, which can be updated as needed. The SHRU-level workplans will step down from the actions in the recovery plan to address geographically based needs in the short term. DPS-wide or nonspatial actions (*e.g.,* genetic research) will also be stepped down to short-term workplans. It is important to note that while these workplans will link back to the recovery plan, they are not considered part of the recovery plan itself.

Although REV recovery plans focus on the Act's statutory requirements, any given plan may include additional information deemed necessary by the lead U.S. Fish and Wildlife Service Region. For the Atlantic salmon recovery plan, we have added background information that is highly relevant to the long-term recovery vision, as well as an implementation table that outlines responsibilities and costs for the actions described in the plan. The various components contained in the draft plan document are briefly described below.

Recovery Plan Components

The draft recovery plan for GOM DPS of Atlantic salmon focuses on the following components: The recovery strategy, recovery objectives and criteria, recovery actions, and time and cost estimates. The long-term recovery strategy for the endangered Atlantic salmon is based on two premises: First, that recovery must focus on rivers and estuaries located in the GOM DPS until we better understand threats in the marine environment, and second, that survival of Atlantic salmon in the GOM DPS will be dependent on conservation hatcheries throughout much of the recovery process. In addition, the scientific foundation for the recovery strategy includes conservation biology principles regarding population viability, our understanding of freshwater habitat viability, and our understanding of current and emerging extinction risks. Other components of the recovery strategy include adaptive management, phasing of recovery actions, a geographic framework based upon the three SHRUs, and a collaborative approach that focuses on full inclusion of partners in implementing recovery actions. Finally, as previously described, short-term recovery priorities stepping down from the recovery plan will be formulated in SHRU-level workplans; these are found on the Web site and are not part of the plan itself.

The recovery objectives and criteria in the draft plan address biological recovery needs, threats identified at the time of listing, and newly emerging threats. The reclassification objectives are to maintain sustainable, naturally reared populations with access to sufficient suitable habitat in each SHRU, to ensure that management options for marine survival are better understood, and to reduce or eliminate those threats that either individually or in combination pose a risk of imminent extinction to the DPS. The delisting objectives are to maintain self-sustaining, wild populations with access to sufficient suitable habitat in each SHRU, to ensure that necessary management options for marine survival are in place, and to sufficiently reduce or eliminate all threats that either individually or in combination pose a risk of endangerment to the DPS.

The biological criteria for meeting the reclassification objectives include:

- A total annual escapement of at least 1,500 naturally reared adults spawning in the wild, with at least 2 of the 3 SHRUs having at least 500 naturally reared adults. Annual escapement refers to salmon that return to the river and successfully reproduce on the spawning grounds in a given year. For the purposes of this plan, naturally reared adults are individuals originating from wild spawners and hatchery eggs, fry, and parr. Egg and fry stocked salmon are not given an external mark, so when they return as adults, it is not possible (except with genetic testing) to differentiate them from wild salmon;
- A population growth rate in each of at least two of the three SHRUs of greater than 1.0 in the 10-year period preceding reclassification, with adults originating from hatchery-stocked eggs, fry, and parr included in population growth rates; and
- Sufficient spawning and rearing habitat for the offspring of the 1,500 naturally reared adults distributed throughout designated Atlantic salmon critical habitat, with at least 7,500 accessible and suitable habitat units (HUs) in each of at least 2 of the 3 SHRUs, located according to the known and potential migratory patterns of returning salmon.

The biological criteria for meeting the delisting objectives include:

- A self-sustaining annual escapement of at least 2,000 wild adults in each SHRU, for a DPS-wide total of at least 6,000 wild adults. For the purposes of this plan, wild salmon are individuals that have spent their entire life cycle in the wild and originate from parents that were also spawned and continuously lived in the wild;
- A population growth rate in each SHRU of greater than 1.0 in the 10-year period preceding delisting and, at the time of delisting, demonstrable self-sustaining persistence; and
- Sufficient suitable spawning and rearing habitat for the offspring of the 6,000 wild adults distributed throughout the designated Atlantic salmon critical habitat, with at least 30,000 accessible and suitable HUs in each SHRU, located according to the known migratory patterns of returning wild adult salmon.

In addition to the biological recovery criteria, the draft plan identifies several criteria for abating both primary and secondary threats to the DPS. Overall, threats to the GOM DPS identified both at the time of listing and since then must be diminished prior to reclassification and, to a greater extent, prior to delisting. All primary threats must be individually abated according to stated criteria, although recognition of which threats are primary may change over time. For secondary threats, tradeoffs may be made in terms of which criteria are met, as long as the degree to which these threats are collectively reduced sufficiently diminishes the likelihood of extinction and, ultimately, endangerment. Adaptive management and collaborative partnerships will be essential for determining to what extent secondary threats must be resolved in association with abatement of primary threats.

To meet the recovery criteria and achieve the recovery objectives for the GOM DPS of Atlantic salmon, this draft recovery plan focuses on the actions necessary to achieve long-term viability of DPS Atlantic salmon populations. We note that these actions address both short-term survival needs and long-term recovery needs. Geographically based actions will be further specified in SHRU work plans, while research and genetics management actions will be addressed in rangewide implementation strategies. The seven categories of recovery actions for the DPS include:

1. Habitat Connectivity: Actions for enhancing connectivity between the ocean and freshwater habitats important for salmon recovery.
2. Genetic Diversity: Actions for maintaining the genetic diversity of Atlantic salmon populations over time.
3. Conservation Hatchery: Actions for increasing numbers of adult spawners through the conservation hatchery program.
4. Freshwater Conservation: Actions for increasing numbers of adult spawners through the freshwater production of smolts.
5. Marine and Estuary: Actions for increasing Atlantic salmon survival through increased understanding of these ecosystems and identification of spatial and temporal constraints to salmon marine productivity in order to identify management actions that are likely to increase marine survival rates.
6. Federal/Tribal Coordination: Actions for consulting with all involved Tribes on a government-to-government basis.
7. Outreach, Education, and Engagement: Actions for collaborating with partners and engaging interested parties in recovery efforts for the GOM DPS.

The estimated time for fully implementing all recovery actions and achieving the goal of delisting the Gulf of Maine DPS of Atlantic salmon is, very roughly, 75 years from the present time. This time frame accounts for approximately 15 generations of salmon and assumes a full investment of resources into the recovery program for the DPS.

Over the 75-year time frame, the total cost of recovery is projected to be approximately $350 million; again, this is an extremely speculative estimate, particularly given the uncertainties surrounding recovery of this DPS. The estimate assumes that costs of the various actions will accrue unevenly and that costs will diminish over time as projects are completed and best management practices are implemented. It is equally difficult to estimate a time and cost for reclassification because of uncertainties associated with the current significant threats to the species, especially marine survival, and impacts of climate change. A best-case scenario based on the current reclassification criteria is roughly 10 years. Under this scenario, the estimated cost for reclassification is estimated at $140,428,000.

We emphasize that these time and cost estimates are highly subject to change and are not intended to serve any purpose other than addressing our obligation to provide the public with our best understanding of the general level of effort and expense that might be needed to meet the ultimate recovery goal of delisting. It is also important to note the costs involved in implementing recovery actions for the GOM DPS of Atlantic salmon will provide other vital ancillary benefits. These include but are not limited to conservation of other diadromous species in the Gulf of Maine, improved water quality and flow in salmon rivers, an enhanced understanding of sustainable management for numerous aquatic resources, and a reduction of stressors that affect not only Atlantic salmon but general environmental quality.

Request for Public Comments

We request written comments on the draft recovery plan. We will consider all comments we receive by the date specified in **DATES** prior to final approval of the plan.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. Although you can request in your comment that we withhold your personal information from public examination, we cannot guarantee that we will be able to do so.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: March 14, 2016.

Kenneth D. Elowe,

Acting Regional Director, Northeast Region.

[FR Doc. 2016–07227 Filed 3–30–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/A0A501010.999900]

Renewal of Agency Information Collection for Water Delivery and Electric Service Data for the Operation of Irrigation and Power Projects and Systems

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) has submitted to the Office of Management and Budget (OMB) a request for renewal of the collection of information for Electrical Service Application, authorized by OMB Control Number 1076–0021 and Water Request, authorized by OMB Control Number 1076–0141. These information collections expire March 31, 2016.

DATES: Interested persons are invited to submit comments on or before May 2, 2016.

ADDRESSES: You may submit comments on the information collections to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to David Fisher, P.E., Branch Chief Irrigation and Power, Office of Trust Services, Division of Water and Power, Denver West Office Park Building 54, 13922 Denver West Parkway, Suite 300, Lakewood, Colorado 80401, email: *david.fisher@bia.gov.*

FOR FURTHER INFORMATION CONTACT: David Fisher, 303–231–5225. You may review the information collection requests online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Indian Affairs (BIA) owns, operates, and maintains three electric power utilities that provide a service to the end user. The BIA also owns, operates, and maintains 15 irrigation projects that provide a service to the end user. To be able to properly bill for the services provided, the BIA must collect customer information to identify the individual responsible for repaying the government the costs of delivering the service, and billing for those costs. Additional information necessary for providing the service is the location of the service delivery. The Debt Collection Improvement Act of 1996 (DCIA) requires that certain information be collected from individuals and businesses doing business with the government. This information includes the taxpayer identification number for possible future use to recover delinquent debt. To implement the DCIA requirement to collect customer information, the BIA has included a section concerning the collection of information in its regulations governing its electrical power utilities (25 CFR 175) and in its regulations governing its irrigation projects (25 CFR 171).

II. Request for Comments

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

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 our 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 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.

III. Data

OMB Control Number: 1076–0021.

Title: Electrical Service Application, 25 CFR 175.

Brief Description of Collection: In order for electric power consumers to be served, information is needed by the BIA to operate and maintain its electric power utilities and fulfill reporting requirements.

Section 175.6 and 175.22 of 25 CFR part 175, Indian electric power utilities, specifies the information collection requirement. Power consumers must apply for electric service. The information to be collected includes: Name; electric service location; and other operational information identified in the local administrative manuals. All information is collected from each electric power consumer.

Type of Review: Extension without change of currently approved collection.

Respondents: BIA electric power consumers—individuals.

Number of Respondents: 1,300 per year.

Frequency of Response: The information is collected once, unless the respondent requests new electrical service elsewhere or if it has been disconnected for failure to pay their electric bill.

Obligation to Respond: Responses are required to receive or maintain a benefit.

Estimated Time per Response: ½ hour.

Estimated Total Annual Hour Burden: 650 hours.

Estimated Total Annual Non-Hour Dollar Cost: $0.

* * * * *

OMB Control Number: 1076–0141.

Title: Water Request, 25 CFR 171.

Brief Description of Collection: In order for irrigators to receive water deliveries, information is needed by the BIA to operate and maintain its irrigation projects and fulfill reporting requirements. Section 171.140 and other sections cited in section 171.40 of 25 CFR 171, [Irrigation] Operation and Maintenance, specifies the information collection requirement. Water users must apply for water delivery and for a number of other associated services, such as, subsidizing a farm unit, requesting leaching service, requesting water for domestic or stock purposes, building structures or fences in BIA rights-of-way, requesting payment plans on bills, establishing a carriage agreement with a third-party, negotiating irrigation incentives leases, and requesting an assessment waiver.

The information to be collected includes: Full legal name; correct mailing address; taxpayer identifying number; water delivery location; if subdividing a farm unit—a copy of the recorded plat or map of the subdivision where water will be delivered; the time and date of requested water delivery; duration of water delivery; amount of water delivered; rate of water flow; number of acres irrigated; crop statistics; any other agreements allowed under 25 CFR part 171; and any additional information required by the local project office that provides your service.

Type of Review: Extension without change of currently approved collection.

Respondents: Water users of BIA irrigation project—individual and businesses.

Number of Respondents: 7,500 per year.

Number of Responses: 34,906 per year.

Frequency of Response: On occasion through the irrigation season, averaging approximately 2 times per year.

Obligation to Respond: The information water users submit is for the purpose of obtaining or retaining a benefit, namely irrigation water.

Estimated Time per Response: A range of 12 minutes to 16 hours, depending on the specific service being requested.

Estimated Total Annual Hour Burden: 17,943 hours.

Estimated Total Annual Non-Hour Dollar Cost: $0.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2016–07187 Filed 3–30–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X.LLAK930000.L13100000.EI0000.241A]

Call for Nominations and Comments for the 2016 National Petroleum Reserve in Alaska Oil and Gas Lease Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) Alaska State Office is issuing a call for nominations and comments on tracts for the upcoming 2016 National Petroleum Reserve in Alaska (NPR–A) Oil and Gas Lease Sale. A map of the NPR–A showing areas available for leasing is online at *http://www.blm.gov/ak.*

DATES: BLM Alaska must receive all nominations and comments on these tracts for consideration on or before May 2, 2016.

ADDRESSES: Mail nominations and/or comments to: State Director, Bureau of Land Management, Alaska State Office, 222 West 7th Ave., Mailstop 13, Anchorage, AK 99513–7504. Before including your address, phone number, email address, or other personal identifying information in your nominations and/or 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.

FOR FURTHER INFORMATION CONTACT: Wayne Svejnoha, BLM Alaska Energy and Minerals Branch Chief, 907–271–4407. 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: The BLM is issuing a call for nominations and comments on tracts for the upcoming 2016 NPR–A Oil and Gas Lease Sale, pursuant to 43 CFR 3131.2. When describing tracts nominated for leasing or providing comments, please use the NPR–A maps, legal descriptions of the tracts, and additional information available through the BLM Alaska Web site at *http://www.blm.gov/ak.* The BLM also requests comments on tracts which should receive special consideration or analysis.

Bud C. Cribley,

State Director.

[FR Doc. 2016–07272 Filed 3–30–16; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO260000.L10600000.PC0000. LXSIADVSBD00]

Notice of Wild Horse and Burro Advisory Board Meeting; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This notice corrects two dates that appear in the **SUPPLEMENTARY INFORMATION** section of a notice that published in the **Federal Register** on Wednesday, March 23, 2016 (81 FR 15555).

On page 15555, column 3, line 24 of the notice, which reads ''Wednesday, April, 13, 2015,'' is corrected to read, ''Wednesday, April 13, 2016.''

On page 15555, column 3, line 35 of the notice, which reads ''Thursday, September 3, 2015'' is corrected to read, ''Thursday, April 14, 2016.''

Kristin Bail,

Acting Assistant Director, Resources and Planning.

[FR Doc. 2016–07273 Filed 3–30–16; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR08100000, 16XR0680A1, RY.1541CH20.60IR161]

Announcement of Requirements and Registration for a Prize Competition Seeking: Detecting the Movement of Soils (Internal Erosion) Within Earthen Dams, Canals, Levees, and their Foundations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, in collaboration with the U.S. Army Corps of Engineers, is seeking new methods for detecting the movement (erosion) of soils in earthen structures and foundations. These methods may detect internal erosion either directly or indirectly (detecting properties that typically indicate internal erosion is taking place). The goal is to detect soil movement earlier than occurs by current visual inspection and instrumentation methods.

DATES: Listed below are the specific dates pertaining to this prize competition:

1. Submission period begins on March 31, 2016.

2. A webinar concerning this prize competition will be held on April 7, 2016. Instructions for participating in the webinar are included in the on-line postings at the addresses shown below. The webinar will also be recorded and posted at these same addresses.

3. Submission period ends on May 10, 2016.

4. Judging period ends on July 11, 2016.

5. Winners announced by July 29, 2016.

ADDRESSES: The *Detecting the Movement of Soils (Internal Erosion) Within Earthen Dams, Canals, Levees, and their Foundations* Prize Competition will be posted on the following crowd-sourcing platforms where Solvers can register for this prize competition:

1. The Water Pavilion located at the InnoCentive Challenge Center: *https://www.innocentive.com/ar/challenge/browse.*

2. U.S. Federal Government Challenge Platform: *www.Challenge.gov.*

InnoCentive, Inc. is administering this challenge under a challenge support services contract with the Bureau of Reclamation. Challenge.gov will re-direct the Solver community to the InnoCentive Challenge Center as the administrator for this prize competition. Additional details for this prize competition, including background information, figures, and the Challenge Agreement specific for this prize competition, can be accessed through either of these prize competition web addresses. The Challenge Agreement contains more details of the prize competition rules and terms that Solvers must agree with to be eligible to compete.

FOR FURTHER INFORMATION CONTACT: Challenge Manager: Dr. David Raff, Science Advisor, Bureau of Reclamation, (202) 513–0516, *draff@usbr.gov;* Dr. Bobbi Jo Merten, (303) 445–2380, *bmerten@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation (Reclamation) is announcing the following prize competition in compliance with 15 U.S. Code 3719, Prize Competitions.

Prize Competition Summary: According to the American Society of Civil Engineers' 2013 Report Card for America's Infrastructure, there are nearly 160,000 kilometers of levees and 85,000 dams that provide flood protection, water storage, and hydropower services for millions of people in the United States. Many of these dams are owned and operated by Reclamation or the U.S. Army Corps of Engineers (USACE). The USACE also owns and manages a significant portion of the nation's levee inventory. There are also thousands of kilometers of water delivery canals in the United States, with Reclamation owning about 13,000 kilometers of such. Some of these structures are over one-hundred years old, so it is important to ensure that the structures are sound, performing well, and able to continue providing the critical services of storing water, delivering water, and flood protection.

Both Reclamation and USACE monitor, inspect, and assess the condition and performance of dams and other earthen embankments. While inspection and condition assessment programs are effective ways to protect the public and property, these current methods are resource intensive and cannot reliably detect internal erosion early in the process. Internal erosion can take place over a long period of time, but often remains invisible (inside or below the structure) until serious damage occurs, placing lives, property, critical water supply or flood retention capabilities at risk. The ability to reliably detect internal erosion early in the process would help Reclamation, USACE, and all dam, levee, and canal owners to reduce risks by encouraging early-intervention.

There are several internal erosion mechanisms, but all involve the movement of soil to an exit point. If soil movement can be detected and localized inside the structure in the early stages of erosion, flaws could be mitigated and failures prevented. A solution is being pursued through a prize competition because the Bureau of Reclamation and the collaborating Federal agencies view it beneficial to seek innovative solutions from those beyond the usual sources of potential solvers and experts that commonly work in the geotechnical engineering domain. We find ourselves often wondering if someone, somewhere, may know a better way of detecting internal erosion in embankments than the methods we currently use. The prize competition approach enables us to reach a new source of potential Solvers to generate new and timely solutions that would not likely be accomplished by standard contractual methods.

This is an Ideation Challenge, which has the following unique features:

- There is a guaranteed award. The awards will be paid to the best submission(s) as solely determined by the Seeker. The total payout will be $20,000, with at least one award being no smaller than $5,000 and no award being less than $2,500.
- All intellectual property rights, if any, in the idea or concept demonstrated by the proposed solution will remain with the solver. Upon submission of a proposed solution to this challenge, each solver grants to the seeker a royalty-free, perpetual, irrevocable, non-exclusive license and right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so. Notwithstanding granting the seeker a perpetula, non-exclusive license for the proposed solution, the solver retains ownership of the idea or concept demonstrated by the proposed solution.
- The Seeker believes there might be a potential for future collaboration with awarded Solver(s), although such collaboration is not guaranteed. The Seeker may also encourage Solver(s) to further develop and test their winning submissions through subsequent round(s) of competition. Solvers should make it clear if they have the ability for subsequent design and development phases and would be willing to consider future collaborations and/or subsequent competitions.

Technical Requirements. Any proposed solution should address some or all of the following technical requirements. You must meet requirement No. 5 but need not meet all other requirements to be eligible for an award.

1. Provide a 3D spatial representation of the earthen structure and associated foundation (to a depth equal to the height of the embankment), identifying zones of active internal erosion.

a. Levees and canals are relatively lower in height (~1 to 3 meters), but longer in length (1000+ meters).

b. Dams are relatively greater in height (up to 100+ meters), but shorter in length.

2. Detect internal erosion before it is visible at the ground surface. A zone (volume) of unstable moving particles on the order of 1 cubic meter at any location within or under the embankment is considered significant for the internal erosion process. Methods that can detect the movement of smaller volumes of particles are preferred.

3. Allow for a time lapse monitoring interval on the order of weeks to months. Preferably the monitoring of the embankment would be continuous and provided with alarm capability based on predefined thresholds.

4. Quantify a rate of particle movement, preferably a rate of growth of internal erosion features.

5. NOT compromise the structural integrity of the embankment or foundation materials; it must be environmentally inert, and must adhere to a philosophy of ''do no harm''.

Although direct measures of internal erosion are preferred, indirect measurements of internal erosion, such as approaches that monitor changes to the phreatic surface or saturation of the embankment will be considered as well.

Project Deliverables: This is an Ideation Challenge that requires only a written proposal to be submitted. At

least one solution will be deemed the winner. The submission should include:

1. Detailed description of a direct or indirect method for detecting internal erosion that is not widely used today. Only significant improvements to existing methods will be considered for award.

2. Rationale for why the method can meet the technical requirements above. Note: A general concept is needed, but is not considered a solution by itself. The Solver must describe with ''a high level of technical detail'' how the system would meet or not meet each of the attributes described above. The Solver should expect that their submittal will be reviewed by experts in multiple fields of engineering and science. Examples and literature references of where similar techniques are used and how they are used will be helpful to support the validity of the solution.

3. A list of equipment and materials is required. Discussion should include expected lifetime of any equipment; size and invasiveness to the embankment structure; detection speed, accuracy and estimated costs.

4. The Solver needs to describe how deployable and workable the system would be under a wide variety of environmental conditions such as those found in typical dam, levee and canal embankments.

The discussion accompanying the Solver's proposal should:

5. Clearly identify detection limits of methods, such as: What is the minimum size of soil particle the method can detect? Does the baseline condition of the embankment, groundwater, or ambient environment impact the performance of the method?

6. Identify how and where the method will be installed. Is the method weather proof and tamper proof? Are there any limitations to the method installation or conditions required for performance?

7. Identify the temporal resolution or temporal limitations of the solution. How long does the method take to deploy? What are measurement and processing time limitations?

Submitted proposals should not include any personally identifiable information that the Solver does not want to make public, or any information that the Solver may consider as their own Intellectual Property which they do not want to share.

Judging: After the Challenge deadline, the Seeker will evaluate the submissions and make a decision with regards to the Winning Solution(s). All Solvers that submitted a proposal will be notified on the status of their submissions; however, no detailed evaluation of individual submissions will be provided. Decisions by the Seeker cannot be contested.

Submitted solutions will be evaluated by a Judging Panel composed of scientists, engineers, and other technical experts. The Judging Panel will also have consultation access to technical experts outside of their expertise, as deemed necessary, to evaluate specific submissions. The Judging Panel will assess the merits of the solution by the degree upon which they meet the technical requirements provided above, by the potential utility (*i.e.,* adaptability, scalability, readiness for development), and by originality (*i.e.,* novel extension of current knowledge).

Eligibility Rules: To be able to win a prize under this competition, an individual or entity must:

1. Agree to the rules of the competition (15 U.S. Code § 3719(g)(1));

2. Be an entity that is incorporated in and maintains a primary place of business in the United States, or (b) in the case of an individual, a citizen or permanent resident of the United States (15 U.S. Code § 3719(g)(3));

3. Not be a Federal entity or Federal employee acting within the scope of their employment; (15 U.S. Code § 3719(g)(4));

4. Assume risks and waive claims against the Federal Government and its related entities (15 U.S. Code § 3719(i)(1)(B)); and,

5. Not use Federal facilities, or consult with Federal employees *during the competition* unless the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

The following individuals or entities are not eligible regardless of whether they meet the criteria set forth above:

1. Any individual who employs an evaluator on the Judging Panel or otherwise has a material business relationship or affiliation with any Judge.

2. Any individual who is a member of any Judge's immediate family or household.

3. The Seeker, participating organizations, and any advertising agency, contractor or other individual or organization involved with the design, production, promotion, execution, or distribution of the prize competition; all employees, representatives and agents thereof; and all members of the immediate family or household of any such individual, employee, representative, or agent.

4. Any individual or entity that uses Federal funds to develop the proposed solution now or any time in the past, unless such use is consistent with the grant award, or other applicable Federal funds awarding document. NOTE: Submissions that propose to improve or adapt existing federally funded technologies for the solution sought in this prize competition are eligible.

Consultation: Geotechnical engineers, facility managers, and technical specialists from across Reclamation and USACE were consulted in identifying and selecting the topic of this prize competition. Direct and indirect input from various stakeholders and partners associated with the geotechnical engineering program efforts by these agencies were also considered. In addition, the Reclamation maintains an open invitation to the public to suggest prize competition topics at *www.usbr.gov/research/challenges.*

Public Disclosure: InnoCentive, Inc. is administering this challenge under a challenge support services contract with Reclamation. Participation is conditioned on providing the data required on InnoCentive's online registration form. Personal data will be processed in accordance with InnoCentive's Privacy Policy which can be located at *http://www.innocentive.com/privacy.php.* Before including your address, phone number, email address, or other personal identifying information in your proposal, you should be aware that the Seeker is under no obligation to withhold such information from public disclosure, and it may be made publicly available at any time. Neither InnoCentive nor the Seeker is responsible for human error, theft, destruction, or damage to proposed solutions, or other factors beyond its reasonable control. Solver assumes any and all risks and waives any and all claims against the Seeker and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

Dated: March 28, 2016.

David Raff,

Science Advisor .

[FR Doc. 2016–07275 Filed 3–30–16; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR08100000, 16XR0680A1, RY.1541CH20.ECO1602]

Announcement of Requirements and Registration for a Prize Competition Seeking Downstream Fish Passage at Tall Dams

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, in collaboration with other Federal agencies (U.S. Geological Survey, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration-National Marine Fisheries Service, and U.S. Army Corps of Engineers), is seeking new ideas for gaining successful and cost-effective downstream passage of juvenile fish at tall (high-head) dams. The solutions should minimize stress (*e.g.* crowding, removal from water, disorientation), physical damage on fish, interference with the operation of the dam (flood control, energy, water distribution), and total costs.

DATES: Listed below are the specific dates pertaining to this prize competition:

1. Submission period begins on March 31, 2016.

2. A webinar concerning this prize competition will be held on April 6, 2016. Instructions for participating in the webinar are included in the on-line postings at the addresses shown below. The webinar will also be recorded and posted at these same addresses.

3. Submission period ends on May 10, 2016.

4. Judging period ends on July 11, 2016.

5. Winners announced by July 29, 2016.

ADDRESSES: The *Downstream Fish Passage at Tall Dams* Prize Competition will be posted on the following crowd-sourcing platforms where Solvers can register for this prize competition:

1. The Water Pavilion located at the InnoCentive Challenge Center: *https://www.innocentive.com/ar/challenge/browse.*

2. U.S. Federal Government Challenge Platform: *www.Challenge.gov.* InnoCentive, Inc. is administering this challenge under a challenge support services contract with the Bureau of Reclamation. Challenge.gov will re-direct the Solver community to the InnoCentive Challenge Center as the administrator for this prize competition.

Additional details for this prize competition, including background information, figures, and the Challenge Agreement specific for this prize competition, can be accessed through either of these prize competition web addresses. The Challenge Agreement contains more details of the prize competition rules and terms that Solvers must agree with to be eligible to compete.

FOR FURTHER INFORMATION CONTACT: Challenge Manager: Dr. David Raff, Science Advisor, Bureau of Reclamation, (202) 513–0516, *draff@usbr.gov;* Ms. Connie Svoboda, Ecosystem Restoration Prize Competition Theme Area Manager, (303) 445–2152, *csvoboda@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation is announcing the following prize competition in compliance with 15 U.S.C. 3719, Prize Competitions.

Challenge Summary: While downstream passage over tall (high-head) dams for some species and life history stages has been achieved to a limited degree, much improvement in downstream juvenile fish passage is still needed. Effective downstream passage, paired with effective upstream passage, would increase habitat availability that many threatened and endangered fish populations need to rebuild resilient populations.

New ideas for gaining successful and cost-effective downstream passage of juvenile fish at high-head dams are being sought by this Challenge. A solution is being pursued through a prize competition because the Bureau of Reclamation and the collaborating Federal agencies view it beneficial to seek innovative solutions from those beyond the usual sources of potential solvers and experts that commonly work in the fish recovery management domain. We find ourselves often wondering if someone, somewhere, may know a better way of providing downstream fish passage at high-head dams than the methods we currently use. The prize competition approach enables us to reach a new source of potential Solvers to generate new and timely solutions that would not likely be accomplished by standard contractual methods.

This is an Ideation Challenge, which has the following unique features:

- There is a guaranteed award. The awards will be paid to the best submission(s) as solely determined by the Bureau of Reclamation (The Seeker). The total payout will be $20,000, with at least one award being no smaller than $5,000 and no award being smaller than $2,500.
- All intellectual property rights, if any, in the idea or concept demonstrated by the proposed solution will remain with the solver. Upon submission of a proposed solution to this challenge, each solver grants to the seeker a royalty-free, perpetual, irrevocable, non-exclusive license and right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so. Notwithstanding granting the seeker a perpetual, non-exclusive license for the proposed solution, the solver retains ownership of the idea or concept demonstrated by the proposed solution.
- The Seeker believes there might be a potential for future collaboration with awarded Solver(s), although such collaboration is not guaranteed. The Seeker may also encourage Solver(s) to further develop and test their winning submissions through subsequent round(s) of competition. Solvers should make it clear if they have the ability for subsequent design and development phases and would be willing to consider future collaborations and/or subsequent competitions.

Technical Requirements. Any proposed solution should address the following technical requirements. Concepts that meet some requirements, but not all, are eligible for an award.

1. Pass downstream-migrating fish in the size class 30–300 mm fork length.

2. Provide a way to efficiently guide fish to the entrance of the passage system.

3. Safely collect the majority of fish that pass close to the passage system, convey, and release the fish with a high survival rate (target is greater than 90% survival).

4. Be able to accommodate seasonal water surface fluctuations of up to 150 feet (*i.e.* the system must work when the reservoir water surface is at full pool, when it is 150 feet below full pool, and at all water surfaces in between).

5. Be able to pass fish swimming at the surface (0 to 10 ft.) and mid-depth (10–30 ft.). Nice to have (not as important as the requirements above, but would add value to a submission):

1. Handle debris (sticks, logs, leaves, trash, etc.) in an effective way to prevent clogging of intakes and physical damage to fish. This can be a new method or an existing method that is incorporated or adapted to work with the passage system.

2. Minimize the need to confine fish in holding systems, mechanically crowd, or remove fish from the water.

3. Not result in a significant increase in the time it takes fish to pass the dam and preferably it will result in a decrease in passage time. For example, if fish currently pass the dam within 24 hours after arrival, a system that increased passage time by more than 50% (12 hours) would result in a significant impact to passage time.

4. Minimize impacts to recreation (*e.g.,* boating, swimming).

5. Minimize impact to upstream-migrating fish and other biotic species in the system.

Project Deliverables: This is an Ideation Challenge that requires only a written proposal to be submitted. At least one solution will be deemed the winner. The submitted proposal should include the following:

1. Detailed description of a method and/or device. The Solver must describe with a high level of technical detail as to how the system would meet or not meet each of the ''must have'' and ''nice to have'' attributes in technical requirements described above. The Solver should expect that their submittal will be reviewed by experts in the field of biology and multiple fields of engineering.

2. Rationale as to why the Solver believes that the proposed method and/or device will work. This rationale should address each of the technical requirements and should be supported with relevant examples.

3. Drawings/sketches of the proposed downstream fish passage system.

4. Sufficient data to support claims, if available.

5. List of equipment required.

Submitted proposals should not include any personal identifying information or any information the Solvers do not want to make public or consider as their Intellectual Property they do not want to share.

Judging: After the Challenge deadline, the Seeker will evaluate the submissions and make a decision with regards to the winning solution(s). All Solvers that submitted a proposal will be notified on the status of their submissions. Decisions by the Seeker cannot be contested.

Submitted solutions will be evaluated by a Judging Panel composed of scientists, engineers, and other related technical experts. The Judging Panel will also have consultation access to technical experts outside of their expertise, as determined necessary, to evaluate specific submissions.

The Judging Panel will assess the merits of the solution by the degree that they meet the technical requirements listed in the Challenge description and also by feasibility, flexibility to changing conditions (water level, temperature, and debris), overall costs, and scalability.

Eligibility Rules: To be able to win a prize under this competition, an individual or entity must:

1. Agree to the rules of the competition (15 U.S.C. 3719(g)(1));

2. Be an entity that is incorporated in and maintains a primary place of business in the United States, or (b) in the case of an individual, a citizen or permanent resident of the United States (15 U.S.C. 3719(g)(3));

3. Not be a Federal entity or Federal employee acting within the scope of their employment; (15 U.S.C. 3719(g)(4));

4. Assume risks and waive claims against the Federal Government and its related entities (15 U.S.C. 3719(i)(1)(B)); and,

5. Not use Federal facilities, or consult with Federal employees *during the competition* unless the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

The following individuals or entities are not eligible regardless of whether they meet the criteria set forth above:

1. Any individual who employs an evaluator on the Judging Panel or otherwise has a material business relationship or affiliation with any Judge.

2. Any individual who is a member of any Judge's immediate family or household.

3. The Seeker, participating organizations, and any advertising agency, contractor or other individual or organization involved with the design, production, promotion, execution, or distribution of the prize competition; all employees, representatives and agents thereof; and all members of the immediate family or household of any such individual, employee, representative, or agent.

4. Any individual or entity that uses Federal funds to develop the proposed solution now or any time in the past, unless such use is consistent with the grant award, or other applicable Federal funds awarding document. **Note:** Submissions that propose to improve or adapt existing federally funded technologies for the solution sought in this prize competition are eligible.

Consultation: Fish recovery program managers and technical specialists from across the Bureau of Reclamation, U.S. Geological Survey, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration-National Marine Fisheries Service, and U.S. Army Corps of Engineers were consulted in identifying and selecting the topic of this prize competition. Direct and indirect input from various stakeholders and partners associated with the fish recovery program efforts by these agencies were also considered. In addition, the Bureau of Reclamation maintains an open invitation to the public to suggest prize competition topics at *www.usbr.gov/research/challenges.*

Public Disclosure: InnoCentive, Inc. is administering this challenge under a challenge support services contract with the Bureau of Reclamation. Participation is conditioned on providing the data required on InnoCentive's online registration form. Personal data will be processed in accordance with InnoCentive's Privacy Policy which can be located at *http://www.innocentive.com/privacy.php.* Before including your address, phone number, email address, or other personal identifying information in your proposal, you should be aware that the Seeker is under no obligation to withhold such information from public disclosure, and it may be made publicly available at any time. Neither InnoCentive nor the Seeker is responsible for human error, theft, destruction, or damage to proposed solutions, or other factors beyond its reasonable control. Solver assumes any and all risks and waives any and all claims against the Seeker and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

Dated: March 28, 2016.

David Raff,

Science Advisor.

[FR Doc. 2016–07274 Filed 3–30–16; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–16–011]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 5, 2016 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–462 and 731–TA–1156–1158 (Review) and 731–TA–1043–1045 (Second Review) (Polyethylene Retail Carrier Bags from China, Indonesia, Malaysia, Taiwan, Thailand, and Vietnam). The Commission is currently scheduled to complete and file its determinations and views of the Commission on April 18, 2016.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 28, 2016.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2016–07358 Filed 3–29–16; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–991]

Certain Nanopores and Products Containing the Same: Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 23, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Illumina, Inc. of San Diego, California; University of Washington, of Seattle, Washington; and UAB Research Foundation of Birmingham, Alabama. A supplement to the complaint was filed on March 2, 2016. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain nanopores and products containing same by reason of infringement of certain claims of U.S. Patent No. 8,673,550 (''the '550 patent'') and U.S. Patent No. 9,170,230 (''the '230 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, as supplemented, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 24, 2016, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain nanopores and products containing same by reason of infringement of one or more of claims 2–4, 7–9, 13–15, 17, 18, 20–22, 24, 26–28, 31–33, 35, 36, and 38–40 of the '550 patent and claims 1–31 of the '230 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Illumina, Inc., 5200 Illumina Way, San Diego, CA 92122.

University of Washington, UW CoMotion, 4311 11th Avenue NE., Suite 500, Seattle, WA 98105.

UAB Research Foundation, 701 20th Street South, Administration Building 770, Birmingham, AL 35233.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Oxford Nanopore Technologies Ltd., Edmund Cartwright House, 4 Robert Robinson Avenue, Oxford Science Park, Oxford, OX4 4GA, United Kingdom.

Oxford Nanopore Technologies, Inc. 1 Kendall Square, Bldg 200, Cambridge, MA 02139.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to

the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 25, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–07176 Filed 3–30–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Halo Pharmaceutical, Inc.

Correction

Notice document 2016–06532, beginning on page 15567 in the issue of Wednesday, March 23, 2016, was inadvertently published and is withdrawn from that issue.

[FR Doc. C1–2016–06532 Filed 3–30–16; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0061]

In the Matter of All Operating Reactor Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for action; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice that by petition dated February 19, 2016, Roy Mathew, Sheila Ray, Swagata Som, Gurcharan Singh Matharu, Tania Martinez Navedo, Thomas Koshy, and Kenneth Miller (the petitioners) have requested that the NRC take action with regard to all current operating nuclear power plants. The petitioners' requests are included in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Please refer to Docket ID NRC–2016–0061 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–2016–0061. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.*

• *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.

SUPPLEMENTARY INFORMATION: On February 19, 2016, the petitioners requested that the NRC take action with regard to all current operating nuclear power plants (ADAMS Accession No. ML16050A212). The petitioners requested that the NRC either: (1) Issue orders which require immediate corrective actions including compensatory measures to address the operability of electric power systems in accordance with their plant Technical Specifications, and to implement plant modifications in accordance with current NRC regulatory requirements and staff guidance provided in the references within the 2.206 petition, or (2) issue orders to immediately shutdown the nuclear power plants that are operating without addressing the significant design deficiency identified in NRC Bulletin 2012–01, ''Design Vulnerability in Electric Power System,'' since the licensees are not in compliance with their Technical Specifications 3.8.1 (typical) requirements related to onsite and offsite power systems.

As the basis for this request, the petitioners refer to a Byron Station operating event, which led to the NRC's issuance of Information Notice 2012–03, ''Design Vulnerability in Electric Power System,'' dated March 1, 2012 (ADAMS Accession No. ML120480170). On July 27, 2012, the NRC issued Bulletin 2012–01, ''Design Vulnerability in Electric Power System'' (ADAMS Accession No. ML12074A115), to require that the addressees comprehensively verify their compliance with the regulatory requirements of General Design Criteria (GDC) 17, ''Electric Power System,'' in Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to 10 CFR part 50 or the applicable principal design criteria in the updated final safety analysis report; and the design criteria for protection systems under 10 CFR 50.55a(h)(2) and 10 CFR 50.55a(h)(3). All licensees provided a response to Bulletin 2012–01. The NRC staff conducted an analysis of these responses, and documented the details of its review in a summary report dated February 26, 2013 (ADAMS Accession No. ML13052A711). Based on the analysis, the NRC staff determined that some licensees may not fully comply with their site-specific license. The licensees began implementing compensatory measures and corrective actions that the NRC staff has been monitoring.

The request is being treated pursuant to § 2.206 of title 10 of the *Code of Federal Regulations* (10 CFR) of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time.

Dated at Rockville, Maryland, this 21st day of March 2016.

For the Nuclear Regulatory Commission.

William M. Dean,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–06940 Filed 3–30–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–275; Docket No. 50–323]

In the Matter of Pacific Gas & Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Notice of Appointment of Adjudicatory Employee

Pursuant to 10 CFR 2.4, notice is hereby given that Dr. Tianqing Cao, Senior Seismologist, Office of Nuclear Material Safety and Safeguards, has been appointed as a Commission adjudicatory employee within the meaning of section 2.4, to advise the Commission regarding issues relating to a pending appeal filed by petitioner Friends of the Earth. Dr. Cao has not previously performed any investigative or litigating function in connection with this proceeding. Until such time as a final decision is issued in this matter, interested persons outside the agency

and agency employees performing investigative or litigating functions in this proceeding are required to observe the restrictions of 10 CFR 2.347 and 2.348 in their communications with Dr. Cao.

It is so ordered.

For the Commission.

Dated at Rockville, Maryland, this 25th day of March, 2016.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 2016–07306 Filed 3–30–16; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0257]

Information Collection: NRC Form 277, Request for Visit

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''NRC Form 277, Request for Visit.''

DATES: Submit comments by May 31, 2016. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0257. 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:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–5 F53, 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: David Cullison, Office of the Chief Information Officer U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0257 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0257. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2015–0257 on this Web site.

• *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession: No. ADAMS ML16081A147. The supporting statement and NRC Form 277, Request for Visit is available in ADAMS under Accession: No ADAMS ML16015A071.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

Please include Docket ID NRC–2015–0257 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 in comment submissions 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, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* NRC Form 277, Request for Visit.

2. *OMB approval number:* 3150–0051.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 277.

5. *How often the collection is required or requested:* As needed.

6. *Who will be required or asked to respond:* Licensees and NRC contractors.

7. *The estimated number of annual responses:* 60.

8. *The estimated number of annual respondents:* 60.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 10 hours.

10. *Abstract:* NRC Form 277 is completed by NRC contractors and licensees who have been granted an NRC access authorization and require verification of that access authorization and need-to-know due to (1) a visit to NRC, (2) a visit to other contractors/licensees or government agencies in which access to classified information will be involved, or (3) unescorted area access is desired.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to

properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 25th day of March 2016.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–07211 Filed 3–30–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATE: April 4, 11, 18, 25, May 2, 9, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of April 4, 2016

Tuesday, April 5, 2016

9:20 a.m. Affirmation Session (Public Meeting) (Tentative)

a. Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Station, Unit 2)—Appeal of LBP–15–26 (Tentative).

b. Exelon Generation Company, LLC (Dresden Nuclear Power Station)—Notice of Appeal of LBP–14–4 (Tentative).

9:30 a.m. Briefing on Threat Environment Assessment (Closed Ex. 1).

Week of April 11, 2016—Tentative

There are no meetings scheduled for the week of April 11, 2016.

Week of April 18, 2016—Tentative

Tuesday, April 19, 2016

9:30 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting); (Contact: Paul Michalak: 301–415–5804).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of April 25, 2016—Tentative

There are no meetings scheduled for the week of April 25, 2016.

Week of May 2, 2016—Tentative

There are no meetings scheduled for the week of May 2, 2016.

Week of May 9, 2016—Tentative

There are no meetings scheduled for the week of May 9, 2016.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: March 29, 2016.

Denise McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–07443 Filed 3–29–16; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0177]

Information Collection: ''Specific Domestic Licenses To Manufacture or Transfer Certain Items Containing Byproduct Material''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is titled, ''Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.''

DATES: Submit comments by May 2, 2016.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0001), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0177 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID 2015–0177.

• *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 supporting statement and NRC Form 653, 653A and 653B are available in ADAMS under Accession Nos. ML15358A117 and ML15226A321.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's

Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review titled, ''Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on September 10, 2015 (80 FR 54596).

1. *The title of the information collection:* 10 CFR part 32, ''Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.''

2. *OMB approval number:* 3150–0001.

3. *Type of submission:* Extension.

4. *The form number if applicable:* NRC Form 653, NRC Form 653A, and NRC Form 653B.

5. *How often the collection is required or requested:* There is a one-time submittal of information to receive a certificate of registration for a sealed source and/or device. Certificates of registration for sealed sources and/or devices can be amended at any time. In addition, licensee recordkeeping must be performed on an on-going basis, and reporting of transfer of byproduct material must be reported every calendar year, and in some cases, every calendar quarter.

6. *Who will be required or asked to respond:* All specific licensees who manufacture or initially transfer items containing byproduct material for sale or distribution to general licensees, or persons exempt from licensing, medical use product distributors to specific licensees, and those requesting a certificate of registration for a sealed source and/or device.

7. *The estimated number of annual responses:* 3,937 [2,807 responses (446 NRC responses + 2,361 Agreement State responses)] + 535 recordkeepers (172 NRC + 363 Agreement State) + 595 third-party recordkeepers (186 NRC + 409 Agreement State)].

8. *The estimated number of annual respondents:* 713 (204 NRC licensees, registration certificate holders and 509 Agreement State licensees and registration certificate holders).

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 164,608 (13,139 reporting + 1,257 recordkeeping + 150,212 third-party).

10. *Abstract:* Part 32 of title 10 of the *Code of Federal Regulations* (10 CFR) establishes requirements for specific licenses for the introduction of byproduct material into products or materials and transfer of the products or materials to general licensees, or persons exempt from licensing, medical use product distributors to specific licensees, and those requesting a certificate of registration for a sealed source and/or device. It also prescribes requirements governing holders of the specific licenses. Some of the requirements are for information which must be submitted in an application for a certificate of registration for a sealed source and/or device, records which must be kept, reports which must be submitted, and information which must be forwarded to general licensees and persons exempt from licensing. As mentioned, 10 CFR part 32 also prescribes requirements for the issuance of certificates of registration (concerning radiation safety information about a product) to manufacturers or initial transferors of sealed sources and devices. Submission or retention of the information is mandatory for persons subject to the 10 CFR part 32 requirements. The information is used by the NRC to make licensing and other regulatory determinations concerning the use of radioactive byproduct material in products and devices.

Dated at Rockville, Maryland, this 25th day of March 2016.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–07212 Filed 3–30–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302; NRC–2016–0048]

Duke Energy Florida, Inc. Crystal River, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption from the requirement to maintain a specified level of onsite property damage insurance in response to a request from Duke Energy Florida, Inc. (DEF or the licensee) dated December 17, 2015. This exemption would permit the licensee to reduce its onsite property damage insurance from $1.06 billion to $50 million at the Crystal River Unit 3 Nuclear Generating Station (CR–3) based on the reduced risks and consequences of a nuclear incident at a decommissioning nuclear power reactor.

DATES: March 31, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0048 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–2016–0048. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents on-line in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by

email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John B. Hickman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3017; email: *John.Hickman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The CR–3 facility is a decommissioning power reactor located in Citrus County, Florida. The licensee, DEF, is the holder of CR–3 Facility Operating License No. DPR–72. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect.

By letter dated February 20, 2013 (ADAMS Accession No. ML13056A005), DEF submitted to the NRC a certification in accordance with section 50.82(a)(1)(i) of title 10 of the *Code of Federal Regulations* (10 CFR) indicating it would permanently cease power operations, and with 10 CFR 50.82(a)(1)(ii) that it had permanently defueled the reactor vessel at CR–3. On May 28, 2011, DEF completed the final removal of fuel from the reactor vessel at CR–3. Because CR–3 is a permanently shutdown and defueled facility, and in accordance with section 50.82(a)(2), DEF is no longer authorized to operate the reactor or emplace nuclear fuel into the reactor vessel. The licensee is still authorized to possess and store irradiated (*i.e.,* spent) nuclear fuel. The spent fuel is currently being stored onsite in a spent fuel pool (SFP).

II. Request/Action

Under 10 CFR 50.12, ''Specific exemptions,'' DEF requested an exemption from 10 CFR 50.54(w)(1) by a letter dated December 17, 2015 (ADAMS Accession No. ML15351A490). The exemption from the requirements of 10 CFR 50.54(w)(1) would permit DEF to reduce the amount of its onsite property damage insurance from $1.06 billion to $50 million.

The regulation in 10 CFR 50.54(w)(1) requires each licensee to have and maintain onsite property damage insurance to stabilize and decontaminate the reactor and reactor site in the event of an accident. The onsite insurance coverage must be either $1.06 billion or whatever amount of insurance is generally available from private sources (whichever is less).

The licensee states that the risk and consequences of an accident at a permanently shutdown and defueled reactor are much less than the risk and consequences from an accident at an operating power reactor. In addition, since reactor operation is no longer authorized at CR–3, no events could occur that would require the stabilization of reactor conditions after an accident. Similarly, the risk of an accident that would result in significant onsite contamination at CR–3 is also much lower than the risk of such an event at operating reactors. Therefore, DEF is requesting an exemption from 10 CFR 50.54(w)(1) to reduce its onsite property damage insurance from $1.06 billion to $50 million, commensurate with the reduced risk of an accident at the permanently shutdown and defueled CR–3 site.

III. Discussion

Under 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) any of the special circumstances listed in 10 CFR 50.12(a)(2) are present.

The financial protection limits of 10 CFR 50.54(w)(1) were established after the Three Mile Island accident in 1979 out of concern that licensees may be unable to financially cover onsite cleanup costs in the event of a major nuclear accident. The NRC based the $1.06 billion coverage amount requirement on an analysis of an accident at a nuclear reactor operating at power that results in a large fission product release and requires significant resource expenditures to stabilize the reactor conditions and ultimately decontaminate and remediate the site. These activities would be similar to the stabilization and cleanup activities at the Fukushima Daiichi nuclear power facility following the damage from a severe earthquake and tsunami.

The NRC developed these cost estimates based on the spectrum of postulated accidents for an operating nuclear reactor and the consequences of a release of radioactive material from the reactor. Although the risk of an accident at an operating reactor is very low, the consequences can be large. In an operating plant, the high temperature and pressure of the reactor coolant system (RCS), as well as the inventory of relatively short-lived radionuclides, contribute to both the risk and consequences of an accident. With the permanent cessation of reactor operations at CR–3 (*i.e.,* the reactor, RCS, and supporting systems no longer operate) and the permanent removal of the fuel from the reactor core, postulated accidents involving failure or malfunction of the reactor, RCS, or supporting systems are no longer possible. Additionally, these systems and components cannot support the storage of the irradiated fuel.

During reactor decommissioning, the principal radiological risks are associated with the storage of spent fuel onsite. In its December 17, 2015, exemption request, DEF discusses both design-basis and beyond-design-basis events involving irradiated fuel stored in the SFP. The licensee states that there are no possible design-basis events at CR–3 that could result in a radiological release exceeding the limits established by the U.S. Environmental Protection Agency's (EPA) early-phase Protective Action Guidelines (PAG) of 1 Roentgen Equivalent Man (REM) at the exclusion area boundary. The only accident that might lead to a significant radiological release at the decommissioning reactor is a zirconium fire. The zirconium fire scenario is a postulated, but highly unlikely, beyond-design-basis accident scenario that involves loss of all water inventory from the SFP, resulting in a significant heat-up of the spent fuel, and culminating in substantial zirconium cladding oxidation and fuel damage. The probability of a zirconium fire scenario is related to the decay heat of the irradiated fuel stored in the SFP. Therefore, the risks from a zirconium fire scenario continue to decrease as a function of the time that CR–3 has been permanently shut down.

The licensee provided a detailed analysis of hypothetical beyond-design-basis accidents that could result in a radiological release at CR–3 in its September 6, 2013, emergency planning-related license amendment and exemption requests (ADAMS Accession No. ML13274A584). One of these beyond-design-basis accidents involves a complete loss of SFP water inventory, where cooling of the spent fuel would be primarily accomplished by natural circulation of air through the uncovered spent fuel assemblies. The licensee's analysis of this accident shows that as of September 26, 2013, air-cooling of the spent fuel assemblies will be sufficient to keep the fuel within a safe temperature range indefinitely without fuel damage or radiological

release. This is important because the NRC staff has previously authorized a lesser amount of onsite property damage insurance coverage based on analysis of the zirconium fire risk. In SECY–96–256, ''Changes to Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w)(1) and 10 CFR 140.11,'' dated December 17, 1996 (ADAMS Accession No. ML15062A483), the staff recommended changes to the power reactor insurance regulations that would allow licensees to lower onsite insurance levels to $50 million upon demonstration that the fuel stored in the SFP can be air-cooled. In its Staff Requirements Memorandum to SECY–96–256, dated January 28, 1997 (ADAMS Accession No. ML15062A454), the Commission supported the staff's recommendation that, among other things, would allow permanently shutdown power reactor licensees to reduce commercial onsite property damage insurance coverage to $50 million when the licensee was able to demonstrate the technical criterion that the spent fuel could be air-cooled if the SFP was drained of water. The staff has used this technical criterion to grant similar exemptions to other decommissioning reactor licensees (*e.g.,* Maine Yankee Atomic Power Station, published in the **Federal Register** on January 19, 1999 (64 FR 2920); Zion Nuclear Power Station, published in the **Federal Register** on December 28, 1999 (64 FR 72700); and Kewaunee Nuclear Power Plant, published in the **Federal Register** on April 13, 2015 (80 FR 19697)). The NRC based these prior exemptions on the licensees' demonstrating that the SFP could be air-cooled, consistent with the technical criterion discussed above.

In SECY–00–0145, ''Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning,'' dated June 28, 2000, and SECY–01–0100, ''Policy Issues Related to Safeguards, Insurance, and Emergency Preparedness Regulations at Decommissioning Nuclear Power Plants Storing Fuel in the Spent Fuel Pools,'' dated June 4, 2001 (ADAMS Accession Nos. ML003721626 and ML011450420, respectively), the NRC staff discussed additional information concerning SFP zirconium fire risks at decommissioning reactors and associated implications for onsite property damage insurance. As discussed in SECY–00–0145, providing an analysis of when the spent fuel stored in the SFP is capable of air-cooling is one measure that a licensee can use to demonstrate that the probability of a zirconium fire is exceedingly low. More recently, as discussed in SECY–01–0100, the staff has used an additional analysis that bounds an incomplete drain down of the SFP water or some other catastrophic event (such as a complete drainage of the SFP with rearrangement of spent fuel rack geometry and/or the addition of rubble to the SFP). The analysis postulates that decay heat transfer from the spent fuel via conduction, convection, or radiation would be impeded. This analysis is often referred to as an adiabatic heatup analysis.

The DEF analyses, as referenced in DEF's December 15, 2015, exemption request, demonstrate that under conditions where the SFP water inventory has drained and only air-cooling of the stored irradiated fuel is available, there is reasonable assurance that as of September 26, 2013, the CR–3 spent fuel will remain at temperatures far below those associated with a significant radiological release. In addition, the licensee has also provided an adiabatic heatup analysis, demonstrating that as of September 26, 2013, there will be at least 19.7 hours after the loss of all means of cooling (both air and/or water) before the spent fuel cladding would reach a temperature where the potential for a significant offsite radiological release could occur. The licensee states that should all means to cool the spent fuel be lost, 19.7 hours is sufficient time for personnel to respond with additional resources, equipment, and capability to restore cooling to the SFP, even after a non-credible, catastrophic event.

In the NRC's March 30, 2015, safety evaluation (ADAMS Accession No. ML15058A906) of the licensee's request for exemptions from certain emergency planning requirements, the NRC staff assessed the DEF accident analyses associated with the radiological risks from a zirconium fire at the permanently shutdown and defueled CR–3 site. The staff has confirmed that under conditions where cooling airflow can develop, suitably conservative calculations indicate that as of September 26, 2013, the fuel will remain at temperatures where the cladding will be undamaged for an unlimited period. For the very unlikely beyond-design-basis accident scenario, where the SFP coolant inventory is lost in such a manner that all methods of heat removal from the spent fuel are no longer available, there will be a minimum of 19.7 hours from the initiation of the accident until the cladding reaches a temperature where offsite radiological release might occur. The staff found that 19.7 hours was sufficient time to support deployment of mitigation equipment to prevent the zirconium cladding from reaching a point of rapid oxidation. Even more time would be available now, given that more than two years have passed since the analysis was performed and the risks from a zirconium fire scenario continue to decrease as a function of the time that the fuel has cooled since CR–3 permanently shut down.

In response to a request for additional information related to the licensee's request for exemptions from certain emergency planning requirements, the licensee also provided an analysis of a postulated airborne dispersal of radioactive waste resin upon dropping a High Integrity Container (HIC) outside the power block. Although an airborne release is not expected to occur with a drop, or while in storage awaiting shipment, due to the low flammability and reactivity of the spent resin, a release is nevertheless postulated. The event is based on a release of radioactive material with activity and isotopic mix taken from the resin shipments that occurred during a recent 5½ year period. The licensee reviewed resin shipments made from 2008 through June 2013 and obtained the isotopic distribution (except for Cobalt-60) from the shipment with the highest overall activity. Cobalt-60 activity was taken from a different shipment to assure that the highest activity was used and the dose was maximized. This created a composite maximum shipment having a total activity of approximately 116 curies, which is approximately twice the activity of the average shipment made during this period. The analysis assumed a release of 10 percent of the total radioactive material inventory and that the release would occur outside of the CR–3 site's Auxiliary Building on the south berm. The analysis of the dropped spent resin HIC consequences indicates that the dose would be 40 mrem total effective dose equivalent at the site boundary over a 2-hour period, which is well below the PAG limit of 1 rem.

In SECY–96–256, the NRC staff provided its basis as to why it considers $50 million to be an adequate level of onsite property damage insurance for a decommissioning reactor, once the spent fuel in the SFP is no longer susceptible to a zirconium fire. The staff has postulated that there is still a potential for other radiological incidents at a decommissioning reactor that could result in significant onsite contamination besides a zirconium fire. In SECY–96–256, the NRC staff cited the rupture of a large contaminated liquid storage tank, causing soil contamination

and potential groundwater contamination, as the most costly postulated event to decontaminate and remediate (other than a SFP zirconium fire). The NRC determined that the postulated large liquid radiological waste storage tank rupture event would have a bounding onsite cleanup cost of approximately $50 million.

The NRC staff has found that DEF's proposed reduction in onsite property damage insurance coverage to a level of $50 million is consistent with SECY–96–256. In addition, the staff notes that there is a precedent of granting a similar exemption to other permanently shutdown and defueled power reactor licensees. As previously stated, the staff concluded that as of September 26, 2013, sufficient irradiated fuel decay time has elapsed at CR–3 to decrease to negligible levels the probability of an onsite radiological release from a postulated zirconium fire accident. In addition, the licensee's proposal to reduce onsite insurance to a level of $50 million is consistent with the maximum estimated cleanup costs for the recovery from the rupture of a large liquid radiological waste storage tank.

IV. Regulatory Requirements

A. Authorized by Law

Under 10 CFR 50.12, the Commission may grant exemptions from the regulations in 10 CFR part 50 that the Commission determines are authorized by law. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws. Therefore, the exemption is authorized by law.

B. No Undue Risk to Public Health and Safety

The NRC established the onsite property damage insurance requirements of 10 CFR 50.54(w)(1) to provide financial assurance that following a significant nuclear incident, onsite conditions could be stabilized and the site decontaminated. The requirements of 10 CFR 50.54(w)(1) and the existing level of onsite insurance coverage for CR–3 are predicated on the assumption that the reactor is operating. However, CR–3 is a permanently shutdown and defueled facility. As explained in section III of this document, the permanently defueled status of the facility has resulted in a significant reduction in the number and severity of potential accidents, and correspondingly, a significant reduction in the potential for and severity of onsite property damage. The proposed reduction in the amount of onsite insurance coverage does not impact the probability or consequences of potential accidents. The proposed level of insurance coverage is commensurate with the reduced risk and reduced cost consequences of potential nuclear accidents at CR–3. Therefore, the NRC staff concludes that granting the requested exemption will not present an undue risk to the health and safety of the public.

C. Consistent With the Common Defense and Security

The proposed exemption would not eliminate any requirements associated with physical protection of the site and would not adversely affect DEF's ability to physically secure the site or protect special nuclear material. Physical security measures at CR–3 are not affected by the requested exemption. Therefore, the proposed exemption is consistent with the common defense and security.

D. Special Circumstances

Under 10 CFR 50.12(a)(2)(ii), special circumstances are present if the application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.54(w)(1) is to provide reasonable assurance that adequate funds will be available to stabilize conditions and cover onsite cleanup costs associated with site decontamination, following an accident that results in the release of a significant amount of radiological material. As explained in section III of this document, because CR–3 is permanently shut down and defueled, the radiological consequences of design-basis accidents or other credible events at CR–3 cannot possibly exceed the limits of the EPA PAGs at the exclusion area boundary. The licensee has performed site-specific analyses of highly unlikely, beyond-design-basis zirconium fire accidents involving the stored irradiated fuel in the SFP. The analyses show that as of September 26, 2013, the probabilities of such an accident are minimal. The NRC staff's evaluation of the licensee's analyses confirm this conclusion.

The NRC staff also finds that DEF's proposed $50 million level of onsite insurance is consistent with the bounding cleanup and decontamination cost, as discussed in SECY–96–256, to account for hypothetical rupture of a large liquid radiological waste tank at the CR–3 site, should such an event occur. Therefore, the staff concludes that the application of the current requirements in 10 CFR 50.54(w)(1) to maintain $1.06 billion in onsite insurance coverage is not necessary to achieve the underlying purpose of the rule for the permanently shutdown and defueled CR–3 reactor.

Under 10 CFR 50.12(a)(2)(iii), special circumstances are present whenever compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated. The NRC staff concludes that if the licensee were required to continue to maintain an onsite insurance level of $1.06 billion, the associated insurance premiums would be in excess of those necessary and commensurate with the radiological contamination risks posed by the site. In addition, such insurance levels would be significantly in excess of other decommissioning reactor facilities that have been granted similar exemptions by the NRC.

The NRC staff finds that DEF's compliance with the existing rule would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted and are significantly in excess of those incurred by others similarly situated.

Therefore, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(iii) exist.

E. Environmental Considerations

The NRC approval of the exemption from insurance or indemnity requirements belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion from further environmental analysis, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the exemption is categorically excluded from further analysis under § 51.22(c)(25).

Under 10 CFR 51.22(c)(25), granting an exemption from the requirements of any regulation in Chapter I of 10 CFR is a categorical exclusion provided that: (1) There is no significant hazards consideration; (2) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (3) there is no significant increase in individual or cumulative public or occupational radiation exposure; (4) there is no significant construction impact; (5) there is no significant increase in the potential for or consequences from

radiological accidents; and (6) the requirements from which an exemption is sought involve: Surety, insurance, or indemnity requirements.

Utilizing the standards set forth in 10 CFR 50.92, the NRC has determined that approval of the exemption request involves no significant hazards consideration because reducing the licensee's onsite property damage insurance for CR–3 does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The exempted financial protection regulation is unrelated to the operation of CR–3. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted regulation is not associated with construction, so there is no significant construction impact. The exempted regulation does not concern the source term (*i.e.,* potential amount of radiation in an accident), nor mitigation. Therefore, there is no significant increase in the potential for, or consequences of, a radiological accident. In addition, there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. The requirement for onsite property damage insurance may be viewed as involving surety, insurance, or indemnity matters.

Therefore, pursuant to 10 CFR 51.22(b) and 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

V. Conclusions

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a), the requested exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants DEF an exemption from the requirements of 10 CFR 50.54(w)(1), to permit the licensee to reduce its onsite property damage insurance to a level of $50 million.

The exemption is effective upon issuance.

Dated at Rockville, Maryland, this 16th day of March 2016.

For the Nuclear Regulatory Commission.

John R. Tappert,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–07305 Filed 3–30–16; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Filings for Reconsideration

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request the Office of Management and Budget (''OMB'') to extend approval without change, under the Paperwork Reduction Act, of a collection of information under its regulation on Rules for Administrative Review of Agency Decisions. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by May 31, 2016.

ADDRESSES: Comments 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: paperwork.comments@pbgc.gov.

Fax: 202–326–4224.

Mail or Hand Delivery: Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

PBGC will make all comments available on its Web site, *www.pbgc.gov.*

Copies of the collection of information may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting the Disclosure Division 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.) PBGC's regulation on Administrative Appeals may be accessed on PBGC's Web site at *www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Deputy Assistant General Counsel, or Donald McCabe, Attorney, Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, 202–326–4400. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Rules for Administrative Review of Agency Decisions (29 CFR part 4003) prescribes rules governing the issuance of initial determinations by PBGC and the procedures for requesting and obtaining administrative review of initial determinations through reconsideration or appeal. Subpart A of the regulation specifies which initial determinations are subject to reconsideration. Subpart C prescribes rules on who may request reconsideration, when to make such a request, where to submit it, form and content of reconsideration requests, and other matters relating to reconsiderations.

Any person aggrieved by an initial determination of PBGC under § 4003.1(b)(1) (determinations that a plan is covered by section 4021 of ERISA), § 4003.1(b)(2) (determinations concerning premiums, interest, and late payment penalties under section 4007 of ERISA), § 4003.1(b)(3) (determinations concerning voluntary terminations), § 4003.1(b)(4) (determinations concerning allocation of assets under section 4044 of ERISA), or § 4003.1(b)(5) (determinations with respect to penalties under section 4071 of ERISA) may request reconsideration of the initial determination. Requests for reconsideration must be in writing, be clearly designated as requests for reconsideration, contain a statement of the grounds for reconsideration and the relief sought, and contain or reference all pertinent information.

OMB has approved the reconsiderations collection of information under control number 1212–0063 through July 31, 2016. PBGC intends to request that OMB extend approval without change of this collection of information for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that an average of about 230 appellants per year will respond to this collection of information. PBGC further estimates

that the average annual burden of this collection of information is about one-half hour and about $665 per person, with an average total annual burden of about 109 hours and about $153,000.

PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are 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.

Issued in Washington, DC, this 25 day of March 2016.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2016–07285 Filed 3–30–16; 8:45 am]

BILLING CODE 7709–02–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Submission for Approval: Information Collection 3206–0150; Fingerprint Chart Standard Form 87, SF 87

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Federal Investigative Services (FIS), U.S. Office of Personnel Management (OPM) is notifying the general public and other Federal agencies that OPM is seeking Office of Management and Budget (OMB) approval of a revised information collection, control number 3206–0150, Fingerprint Chart Standard Form 87, SF 87. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35), as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is providing an additional 30 days for public comments. OPM previously solicited comments for this collection, with a 60-day public comment period, at 81 FR 2924 (January 19, 2016).

DATES: Comments are encouraged and will be accepted until May 2, 2016. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting Federal Investigative Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Donna McLeod or by electronic mail at *FISFormsComments@opm.gov.*

SUPPLEMENTARY INFORMATION: This notice announces that OPM has submitted to OMB a request for review and clearance of a revised information collection, control number 3206–0150, Fingerprint Chart Standard Form 87, SF 87. The public has an additional 30-day opportunity to comment.

The SF 87 is a fingerprint card, which is utilized to conduct a national criminal history check, which is a component of the background investigation. The SF 87 is completed by individuals who are under consideration for appointment to or retention in a Federal position or performance of work on behalf of the Government. The SF 87 fingerprint chart is used in background investigations to establish that such persons are eligible for logical and physical access to Government facilities and systems; suitable or fit to perform work for, on behalf of, the Federal Government; suitable for employment or retention in a public trust position, eligible for employment or retention in a national security position, and/or eligible for access to classified national security information. The SF 87 form is only utilized when a hardcopy fingerprint chart must be obtained, as opposed to the electronic collection of fingerprints.

Due to the SF 87 form's small size and the fact that it may be maintained in multiple systems of records, it does not list all potentially applicable routine uses under the Privacy Act. Accordingly 5 U.S.C. 552a(e)(3)(C) requires that an agency issuing the SF 87 form must also give the subject a copy of the routine uses for the applicable system of records and FBI's Privacy Act Notice and Privacy Rights. OPM proposes to add clarifying language to the Purpose, Authority, and Privacy Statement to further explain uses of the form.

The 60-day **Federal Register** Notice was published on January 19, 2016 (81 FR 2924). One comment was received from an individual from the Department of Defense Education Activity (DoDEA). DoDEA commented that without using Fingerprint Chart Standard Form 87, an alternative form or process should be made available to comply with the Crime Control Act of 1990 (Act, and House Bill (HB) 737). OPM did not accept DoDEA's recommendation. OPM already does provide for the electronic collection of fingerprints. Use of the SF 87 is limited only to situations where electronic collection of fingerprints cannot be utilized.

Analysis

Agency: Federal Investigative Services, U.S. Office of Personnel Management.

Title: Fingerprint Chart Standard Form 87, SF 87.

OMB Number: 3206–0150.

Affected Public: Individuals who are under consideration for appointment to or retention in a Federal position or performance of work on behalf of the Government.

Number of Respondents: 52,318.

Estimated Time per Respondent: 5 minutes.

Total Burden Hours: 4,360.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2016–07406 Filed 3–30–16; 8:45 am]

BILLING CODE 6325–53–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 25, 2016,

it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 201 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–108, CP2016–136.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07200 Filed 3–30–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 25, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 202 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–109, CP2016–137.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07202 Filed 3–30–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date: March 31, 2016.*

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 25, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 48 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–111, CP2016–139.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07206 Filed 3–30–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 25, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 203 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–110, CP2016–138.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07201 Filed 3–30–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 25, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 17 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–112, CP2016–140.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07207 Filed 3–30–16; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77445; File No. SR–NASDAQ–2016–008]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend Rule 4120

March 25, 2016.

I. Introduction

On January 29, 2016, The NASDAQ Stock Market LLC (''Exchange'' or ''Nasdaq'') 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 the process for commencing trading in a security that is the subject of an initial public offering (''IPO'') or a trading halt. The proposed rule change was published for comment in the **Federal Register** on February 11, 2016.[3] On March 23, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comment letters on the proposed rule change. This order approves the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77066 (February 5, 2016), 81 FR 7398 (''Notice'').

[4] In Amendment No. 1, the Exchange clarified that it will not accept orders for a security prior to having its registration statement declared effective. Because Amendment No. 1 adds clarification and does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment (Amendment No. 1 to the proposed rule change is available at: *http://www.sec.gov/rules/sro/nasdaq.shtml*).

proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Nasdaq Rules 4120(c)(4)(B), 4120(c)(7)(A), and 4120(c)(8)(A) to modify the ways in which orders are handled prior to the commencement of trading in a security that is the subject of an IPO or a trading halt.

Currently, during any trading halt or pause for which a halt cross under Nasdaq Rule 4753 will not occur (*i.e.,* a trading halt or pause for non-Nasdaq-listed securities), market participants may enter orders in the security subject to such trading halt or pause, and designate such orders to be held in a suspended state until the termination of the trading halt or pause, at which time the orders will be entered into the system.[5] Under the proposal, rather than holding such orders in a suspended state until the termination of the trading halt or pause, the Exchange would not accept such orders, unless an order is subject to instructions that it will be directed to another exchange as described in Nasdaq Rule 4758.[6]

Currently, for Nasdaq-listed securities, prior to terminating a trading halt or pause initiated under Nasdaq Rule 4120(a)(1), (4), (5), (6), (9), (10), (11), or (12)(F), there is a 5-minute Display Only Period during which market participants may enter quotes and orders for the security subject to the halt or pause into Nasdaq's system.[7] When a trading halt is in effect prior to the commencement of the Display Only Period, market participants may enter orders for the security and designate such orders to be held in a suspended state until the beginning of the Display Only Period, at which time the orders will be entered into the system.[8] Under the proposal, when a trading halt is in effect prior to the commencement of the Display Only Period, market participants may enter orders for the security that is subject to the trading halt and, rather than requiring market participants to designate these orders to be held until the beginning of the Display Only Period, these orders would be accepted and entered into the system.[9]

Currently, prior to terminating a trading halt initiated under Nasdaq Rule 4120(a)(7), there is a 15-minute Display Only Period during which market participants may enter quotes and orders for the security.[10] In addition, beginning at 4:00 a.m., market participants may enter orders for a security that is the subject of an IPO on the Exchange and designate such orders to be held until the beginning of the 15-minute Display Only Period, at which time they will be entered into the system.[11] Under the proposal, beginning at 4:00 a.m., market participants may enter orders for a security that is the subject of an IPO on the Exchange and, rather than requiring market participants to designate such orders to be held until the beginning of the Display Only Period, such orders would be accepted and entered into the system.[12]

The Exchange notes that it will issue an Equity Trader Alert to notify Exchange member firms of the changes.[13]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. As noted above, the Commission received no comment letters regarding the proposed rule change.

The Commission notes that, according to the Exchange, the proposed changes will improve and simplify its process for commencing trading of securities that are the subject of IPOs and trading halts.[16] With respect to non-Nasdaq-listed securities, the Exchange notes that the proposal would reduce confusion about where to send orders during a trading halt.[17] With respect to Nasdaq-listed securities, the Exchange notes that the process of holding orders in a suspended state prior to the commencement of the Display Only Period has not been widely used.[18] The Exchange also notes that the existing process requires special settings on participant ports, whereas under the proposed process, orders for Nasdaq-listed securities will be immediately accepted and entered into the system without any special port settings.[19] Moreover, according to the Exchange, accepting orders immediately rather than holding them in a suspended state will clarify the state of the orders, which will reduce confusion for market participants in times of increased activity, such as during a halt or IPO.[20] For these reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–NASDAQ–2016–008), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2016–07196 Filed 3–30–16; 8:45 am]

BILLING CODE 8011–01–P

[5] *See* Nasdaq Rule 4120(c)(4)(B).

[6] *See* proposed Rule 4120(c)(4)(B).

[7] *See* Nasdaq Rule 4120(c)(7)(A).

[8] *See id.*

[9] *See* proposed Rule 4120(c)(7)(A). The Exchange notes that it would disseminate the quotes collected during the halt in a non-tradable state where they are clearly identified as being closed, and that these quotes would be non-actionable. *See* Notice, *supra* note 3, at 7399.

[10] *See* Nasdaq Rule 4120(c)(8)(A).

[11] *See id.*

[12] *See* proposed Rule 4120(c)(8)(A). *See also supra* note 9.

[13] *See* Notice, *supra* note 3, at 7399. For a more detailed description of the proposed rule change, *see* Notice, *supra* note 3.

[14] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Notice, *supra* note 3, at 7400.

[17] *See id.* at 7399. According to Nasdaq, market participants may use Nasdaq routing strategies that submit orders to the primary listing exchange for auctions or submit their orders directly to the primary listing exchange. *See id.*

[18] *See id.*

[19] *See id.*

[20] *See id.* at 7400.

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77451; File No. SR–BATS–2016–04]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on 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

March 25, 2016.

On February 4, 2016, BATS Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the SPDR DoubleLine Short Duration Total Return Tactical ETF (''Fund''). The proposed rule change was published for comment in the **Federal Register** on February 12, 2016.[3] On March 8, 2016, the Exchange filed Amendment No. 1 to the proposed rule change. On March 24, 2016, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change.[4] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [5] 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 March 28, 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,[6] designates May 12, 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–BATS–2016–04), as modified by Amendment No. 2.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–07205 Filed 3–30–16; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77078 (February 8, 2016), 81 FR 7599.

[4] Amendment No. 2 replaced the original filing in its entirety. In Amendment No. 2, the Exchange: (1) Modified the name of the Fund by replacing the word ''Term'' with ''Duration;'' (2) clarified that, under normal circumstances, at least 80% of the Fund's net assets (plus the amount of borrowings for investment purposes) will be invested in its principal holdings; (3) stated that the Fund may invest up to 20% of its portfolio in securities issued or guaranteed by state or local governments or their agencies or instrumentalities; (4) clarified which assets held by the Fund would trade on markets that are members of the Intermarket Surveillance Group or that have entered into a comprehensive surveillance agreement with the Exchange; (5) clarified the application of the investment restrictions to derivatives and restricted securities; (6) described how fixed income instruments, including municipal securities, would be valued for purposes of calculating the net asset value of the Fund; (7) clarified that all statements and representations made in the filing regarding the description of the portfolio, limitations on portfolio holdings or reference assets, or the applicability of Exchange rules and surveillance procedures constitute continued listing requirements for listing the Shares on the Exchange; (8) stated that the issuer 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 surveil for compliance with the continued listing requirements, and if the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12; and (9) made other technical amendments. Amendment No. 2 is available at: *http://www.sec.gov/comments/sr-bats-2016–04/bats201604.shtml.*

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77448; File No. SR–ICEEU–2016–005]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Equity Futures and Options

March 25, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 11, 2016, ICE Clear Europe Limited (''ICE Clear Europe'' or ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(ii) [4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the changes is to modify certain aspects of the ICE Clear Europe Clearing Procedures and the ICE Clear Europe Delivery Procedures in connection with equity futures and options contracts traded on the ICE Futures Europe market and cleared by ICE Clear Europe.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The principal purpose of the amendments is to modify certain aspects of the ICE Clear Europe Clearing Procedures and the ICE Clear Europe Delivery Procedures relating to equity futures and options contracts traded on the ICE Futures Europe market and cleared by ICE Clear Europe.

The ICE Clear Europe Clearing Procedures have been amended to revise certain provisions relating to option exercise and expiration, particularly in the context of equity options. In particular, in paragraph 5.8 of the Clearing Procedures, amendments are made to clarify that allocations of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

exercised equity options to Clearing Members with short positions will be made on a random basis, one lot at a time. In this regard, the amendments distinguish equity options from other F&O option contracts (*e.g.,* energy contracts), for which exercised options are allocated on a pro rata basis. The change is intended to make the Clearing Procedures consistent with current market practice with respect to equity options. Certain provisions relating to early and automatic exercise in paragraph 5 have also been revised to be consistent with the relevant contract terms and specifications for each type of option contract. The amendments additionally specify the procedures for a party to abandon options that would otherwise be automatically exercised. Certain other clarifying changes in paragraph 5.2 and 5.8 reflect that an equity option is settled through a contract for the delivery of the underlying security.

In addition, amendments to paragraphs 1.1, 2.2 and 4.6 of the Clearing Procedures contain various drafting clarifications applicable to F&O Contracts generally, including with respect to the calculation of contingent variation margin for certain F&O energy and softs contracts under tender for delivery. Consistent with current practice, such calculation is made pursuant to the method specified in paragraph 4.6 or another method prescribed by the Clearing House for the relevant contract type from time to time, which would be notified to Clearing Members by Circular. Such amendments also update certain references to defined terms and ICE Clear Europe clearing systems and documentation.

In addition, the amendments revise Part Z of the Delivery Procedures, which relates to equity futures and options. The amendments generally update certain references to defined terms and relevant ICE Futures Europe and ICE Clear Europe systems, reports and other documentation. Amendments have been made to take into account additional underlying securities settlement systems that may be used to settle physical deliveries of securities resulting from equity futures and options, including Clearstream Frankfurt for German securities, SIX SIS for Swiss securities and Takasbank for Turkish securities. In addition, the timetables for physical delivery (for settlement of both equity futures and options and stock contingent trades) have been updated to indicate the appropriate requirements for each of the respective settlement systems. In the timetable for stock contingent trades, the details required to be submitted have been updated to include any relevant special conditions relating to corporate events. Amendments to the delivery timetable also clarify the timing requirements on the intended settlement day. In particular, the revised timetable requires delivery by the delivering Clearing Member to the Clearing House by one hour prior to the close of delivery-versus-payment settlement, in order to provide time for on-delivery by the Clearing House to the receiving Clearing Member. Additional notice requirements have been added concerning failures to deliver by such time.

In paragraph 2.3, certain clarifications have been made to the Clearing House's ability to split a delivery obligation into multiple deliveries (known as partialling), including to take advantage of various automated and manual processes at the different securities settlement systems. In paragraph 2.4, clarifications have been made to the procedures for a selling Clearing Member to request the use of a daylight settlement period. The Clearing House retains the discretion not to accept a request for such settlement.

Provisions relating to failed settlements and buy-ins have also been updated. In paragraph 3.1, the timetable for buy in by the Clearing House following a failure to deliver securities by a Clearing Member has been clarified. Cash payment obligations have been specified for situations where the Clearing House is unable to buy in securities. A new paragraph 3.2 has been added to allow for early buy-in if directed by the Clearing House. It is expected that early buy-in would be likely to be used only in the case of default, force majeure or similar event. A new paragraph 3.3 has also been added that allows the Clearing House to charge a Clearing Member that has failed to make a settlement a daily charge for each day that the failure remains outstanding.

Paragraph 4 of Part Z, which relates to the treatment of certain corporate events that occur after exercise or expiration with respect to the securities underlying an equity futures or option contract, has been substantially revised. The revisions generally conform the corporate event provisions to the similar provisions relating to debt corporate events in Part Y of the Delivery Procedures. Specifically, the term ''corporate event'' has been defined to include cash claims in respect of the underlying securities (such as dividends or cash obligation from a fractional entitlement), distributions of non-cash property with respect to the underlying securities (such as warrants or rights issuances), and transformations of the underlying (such as pursuant to a corporate reorganization, de-listing, merger, de-merger, or a buy-out). Revised paragraph 4 clarifies the rights and obligations of the buyer and seller under the relevant contract in respect of such an event (in general, the buyer under the contract will be entitled to the relevant cash claim, distribution or transformed obligation). Where the corporate event requires an election to be made, the relevant buyer is permitted to make the election (subject to satisfying certain notice requirements). As revised, paragraph 4 provides certain limitations on the obligations and liability of the Clearing House with respect to a corporate event. It also addresses certain failed deliveries or settlements in connection with debt events and certain tax liabilities.

In paragraph 5 of Part Z, the various reports provided in respect of delivery of equity contracts have been updated. An existing report type relating to stock contingent trades has also been removed and consolidated into the general stock deliveries report.

2. Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act[5] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22,[6] and are consistent with the prompt and accurate clearance of and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[7] The amendments are intended to update and clarify provisions of the Clearing Procedures and Delivery Procedures relevant to the exercise and settlement of equity futures and options currently traded on ICE Futures Europe and cleared through ICE Clear Europe. In particular, the amendments clarify the procedures for exercise and allocation of exercised equity options, consistent with current market practice for such products. They also update provisions of the Delivery Procedures to reflect the relevant settlement systems, to clarify treatment of delivery failures and buy-ins, and to enhance procedures relating to the treatment of corporate events. In

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 240.17Ad–22.

[7] 15 U.S.C. 78q–1(b)(3)(F).

ICE Clear Europe's view, the amendments will promote the prompt and accurate clearance and settlement of equity futures and option transactions, and are thus consistent with the requirements of Section 17A of the Act and the regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. ICE Clear Europe is adopting the amendments to [*sic*] the Delivery Procedures and Clearing Procedures in order to clarify certain aspects of the exercise and settlement of equity futures and options currently cleared by ICE Clear Europe. ICE Clear Europe does not believe the adoption of related Delivery Procedures and Clearing Procedures amendments would materially affect the cost of clearing these products, adversely affect access to clearing in these products for Clearing Members or their customers, or otherwise adversely affect competition in clearing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) [8] of the Act and Rule 19b–4(f)(4)(ii) [9] thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2016–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2016–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/clear-europe/regulation#rule-filings.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2016–005 and should be submitted on or before April 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2016–07194 Filed 3–30–16; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77446; File No. SR–ICC–2016–004]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Single Name Backloading Incentive Program

March 25, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] notice is hereby given that on March 21, 2016, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(2) [4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to extend ICC's single name backloading incentive program for client account clearing of single name credit default swap (''CDS'') contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed changes are intended to extend a single name backloading incentive program for client account clearing of single name CDS contracts.[5] The changes are designed to incentivize market participants to submit additional transactions to ICC for clearing. Under the program, clients receive a 50% discount on ICC clearing fees for backloaded single name CDS contracts. The discount is paid back as a rebate directly to the client or through the client's Clearing Participant. ICC plans to extend the existing backloading program, set to expire March 18, 2016, until September 30, 2016. As a result of the extended program, contracts must have an execution date prior to September 1, 2016 to be eligible for the rebate program. This date was chosen to incentivize clients to backload positions which were established after the original program start date. ICC is extending the program to allow market participants the opportunity to backload new single name CDS contracts that ICC has launched since the last program extension date. Additionally, the program extension allows market participants time to prepare and adapt to industry changes regarding the reduction of frequency for which single name CDS contracts roll to the new on-the-run contract.

ICC believes the proposed rule changes are consistent with the requirements of the Act including Section 17A of the Act.[6] More specifically, the proposed rule changes establish or change a member due, fee or other charge imposed by ICC under Section 19(b)(3)(A)(ii)[7] of the Act and Rule 19b–4(f)(2)[8] thereunder. ICC believes the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17A(b)(3)(D),[9] because the proposed fee changes apply equally to all market participants clearing backloaded single name CDS contracts in client accounts and therefore the proposed changes provide for the equitable allocation of reasonable dues, fees and other charges among its participants. As such, the proposed changes are appropriately filed pursuant to Section 19(b)(3)(A)[10] of the Act and paragraph (f)(2) of Rule 19b–4 thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes modify pricing for client account clearing of single name CDS contracts. There is no limit to the number of client participants that may participate in the backloading incentive program; it will be open to all clients and rebates will be applied to all transaction fees for client accounts clearing eligible single name CDS contracts. As such, the proposed changes apply consistently across all eligible market participants and the implementation of such changes does not preclude the implementation of similar incentive programs by other market participants. Therefore, ICC does not believe the changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and Rule 19b–4(f)(2)[12] thereunder because the extension of the single name backloading incentive program for client account clearing of single name CDS contracts results in changes which establish or change a due, fee, or other charge applicable ICC's participants. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2016–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2016–004. 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 ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You

[5] On July 30, 2015, ICE Clear Credit initially filed the proposed rule changes to implement a single name backloading incentive program for client account clearing of single name CDS contracts. See Securities Exchange Act Release No. 34–75656 (August 10, 2015), 80 FR 48938 (August 14, 2015) (SR–ICC–2015–014). ICE Clear Credit filed to extend this program on December 14, 2015. See Securities Exchange Act Release No. 34–76786 (December 29, 2015), 81 FR 286 (January 5, 2016) (SR–ICC–2015–019).

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 15 U.S.C. 78q–1(b)(3)(D).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2016–004 and should be submitted on or before April 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2016–07195 Filed 3–30–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77443; File No. SR–Phlx–2016–37]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Rule 756

March 25, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 18, 2016, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete Rule 756 from the Phlx rules.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to delete Rule 756, which deals with accounts of general partners. As discussed below, the Exchange has determined that these rules are anachronistic and no longer serve a purpose. Consequently, the Exchange is proposing to eliminate the rules from the rulebook to avoid any confusion that may be caused by retaining them.

Rule 756

Rule 756 concerns the accounts of general partners. The rule requires that no member organization that is a partnership shall carry an account for a general partner of another member organization that is a partnership without the prior written consent of another general partner of such other organization. It also requires that duplicate reports and monthly statements shall be sent to a general partner of the organization (other than the partner for whom the account is carried) designated in such consent.

Further, the rule requires that all clearance transactions for a general partner of another member organization that is a partnership shall be reported by the clearing firm to a general partner of such other organization who has no interest in such transactions.

The Exchange believes that the rule is no longer relevant. The rule was adopted at a time when the Exchange had a general partner membership classification. That classification is no longer in existence. Accordingly, the Exchange does not believe the rule serves a regulatory purpose and it is accordingly proposing to delete the rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed changes are consistent with just and equitable principles of trade because they delete outdated and potentially confusing rules. The rule that the Exchange proposes to delete is anachronistic and does not have application to the Exchange's current function. Thus, removing it from the rules promotes clarity and eliminates potential confusion caused by allowing it to remain.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather it is designed to promote competition among exchanges by removing archaic rules in comparison to the rules of other exchanges. Last, the proposed changes promote clarity in the application of the Exchange's rules by eliminating unneeded rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of its filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. In the instant filing, the Commission waives this requirement.

time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to delete unnecessary and outdated rule text and therefore reduce confusion in the application of the Exchange's rules. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2016–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2016–37. 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–Phlx–2016–37 and should be submitted on or before April 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

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[7] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77449; File No. SR–Phlx–2016–10]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Professional Customer Definition

March 25, 2016.

I. Introduction

On January 21, 2016, NASDAQ PHLX LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the methodology for counting average daily order submissions in listed options to determine whether a person or entity meets the definition of a Professional[3] (''Professional order counting''). The Commission published the proposed rule change for comment in the **Federal Register** on February 10, 2016.[4] The Exchange filed Amendment No. 1 to the proposed rule change on March 21, 2016.[5] The Commission received no comments on this proposal. This order provides notice of filing of Amendment No. 1 and approves the proposal, as modified by Amendment No. 1, on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposal

The Exchange proposes to amend the definition of Professional in Rule 1000(b)(14) to clarify the calculation of certain types of orders for purposes of Professional order counting.[6]

Background

On Phlx, public customers are granted certain marketplace advantages over other market participant orders, including non-customer orders and quotes from specialists and Registered Options Traders (''ROTs'').[7] These advantages include priority over other market participant orders at the same

[3] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Phlx Rule 1000(b)(14); *see also* Securities Exchange Release 59287 (January 23, 2009), 74 FR 5694 (January 30, 2009) (ISE–2006–26) (''ISE Approval Order'').

[4] *See* Securities Exchange Act Release No. 77054 (February 4, 2016), 81 FR 7166 (''Notice'').

[5] In Amendment No. 1, the Exchange changed how complex orders will be counted with respect to Professional order counting. Amendment No. 1 modified the proposal to provide that a complex order compromised of nine legs or more will count as multiple orders with each option leg counting as its own separate order while complex orders with eight legs or less will count as a single order. The Exchange previously proposed that complex orders compromised of five legs or more count as multiple orders while complex orders with four legs or less count as a single order. In addition, any complex order with nine or more legs that is canceled and replaced would count as multiple new orders. The Exchange previously proposed that complex orders with five legs or more that were canceled and replaced would count as multiple new orders. Finally, Amendment No.1 also added clarifying rule text to make clear that single-strike algorithms are treated the same as cancel and replace orders and therefore each cancel and replace order will count as a new order when tracking the NBBO. Finally, the Exchange clarified that an order that cancels and replaces a subordinate order on the same side and series as the parent order will count as one order. To promote transparency of its proposed amendment, when Phlx filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 as a comment letter to the file, which the Commission posted on its Web site and placed in the public comment file for SR–Phlx–2016–10 (available at *http://www.sec.gov/comments/sr-phlx-2016-10/phlx201610-1.pdf*). The Exchange also posted a copy of its Amendment No. 1 on its Web site when it filed the amendment with the Commission.

[6] *See* Notice, *supra* note 4, at 7166.

[7] *See id.* at 7169.

price as well as no transaction fees for order execution.[8] When representing orders on the Exchange, members must specify whether an order for the account of a non-broker-dealer is for the beneficial account of a Professional.[9]

Proposal

The Exchange's proposal is intended to provide additional guidance regarding the counting methodology when calculating average daily orders for Professional order counting purposes. As a general rule, for Professional order counting, the Exchange required the counting of orders regardless of which exchange they are routed to with the exception of FLEX orders.[10]

FLEX Orders

Under new paragraph (a) of proposed Rule 1000(b)(14)(i), FLEX orders are not included in the Professional order counting methodology as they are non-electronic orders and not typically traded by retail customers.[11] Therefore, according to the Exchange, these orders are not relevant to the distinction that it seeks to make between public customers and professional traders.[12]

Cancel and Replace/Complex Orders

Under new Paragraph (b) of proposed Rule 1000(b)(14)(i), the Exchange will count as a new order any order that cancels and replaces a prior order.[13] Additionally, single strike algorithms, which are a series of cancel and replace orders in an individual strike that tracks the NBBO, will also count as a new order for each cancel and replace order.[14]

Under new Paragraph (c) of proposed Rule 1000(b)(14)(i), a complex order of 9 legs [15] or more will count as a new order per leg whereas a complex order of 8 legs or less will count as a single order for all its legs combined.[16]

Parent/Child Orders

Under new Paragraph (d) of proposed Rule 1000(b)(14)(i), an order that converts into multiple subordinate orders in order to achieve an execution strategy [17] will be counted as one order per side and per series.[18] Additionally, if one of those subordinate ''child'' orders is subsequently canceled and replaced by multiple orders on multiple sides/series, then each new replacement order is counted as a separate new order per each side and series.[19] However, if a subordinate ''child'' order is canceled and replaced by a new order(s) on the same side and series, then that new replacement order will not count as a separate new order.[20]

As the Exchange explained in its Notice, an order that is filled in parts by the Exchange's matching engine, without any intervention by the customer, will not count as separate order for each fill because the customer did not intervene to generate new orders.[21] Along similar lines, if an order is repriced to avoid locking or crossing the market, that action will not cause a ''new'' order for Professional order counting purposes because the customer did not intervene in that process.[22] The Exchange noted that the manner in which an order is ultimately executed, as one order or multiple orders, does not by itself determine whether the activity is that of a Professional.[23] Rather, the distinction is whether the member exercised control and discretion over the order to an extent that could be characterized as non-retail customer trading activity.[24]

Implementation

The Exchange proposes to implement this rule on April 1, 2016, and will issue an Options Trader Alert in advance to inform market participants of such date.[25]

III. Discussion and Commission Findings

After careful review of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[26] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[27] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In addition, the Commission finds that the proposed rule change is consistent with Section 6(b)(8) of the Act, which requires the rules of the exchange not to impose any burden on competition not necessary or appropriate in furtherance of the Act.[28]

The Commission previously has articulated its position regarding the application of Section 6 of the Act in evaluating distinctions among market participants proposed by exchanges and the discretion available to an exchange to set an appropriate level of advantages and responsibilities of persons trading on its market.[29] In particular, the Commission previously indicated that it does not believe that priority for public customer orders is a statutorily-required attribute of an exchange and therefore the grant of such priority is within an exchange's prerogative and business judgement, as long as such provision is

[8] *See id.*

[9] *See id.* at 7166. Phlx rules require members to review their customers' account activity on a quarterly basis to determine whether certain customers should be represented as Professionals. *See id.* at 7167. The Exchange also may conduct its own analysis and identify persons or entities that should be represented as Professionals. *See id.* at 7167, n.5.

[10] *See id.* at 7167. The term ''FLEX option'' means a FLEX option contract that is traded subject to Exchange Rule 1079.

[11] *See id.*

[12] *See id.*

[13] *See id.* A cancel and replace order is one that removes a preexisting order and replaces it with a new order. *See id.* The Exchange notes that a cancel message alone is not an order. *See id.* at 7167, n.11. Similarly, the rule would count as multiple new orders any cancel/replace of a complex order of nine options legs or more. *See* Amendment No. 1, *supra* note 5.

[14] *See* Notice, *supra* note 4, at 7167. In Amendment No. 1, the Exchange clarified that ''single strike algorithms'' are included in this provision. *See supra* note 5.

[15] *See* Amendment No. 1, *supra* note 5 (in which the Exchange increased the number of option legs from five to nine).

[16] For complex orders, stock orders do not count towards the number of legs. For example, a nine leg complex order with eight option legs and one stock leg will count as an eight leg complex order for the purposes of Professional order counting. *See* Notice, *supra* note 4, at 7167, n.10, as amended by Amendment No. 1, *supra* note 5.

[17] *See id.* at 7167 (noting that all strategies must comply with Rule 1080, Commentary .07(a)(ii)); *see also id.* at 7168 (for examples of cancel and replace, ''parent/child'' Professional order counting, and a chart detailing the rule).

[18] *See id.* For example, orders that are for a single side/series but are broken up by the broker will count as one order, even if part of the order is routed away. *See* Proposed Rule 1000(b)(14)(i)(d). If a member sends in multiple orders to the Exchange as separate orders then each will count as a separate order. *See* Notice, *supra* note 4, at 7167.

[19] *See* Notice, *supra* note 4, at 7167.

[20] *See* Amendment No. 1, *supra* note 5 (adding a sentence to paragraph (d)).

[21] *See* Notice, *supra* note 4, at 7167.

[22] *See id.*

[23] *See id.*

[24] *See id.*

[25] *See id.* at 7168.

[26] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78f(b)(8).

[29] *See* ISE Approval Order, *supra* note 3, at 5699, n.59.

otherwise consistent with the requirements of the Act.[30]

The Commission notes that the Exchange is not amending the threshold of 390 orders in listed options per day but is revising the method for counting Professional orders in the context of multi-part orders and cancel/replace activity. The Commission believes that the proposal is designed to set forth a reasonable and objective approach to determine Professional customer status. Specifically, the proposal addresses how to account for complex orders, parent/child orders, and cancel/replace orders. The Commission believes that distinguishing between complex orders with 9 or more options legs and those orders with 8 or fewer options legs is a reasonable and objective approach.

In addition, the Commission believes that PHLX's proposal appropriately distinguishes between parent/child orders that are generated by a broker's efforts to obtain an execution on a larger size order while minimizing market impact and multi-part orders that are used by more sophisticated market participants. Similarly, the Commission believes that the proposed rule change under which cancel/replace orders will count as separate orders with limited exceptions is a reasonable and objective approach to distinguish the orders of retail customers that are ''worked'' by a broker from orders generated by algorithms used by more sophisticated market participants. Similar to what it has noted in past Professional customer filings, the Commission believes that the line that Phlx now seeks to draw between ''priority'' customers and Professional customers reflects Phlx's belief that the orders of a person who submits, on average, more than one order every minute of the trading day need not (or should not) be granted the same benefit or incentive that is granted to customers who do not trade on such a scale.[31] The Commission believes that the grant of priority to certain participants over others, in a manner that is consistent with the Act is most reasonably viewed as within the discretion of the Exchange.[32] Thus, the Commission believes that PHLX's proposal, which establishes an objective methodology for counting average daily order submissions for Professional order counting purposes, is consistent with the Act.

[30] *See id.* at 5700.

[31] *See id.* at 5701.

[32] *See id.* at 5700.

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–Phlx–2016–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Phlx–2016–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2016–10 and should be submitted on or before April 21, 2016.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the amended proposal in the **Federal Register**. The revisions made to the proposal in Amendment No. 1 provided clarifying language for how cancel and replace orders will be counted in addition to changing how complex orders will be counted with respect to Professional order counting. In particular, Amendment No. 1 modified the proposal to provide that a complex order compromised of 9 legs or more will count as multiple orders with each option leg counting as its own separate order instead of 5 legs or more as previously proposed by the Exchange.[33] Amendment No. 1 effectively allows retail customers to use more advanced trading strategies (*i.e.,* complex orders with up to 8 legs) without having that activity counted as multiple orders for purposes of Professional order counting. Thus, the Commission believes that the changes in Amendment No. 1 adopt a more permissive threshold for complex orders, and ultimately could decrease the number of persons or entities that will meet the definition of Professional under the new rule. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[34] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–Phlx–2016–10), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–07203 Filed 3–30–16; 8:45 am]

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[33] *See* Amendment No. 1, *supra* note 5.

[34] 15 U.S.C. 78s(b)(2)

[35] *See id.*

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77450; File No. SR–CBOE–2016–005]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Interpretation and Policy .01 to Rule 1.1(ggg) Relating to the Professional Customer Definition

March 25, 2016.

I. Introduction

On January 27, 2016, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 the methodology for counting average daily order submissions in listed options to determine whether a person or entity meets the definition of a Professional [3] (''Professional order counting''). The Commission published the proposed rule change for comment in the **Federal Register** on February 10, 2016.[4] The Commission received one comment letter on the proposed rule change.[5] The Exchange filed Amendment No. 1 to the proposed rule change on March 15, 2016,[6] and submitted a response to comments on March 18, 2016.[7] This order provides notice of filing of Amendment No. 1 and approves the proposal, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to amend Interpretation and Policy .01 to Rule 1.1(ggg) relating to the definition of Professionals. Specifically, the Exchange proposes to delete current Interpretation and Policy .01 to Rule 1.1(ggg) and adopt new Interpretation and Policy .01 to Rule 1.1(ggg), setting forth a new methodology for calculating average daily order submissions for Professional order counting purposes.[8]

Background

Prior to 2009, the Exchange designated all orders as either customer orders or non-customer orders based solely on whether or not the order was placed for the account of a customer or for the account of a registered securities broker-dealer.[9] According to CBOE, the Exchange granted public customers certain advantages, including priority to trade and reduced or no transaction fees, in order to attract public customer order flow and to account for such customers' lack of sophistication along with their lack of access to market data services, analytics technology, and other trading devices more common to broker-dealers.[10] As non-broker-dealer traders gained access to electronic trading platforms, analytics technology, and market data services previously available only to broker-dealers, the distinction between public customers and non-customers became, in CBOE's opinion, less effective in promoting the intended purposes of the Exchange's customer priority rules because certain customers increasingly were more similarly situated to broker-dealers.[11] Accordingly, in 2009, the Exchange adopted a definition of Professional under Rule 1.1(ggg) to further distinguish different types of orders placed on the Exchange.[12] In November 2014, the Exchange clarified its Professional order rule by adopting Interpretation and Policy .01 to Rule 1.1(ggg).[13]

According to the Exchange, the advent of new multi-leg spread products and the proliferation of the use of complex orders and algorithmic execution strategies by both institutional and retail market participants raise questions as to what should be counted as an ''order'' for Professional order counting purposes.[14] In light of this, the Exchange now proposes to adopt an amended interpretation to specifically address the counting of multi-leg spread products, algorithm generated orders, and complex orders for purposes of determining Professional customer status.[15]

Proposal

The Exchange's proposal deletes current Interpretation and Policy .01 to Rule 1.1(ggg) and replaces it with a new Interpretation and Policy that sets forth a new methodology for counting complex orders, parent/child orders, and cancel/replace orders for Professional order counting purposes.[16] Pursuant to Rule 1.1(ggg), all orders will count as one single order for Professional customer counting purposes, unless one of the exceptions enumerated in the new Interpretation and Policy stipulates otherwise.[17]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Under CBOE rules, the term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* CBOE Rule 1.1(ggg).

[4] *See* Securities Exchange Act Release No. 77049 (February 4, 2016), 81 FR 7173 (''Notice'').

[5] *See* Joint Letter from SpiderRock EXC, LLC and SpiderRock Advisors, LLC, to Brent J. Fields, Secretary, Commission, dated February 22, 2016 (''SpiderRock Letter'').

[6] In Amendment No. 1, the Exchange changed how complex orders will be computed with respect to Professional order counting. Amendment No. 1 modified the proposal to provide that a complex order compromised of nine legs or more will count as multiple orders with each option leg counting as its own separate order while complex orders with eight legs or less will count as a single order. The Exchange previously proposed that complex orders compromised of five legs or more would count as multiple orders while complex orders with four legs or less would count as a single order. In addition, Amendment No. 1 provided that any complex order with nine or more legs that is canceled and replaced would count as multiple new orders unless the child orders resulting from the parent order were canceled and replaced on the same side and series as the parent order. The Exchange previously proposed that complex orders with five legs or more that were canceled and replaced would count as multiple new orders. To promote transparency of its proposed amendment, when CBOE filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 as a comment letter to the file, which the Commission posted on its Web site and placed in the public comment file for SR–CBOE–2016–005 (available at *http://www.sec.gov/comments/sr-cboe-2016-005/cboe2016005-2.pdf*). The Exchange also posted a copy of its Amendment No. 1 on its Web site (*http://www.cboe.com/aboutcboe/legal/submittedsecfilings.aspx*) when it filed the amendment with the Commission.

[7] *See* Letter from William P. Wallenstein, Senior Counsel, CBOE, to Brent J. Fields, Secretary, Commission, dated March 18, 2016 (''CBOE Response Letter'').

[8] *See* Notice, *supra* note 4, at 7173.

[9] *See id.* at 7174.

[10] *See id.*

[11] *See id.*

[12] According to CBOE, its Professional customer rule originally was based upon a similar rule from the International Securities Exchange, LLC (''ISE''). *See* Securities Exchange Release 59287 (January 23, 2009), 74 FR 5694 (January 30, 2009) (SR–ISE–2006–26) (''ISE Approval Order''); *see also* Notice, *supra* note 4, at 7174, n.8.

[13] *See* CBOE Regulatory Circular RG09–148 (Professional Orders). Specifically, the Exchange codified its interpretation that, for Professional order counting purposes, ''parent'' orders that are placed on a single ticket and entered for the beneficial account(s) of a person or entity that is not a broker or dealer in securities and that are broken into multiple parts by a broker or dealer, or by an algorithm housed at a broker or dealer, or by an algorithm licensed from a broker or dealer that is housed with the customer in order to achieve a specific execution strategy, including, but not limited to basket trades, program trades, portfolio trades, basis trades, and benchmark hedges, should count as one single order for Professional order counting purposes.

[14] *See* Notice, *supra* note 4, at 7175.

[15] *See id.*

[16] *See id.* at 7176.

[17] *See id.* Under current Exchange Rule 1.1(ggg), Trading Permit Holders are required to indicate whether their public customer orders are Professional orders. This existing requirement remains unchanged under this proposed rule change. *See id.* at 7178. According to the Exchange, a Trading Permit Holder must conduct a review of

Paragraph (a) of proposed new Interpretation and Policy .01 will govern the computation rules for complex orders. Under subparagraph (a)(1), a complex order of eight legs or less will count as one order.[18] In contrast, under subparagraph (a)(2), a complex order of nine legs or more will count as multiple orders with each option leg counting as its own separate order.[19] The Exchange stated that this dividing line is appropriate because complex orders with eight or fewer legs are more often associated with retail strategies such as strangles, straddles, butterflies, collars, and condor strategies.[20] In contrast, the Exchange believes that Professionals may be more likely than retail customers to use complex orders of nine legs or more, as CBOE believes that such orders are demonstrative of sophisticated trading activity.[21]

Paragraph (b) of proposed new Interpretation and Policy .01 will govern the calculations for parent/child orders.[22] Under subparagraph (b)(1), if a parent order submitted for the beneficial account(s) of a person or entity other than a broker or dealer is subsequently broken up into multiple child orders on the *same side* (buy/sell) *and series* by a broker or dealer, or by an algorithm housed at the broker or dealer, or by an algorithm licensed from the broker or dealer but housed with the customer, then the order will count as one order even if the child orders are routed across several exchanges.[23] According to the Exchange, this subparagraph is designed to allow the orders of public customers to be ''worked'' by a broker (or a broker's algorithm) in order to achieve best execution without counting the activity as multiple child orders for Professional order counting purposes.[24] Conversely, under subparagraph (b)(2), if a parent order, including a strategy order,[25] is broken into multiple child orders on *both sides* (buy/sell) of a series and/or multiple series, then each child order will count as a *separate* new order.[26] The Exchange believes that strategy orders are most often utilized by Professionals and therefore are appropriately counted as multiple orders for Professional order counting purposes.[27] The Exchange further noted that paragraph (b) is not designed to capture larger-size orders that are broken into multiple orders to achieve an execution consistent with the principles of best execution.[28] Instead, the Exchange stated that paragraph (b) is aimed at capturing orders generated by an algorithm operated by a Professional that continuously updates its orders in tandem with market changes.[29] According to the Exchange, these orders are most appropriately counted as multiple orders for Professional order counting purposes.[30]

Paragraph (c) of new Interpretation and Policy .01 will govern the counting methodology for cancel/replace orders.[31] Subparagraph (c)(1) states, as a general rule that any order that cancels and replaces an existing order will count as a *separate* order (or multiple orders in the case of complex orders of nine legs or more).[32] Subparagraph (c)(2) contains an exception from this general rule. Under subparagraph (c)(2), an order to cancel and replace a child order would *not* count as a new order if the parent order that was placed for the beneficial account(s) of a non-broker or dealer had been subsequently broken into multiple child orders on the same side and series as the parent order by a broker or dealer, algorithm at a broker or dealer, or algorithm licensed from a broker or dealer but housed at the customer.[33] By contrast, subparagraph (c)(3) provides that an order that cancels and replaces a child order resulting from a parent order, including a strategy order, that generated child orders on both sides (buy/sell) of a series and/or in multiple series would count as a new order per side and series.[34] Finally, subparagraph (c)(4) states that, notwithstanding subparagraph (c)(2), an order that cancels and replaces any child order resulting from a parent order being pegged to the Exchange's best bid or offer (''BBO'') or the national best bid or offer (''NBBO'') or that cancels and replaces any child order pursuant to an algorithm that uses the BBO or NBBO in the calculation of child orders and attempts to move with or follow the BBO or NBBO of a particular options series would count as a new order each time the order cancels and replaces in order to attempt to move with or follow the BBO or NBBO.[35]

Implementation

The Exchange has proposed an effective date of April 1, 2016 for this proposed rule change.[36] The proposal would not be applied retroactively.[37]

III. Comment Summary and CBOE's Response

The Commission received one comment letter regarding the proposed rule change, which opposed the proposal.[38] Among other things, the commenter expressed concern that the proposal would ''unfairly require the professional categorization of certain other customers that do not otherwise seem to be market professionals and are not systematically attempting to compete with market makers . . . .''[39] Specifically, the commenter believed that the proposal would classify as Professionals, persons or entities that increasingly use complex orders and other multi-legged orders or who have ''hired a more market savvy and technologically sophisticated firm to handle their interactions with the market.''[40] In response, CBOE stated that customers trading with a frequency sufficient to meet the Professional customer definition, as modified by the current proposal, evidence a level of sophistication similar to that of broker-dealers and Market-Makers and therefore do compete with those market participants.[41] The Exchange asserted that many of those customers include hedge funds, proprietary trading firms, large bank trading desks, and wealth

all orders received from non-broker-dealers on at least a quarterly basis in order to make the appropriate designation. *See id.*

[18] *See* Notice, *supra* note 4, at 7176; *see also* Amendment No. 1, *supra* note 6.

[19] *See* Notice, *supra* note 4, at 7176; *see also* Amendment No. 1, *supra* note 6.

[20] *See* Notice, *supra* note 4, at 7176.

[21] *See id.*

[22] *See id.*

[23] *See id.*

[24] *See id.*

[25] In its filing, CBOE noted that the term ''strategy order'' is intended to mean an execution strategy, trading instruction, or algorithm whereby multiple ''child'' orders on both sides of a series and/or multiple series are generated prior to being sent to an options exchange(s). *See id.* at 7176, n.17.

[26] *See id.* at 7176. The Exchange noted that non-professional customers that simultaneously or nearly simultaneously enter multiple limit orders to buy and sell the same security may violate CBOE Rule 6.8C, the prohibition against acting as a Market Maker. *See id.* at 7176, n.18; *see also* Exchange Rule 6.8C.

[27] *See* Notice, *supra* note 4, at 7176 (containing examples of types of strategy orders including vega and volatility orders).

[28] *See id.* at 7177.

[29] *See id.*

[30] *See id.*

[31] *See id.*

[32] *See id.; see also* Amendment No. 1, *supra* note 6.

[33] *See* Notice, *supra* note 4, at 7177.

[34] *See id.*

[35] *See id.*

[36] *See id.*

[37] *See id.* at 7178.

[38] *See* SpiderRock Letter, *supra* note 5, at 3–4. The commenter made several recommendations to the Commission, and expressed concern over the concept of customer priority, Market Maker payment for order flow, order routing, and Market Maker preferencing. The Commission notes that these issues are beyond the scope of CBOE's present proposal, which applies to a modified calculation of order activity for Professional order counting purposes.

[39] *See id.* at 8. The Commenter argued that a ''new generation'' of customer is increasingly using more sophisticated trading techniques. *See id.* at 4.

[40] *See id.* at 4.

[41] *See* CBOE Response Letter, *supra* note 7, at 4.

management firms who employ sophisticated algorithms to execute more than the Professional customer threshold, which is equivalent to one order per minute.[42] Therefore, CBOE believes that it is not unfair or anti-competitive to designate as Professionals those participants who, when executing the requisite number of orders, share similar levels of sophistication with broker-dealers or Market-Makers while maintaining customer priority for true traditional retail investors.[43]

The commenter also expressed a concern that the proposed rule change ''would effectively ban'' the use of certain multi-part orders in priority customer accounts.[44] In response, CBOE stated that it is not banning any order type that is permitted under its rules, including the order types referenced by the commenter.[45] More specifically, the Exchange noted that ''[p]ublic customers and Professionals alike are free to employ these strategies on the Exchange as they see fit, the only difference being that, unlike a public customer, a Professional may not receive execution priority over broker-dealer orders and Market-Maker quotes at the same price and may incur transaction fees.''[46] Therefore, CBOE asserted that the choice whether to use any particular strategy is within the business judgment of the particular customer and not the result of an Exchange-imposed restriction.[47]

The commenter next noted that customers are becoming ''increasingly sophisticated and technology enabled.''[48] The commenter stated that there are varying types of investors with different levels of sophistication using multi-part orders to trade on their own behalf or hire firms to carry out such trading strategies on their behalf.[49] Therefore, the commenter asserted that the assumption that only ''true'' Professionals have access to more sophisticated trading techniques is misguided.[50] The commenter believed that ''there is no agreed definition of retail customer, rather, there is a complex collection of accounts that can be categorized along a number of not-mutually-exclusive dimensions.''[51] In response, CBOE noted that it does not seek to dissuade the use of technology by any investor, nor use technology as the benchmark for deciding whether an investor who uses it crosses the threshold of public customer to Professional.[52] Rather, the Exchange noted that its proposal will look to the number of orders produced through that technology and if the number of orders is fewer than 390 average orders per day on average over the applicable period then that investor will not be a Professional despite the use of the technology-enabled strategies.[53] The Exchange further emphasized that it is the number of orders that determines whether a trader is a Professional and not the technology to which a trader has access.[54]

IV. Discussion and Commission Findings

After careful review of the proposed rule change, as well as the comment letter and the CBOE response, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[55] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[56] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In addition, the Commission finds that the proposed rule change is consistent with Section 6(b)(8) of the Act, which requires the rules of the exchange not to impose any burden on competition not necessary or appropriate in furtherance of the Act.[57]

The Commission previously has articulated its position regarding the application of Section 6 of the Act in evaluating distinctions among market participants proposed by exchanges and the discretion available to an exchange to set an appropriate level of advantages and responsibilities of persons trading on its market.[58] In particular, the Commission previously indicated that it does not believe that priority for public customer orders is a statutorily-required attribute of an exchange and therefore the grant of such priority is within an exchange's prerogative and business judgement, as long as such provision is otherwise consistent with the requirements of the Act.[59]

The Commission notes that the Exchange is not amending the threshold of 390 orders in listed options per day but is revising the method for counting Professional orders in the context of multi-part orders and cancel/replace activity. The Exchange noted that it has received questions regarding the classification of these types of orders when calculating Professional customer activity.[60] The Commission believes that the proposal is designed to set forth a reasonable and objective approach to determine Professional customer status.

Specifically, the proposal addresses how to account for complex orders, parent/child orders, and cancel/replace orders. The Commission believes that distinguishing between complex orders with 9 or more options legs and those orders with 8 or fewer options legs is a reasonable and objective approach. The Commission notes that, in Amendment No. 1, the Exchange increased the number of complex order legs considered for multiple order counting purposes from five or more legs to nine or more legs in response to the concerns of the commenter, who noted that some retail customers are increasingly using trading techniques with multi-part orders.

In addition, the Commission believes that CBOE's proposal appropriately distinguishes between parent/child orders that are generated by a broker's efforts to obtain an execution on a larger size order while minimizing market impact and multi-part orders that used by more sophisticated market participants. Similarly, the Commission believes that the proposed guidance that cancel/replace orders will count as separate orders with limited exceptions is a reasonable and objective approach to distinguish the orders of retail customers that are ''worked'' by a broker from orders generated by algorithms used by more sophisticated market

[42] *See id.*

[43] *See id.* The Exchange further noted that, subject to applicable regulatory requirements, it has discretion to decide the best way to encourage competitive markets and how best to attract retail order flow to the exchange, and its proposed rule change seeks to accomplish those business objectives. *See id.*

[44] *See* SpiderRock Letter, *supra* note 5, at 7.

[45] *See* CBOE Response Letter, *supra* note 7, at 2–3.

[46] *See id.* at 3.

[47] *See id.*

[48] *See* SpiderRock Letter, *supra* note 5, at 9.

[49] *See id.* at 7–8.

[50] *See id.*

[51] *See id.* at 8.

[52] *See* CBOE Response Letter, *supra* note 7, at 3.

[53] *See id.*

[54] *See id.* at 3–4.

[55] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[56] 15 U.S.C. 78f(b)(5).

[57] 15 U.S.C. 78f(b)(8).

[58] *See* ISE Approval Order, *supra* note 12, at 5699, n. 59.

[59] *See id.* at 5700.

[60] *See* Notice *supra* note 4, at 7175.

participants. Similar to what it has noted in past Professional customer filings, the Commission believes that the line that CBOE now seeks to draw between ''priority'' customers and Professional customers reflects CBOE's belief that the orders of a person who submits, on average, more than one order every minute of the trading day need not (or should not) be granted the same benefit or incentive that is granted to customers who do not trade on such a scale.[61]

The Commission believes that the grant of priority to certain participants over others in a manner that is consistent with the Act is most reasonably viewed as within the discretion of the Exchange.[62] Thus, the Commission believes that CBOE's proposal, which establishes an objective methodology for counting average daily order submissions for Professional order counting purposes, is consistent with the Act.

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CBOE–2016–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CBOE–2016–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2016–005 and should be submitted on or before April 21, 2016.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the amended proposal in the **Federal Register**. The revisions made to the proposal in Amendment No. 1[63] changed how complex orders will be counted with respect to Professional order counting. Amendment No. 1 modified the proposal to provide that a complex order compromised of nine legs or more will count as multiple orders with each option leg counting as its own separate order instead of five legs or more as previously proposed by the Exchange.[64] The Commission believes that this modification responds to one of the primary concerns raised by the commenter on the proposal that increasingly sophisticated customers would be adversely affected by the proposal, causing them to become Professionals and lose their priority customer status. Amendment No. 1 effectively allows retail customers to use more advanced trading strategies (*i.e.,* complex orders with up to eight legs) without having that activity counted as multiple orders for purposes of Professional order counting. Thus, the Commission believes that the changes in Amendment No. 1 respond to one of the concerns raised by the commenter by adopting a more permissive threshold for complex orders, and ultimately could decrease the number of persons or entities that will meet the definition of Professional under the new Interpretation and Guidance. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[65] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[66] that the proposed rule change (SR–CBOE–2016–005), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[67]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–07204 Filed 3–30–16; 8:45 am]

BILLING CODE 8011–01–P

[61] *See* ISE Approval Order, *supra* note 12, at 5701.

[62] *See id.* at 5700.

[63] *See* Amendment No. 1, *supra* note 6.

[64] *See id.*

[65] 15 U.S.C. 78s(b)(2)

[66] *See id.*

[67] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77444; File No. SR–Phlx–2016–34]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Continuing Education Fee Schedule

March 25, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 15, 2016, NASDAQ PHLX LLC (''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Continuing Education fee schedule as described further below. The proposed rule change is being filed for immediate effectiveness.

The text of the proposed rule change is available on the Exchange's Web site

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make changes to the Continuing Education fees set forth in subsection C, FINRA Fees, of section VII, Other Member Fees, to provide that the Continuing Education fee will be $55 if the Continuing Education session is conducted via Web delivery. The Continuing Education fee will remain $100 if the Continuing Education session is conducted at a testing center. The Exchange is also eliminating the $60 Continuing Education fee for the S501 Regulatory Element, which was discontinued by FINRA as of January 4, 2016.[3]

On August 8, 2015, the Commission approved SR–FINRA–2015–015 relating to proposed changes to FINRA Rule 1250 to provide for Web-based delivery for completing the Regulatory Element of the Continuing Education requirements.[4] Pursuant to the rule change, effective October 1, 2015, the Regulatory Element of the Continuing Education programs for the S101 and S201 is now administered through Web-based delivery.[5]

Pursuant to the approval order for SR–FINRA–2015–015, the fee for test-center delivery of the Regulatory Element of the S101 and S201 Continuing Education programs will continue to be $100 per session through no later than six months after January 4, 2016 when the program will no longer be offered at testing centers. However, the fee for Web-based delivery of the Regulatory Element of the S101 and S201 Continuing Education programs is now $55.

The Exchange currently utilizes the S101 and S201 programs that are part of the Securities Industry Continuing Education Program.[6] Consistent with SR–FINRA–2015–015, the Exchange recently filed a separate proposed rule change to follow the changes set forth in SR–FINRA–2015–015 with respect to Web-based delivery of the Regulatory Element of the Continuing Education programs.[7] The CE Council determined to adopt a lower Web-delivery CE fee based on the difference between the cost of CE administered at a testing center and the cost of CE administered by Web delivery. FINRA made this change to its fees in SR–FINRA–2015–015 in response to the Council's decision. Consistent with SR–FINRA–2015–015, this proposed rule change will now amend the Exchange's fee schedule to provide that the continuing education fee is $100.00 ($55.00 if the Continuing Education is Web-based) for each individual who is required to complete the S101 or S201.[8] The Exchange is also deleting an extraneous parenthesis.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with section 6(b) of the Act[9] in general, and furthers the objectives of section 6(b)(4) of the Act[10] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities. The Exchange believes that the proposal to set the Continuing Education fee at $55 if the Continuing Education session is conducted via Web delivery is an equitable allocation of dues, fees and other charges because the fee change applies equally to all persons associated with members. In addition, the Exchange believes that the amended fee is an equitable allocation of dues, fees and other charges as it will apply uniformly to all persons associated with the members who choose to participate in the continuing education program through FINRA via Web delivery. As FINRA has stated in SR–FINRA–2015–015, the test center delivery method is expensive to operate and support, and web-based delivery is efficient and offers significant cost savings over test-center and in-firm deliveries. The proposed deletion of the $60 Continuing Education fee for the S501 Regulatory Element is reasonable because the S501 CE program has been discontinued by FINRA.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Because the proposed rule change applies to all persons associated with members who are required to fulfill Continuing Education requirements, the proposal has no effect on competition.

[3] Currently, Section VII, subsection C, of the Exchange's fee schedule provides that the Continuing Education fee will be assessed as to each individual who is required to complete the Regulatory Element of the Continuing Education requirements pursuant to Exchange Rule 640. This fee, which is paid directly to FINRA, is $60.00 for each individual who is required to complete the Proprietary Trader Regulatory Element (S501) and $100.00 for each individual who is required to complete the S101 or S201 Regulatory Elements.

[4] *See* Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (Order Approving a Proposed Rule Change to Provide a Web-based Delivery Method for Completing the Regulatory Element of the Continuing Education Requirements) (SR–FINRA–2015–015). FINRA elected to provide a Web-based delivery method for completing the Regulatory Element based on its evaluation of different delivery methods and in consultation with the Securities Industry Regulatory Council on Continuing Education (''CE Council''). The CE Council is composed of up to 20 industry members from broker-dealers, representing a broad cross section of industry firms, and representatives from FINRA and other SROs as well as liaisons from the SEC and the North American Securities Administrators Association. *See http://www.cecouncil.com.* The Exchange, with other SROs, is adopting the fee for Web based CE that was recommended by FINRA and approved by the CE Council.

[5] The Regulatory Element of the S101 and S201 Continuing Education programs will continue to be offered at testing centers until no later than six months after January 4, 2016. Test-center delivery of the Regulatory Element will be phased out by no later than six months after January 4, 2016. *See* Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (Order Approving a Proposed Rule Change To Provide a Web-Based Delivery Method for Completing the Regulatory Element of the Continuing Education) (SR–FINRA–2015–015).

[6] The Securities Industry/Regulatory Council on Continuing Education has advisory and consultative responsibilities with regard to the development, implementation and ongoing operation of the Securities Industry Continuing Education Program.

[7] *See* Securities Exchange Act Release No. 76880 (January 12, 2016), 81 FR 2928 (January 19, 2016).

[8] As noted above, the S501 Proprietary Trader Regulatory Element was discontinued as of January 4, 2016. The Exchange is therefore deleting the $60 S501 Proprietary Trader Regulatory Element fee. The Exchange will file another proposed rule change to eliminate the reference to the $100 Continuing Education fee when the test center option is eliminated for the S101 and S201 Regulatory Elements.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2016–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2016–34. 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–Phlx–2016–34 and should be submitted on or before April 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2016–07197 Filed 3–30–16; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–32051]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

March 25, 2016.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of March 2016. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Jessica Shin, Attorney-Adviser, at (202) 551–5921 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549–8010.

Curian Series Trust [File No. 811–22495]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 10, 2015, January 21, 2016, and February 2, 2016, applicant made liquidating distributions to its shareholders, based on net asset value. Expenses of $172,315 incurred in connection with the liquidation were paid by applicant's investment adviser.

Filing Date: The application was filed on February 26, 2016.

Applicant's Address: 7601 Technology Way, Denver, Colorado 80237.

ALTMFX Trust [File No. 811–22989]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 3, 2015 and December 29, 2015, applicant made liquidating distributions to its shareholders, based on net asset value. Expenses of approximately $31,641 incurred in connection with the liquidation were paid by applicant, applicant's custodian, and applicant's administrator.

Filing Date: The application was filed on February 29, 2016.

Applicant's Address: Three Canal Plaza, Suite 600, Portland, Maine 04101.

Lazard Alternative Emerging Markets 1099 Fund [File No. 811–22590]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 31, 2015, applicant transferred its remaining assets and known liabilities to a liquidating trust, based on net asset value. Each shareholder of applicant has received a pro rata interest in the liquidating trust. Expenses of approximately $125,000 incurred in connection with the liquidation were paid by applicant's investment adviser.

Filing Date: The application was filed on March 1, 2016.

Applicant's Address: 30 Rockefeller Plaza, New York, New York 10112.

Laudus Institutional Trust [File No. 811–08759]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Each series of applicant has transferred its assets to a corresponding series of Laudus Trust and, on February 6, 2015, made a final distribution to its shareholders based on net asset value. Expenses of approximately $89,296 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on March 1, 2016.

Applicant's Address: 211 Main Street, San Francisco, California 94105.

Meeder Premier Portfolios [File No. 811–21424]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 31, 2006, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $84,989 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on February 1, 2016, and amended on March 1, 2016 and March 9, 2016.

Applicant's Address: 6125 Memorial Drive, Dublin, Ohio 43017.

Tea Leaf Management Investment Trust [File No. 811–22737]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 29, 2016, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $5,850 incurred in connection with the liquidation were paid by applicant's investment adviser.

Filing Dates: The application was filed on March 7, 2016 and amended on March 15, 2016.

Applicant's Address: 370 Lexington Avenue, Suite 201, New York, New York 10017.

Cottonwood Mutual Funds [File No. 811–22602]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to a corresponding series of World Funds Trust and, on February 8, 2016, made a final distribution to its shareholders based on net asset value. Expenses of approximately $10,000 incurred in connection with the reorganization were paid by applicant's investment adviser.

Filing Date: The application was filed on March 11, 2016.

Applicant's Address: 225 West Washington Street, 21st Floor, Chicago, Illinois 60606.

Meyers Capital Investments Trust [File No. 811–22180]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 29, 2016, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $2,750 incurred in connection with the liquidation were paid by applicant's investment adviser.

Filing Date: The application was filed on March 18, 2016.

Applicant's Address: 2695 Sandover Road, Columbus, Ohio 43220.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–07209 Filed 3–30–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32049; File No. 812–14384]

AMCAP Fund, et al.; Notice of Application

March 24, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; pursuant to section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; pursuant to sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and pursuant to section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

SUMMARY OF THE APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: AMCAP Fund; American Balanced Fund; American Funds College Target Date Series; American Funds Corporate Bond Fund; American Funds Developing World Growth and Income Fund; American Funds Emerging Markets Bond Fund; American Funds Fundamental Investors; American Funds Global Balanced Fund; American Funds Global High-Income Opportunities Fund; The American Funds Income Series; American Funds Inflation Linked Bond Fund; American Funds Insurance Series; American Funds Money Market Fund; American Funds Mortgage Fund; American Funds Portfolio Series; American Funds Retirement Income Portfolio Series; American Funds Short-Term Tax-Exempt Bond Fund; American Funds Strategic Bond Fund; American Funds Target Date Retirement Series; American Funds Tax-Exempt Fund of New York; The American Funds Tax-Exempt Series I; The American Funds Tax-Exempt Series II; American High-Income Municipal Bond Fund; American High-Income Trust; American Mutual Fund; The Bond Fund of America; Capital Group Emerging Markets Total Opportunities Fund; Capital Group Private Client Services Funds; Capital Income Builder; Capital World Bond Fund; Capital World Growth and Income Fund; EuroPacific Growth Fund; The Growth Fund of America; The Income Fund of America; Intermediate Bond Fund of America; International Growth and Income Fund; The Investment Company of America; Limited Term Tax-Exempt Bond Fund of America; The New Economy Fund; New Perspective Fund; New World Fund, Inc.; Short-Term Bond Fund of America; SMALLCAP World Fund, Inc.; The Tax-Exempt Bond Fund of America; Washington Mutual Investors Fund (each, a ''Fund'' and together, the ''Funds''); Capital Research and Management Company (''CRMC''); and Capital Guardian Trust Company (''CGTC'').

FILING DATES: The application was filed on October 30, 2014, and amended on March 3, 2015, August 17, 2015, February 4, 2016, and March 22, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 18, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts

bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Capital Research and Management Company, 333 South Hope Street, 33rd Floor, Los Angeles, CA 90071.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Fund is organized as a Maryland corporation, Massachusetts business trust or Delaware statutory trust and is registered with the Commission as an open-end management investment company. Each Fund consists of one or more multiple series and each such series is included in the term ''Fund.'' American Funds Money Market Fund and American Funds Insurance Series—Cash Management Fund each operate as a money market fund in reliance on rule 2a–7 under the Act (together with any future Fund that relies on rule 2a–7, the ''Money Market Funds''). CRMC is a Delaware corporation and CGTC is a California corporation and an indirect wholly-owned subsidiary of CRMC. CRMC and CGTC are each registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'').[1] CRMC or CGTC currently serves as the investment adviser to the Funds.

2. At any particular time, while some Funds enter into repurchase agreements, or invest their cash balances in money market funds or other short-term instruments, other Funds may need to borrow money for temporary purposes to satisfy redemption requests, to cover unanticipated cash shortfalls such as a trade ''fail'' in which cash payment for a security sold by a Fund has been delayed, or for other temporary purposes. Under existing custody agreements, each Fund's custodian bank may advance money to the Fund which will be treated as a loan payable upon demand and bear interest at a rate customarily charged by the bank. These loans are available at the custodian bank's discretion, in the amounts the custodian bank chooses to make available at the time, because they are uncommitted.

3. If a Fund borrows from its custodian bank, the Fund generally would pay interest on the loan at a rate that is significantly higher than the rate that is earned by other (non-borrowing) Funds on investments in repurchase agreements, money market funds, and other short-term instruments of the same maturity as the bank loan. Applicants assert that this differential represents the profit earned by the lender on loans and is not attributable to any material difference in the credit quality or risk of such transactions.

4. The Funds seek to enter into master interfund lending agreements (''Interfund Lending Agreements'') with each other that would permit each Fund to lend money directly to and borrow directly from other Funds through a credit facility for temporary purposes (an ''Interfund Loan''). The Money Market Funds will not participate as borrowers in the interfund lending facility. Applicants state that the proposed credit facility is expected to both reduce the Funds' potential borrowing costs and enhance the ability of the lending Funds to earn higher rates of interest on their short-term lendings. Although the proposed credit facility would reduce the Funds' need to borrow from banks, the Funds would be free to establish and maintain committed lines of credit or other borrowing arrangements with unaffiliated banks.

5. Applicants anticipate that the proposed credit facility would provide a borrowing Fund with savings at times when the cash position of the borrowing Fund is insufficient to meet temporary cash requirements. This situation could arise when shareholder redemptions exceed anticipated volumes and certain Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). However, redemption requests normally are effected immediately. The proposed credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also anticipate that a Fund could use the proposed credit facility when a sale of securities ''fails'' due to circumstances beyond the Fund's control, such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. ''Sales fails'' may present a cash shortfall if the Fund has undertaken to purchase a security using the proceeds from securities sold. Alternatively, the Fund could ''fail'' on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund. Use of the proposed credit facility under these circumstances would enable the Fund to have access to immediate short-term liquidity.

7. While bank borrowings generally could supply needed cash to cover unanticipated redemptions and sales fails, under the proposed credit facility, a borrowing Fund would pay lower interest rates than those that would be payable under short-term loans offered by banks. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or money market funds. Thus, applicants assert that the proposed credit facility would benefit both borrowing and lending Funds.

8. The interest rate to be charged to the Funds on any Interfund Loan (the ''Interfund Loan Rate'') would be the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate for any day would be the highest or best (after giving effect to factors such as the credit quality of the counterparty) rate available to a lending Fund from investment in overnight repurchase agreements with counterparties approved by the Fund or its Adviser. The Bank Loan Rate for any

[1] Applicants request that the relief also apply to any existing or future series of the Funds and to any other registered open-end management investment company or series thereof advised by CRMC, CGTC, or any entity controlling, controlled by, or under common control with the CRMC or GCTC (each such entity, an ''Adviser'') that currently, or in the future, is part of the same ''group of investment companies'' as the Funds, as defined in section 12(d)(1)(G)(ii) of the Act (included in the term ''Funds''). All entities that currently intend to rely on the requested order have been named as applicants. Any other entity that relies on the requested order in the future will comply with the terms and conditions set forth in the application. Any other Adviser will be registered as an investment adviser under the Advisers Act. All references to the term ''Adviser'' include successors-in-interest to an Adviser. Successors-in-interest are limited to any entity resulting from a reorganization of the Adviser into another jurisdiction or a change in the type of business organization.

day would be calculated by the Interfund Lending Committee, as defined below, each day an Interfund Loan is made according to a formula established by each Fund's board of directors or trustees, as applicable (the ''Trustees'') intended to approximate the lowest interest rate at which bank short-term loans would be available to the Funds. The formula would be based upon a publicly available rate (*e.g.,* Federal funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Trustees. In addition, each Fund's Trustees would periodically review the continuing appropriateness of using the formula to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds.

9. Certain members of the relevant Adviser's fund administration personnel and portfolio managers of the Money Market Funds (the ''Money Market portfolio managers'' and together with certain members of the Adviser's fund administration personnel, the ''Interfund Lending Committee'') will administer the credit facility. No portfolio manager of any Fund (other than a Money Market portfolio manager) will serve as a member of the Interfund Lending Committee. On any day on which a Fund intends to borrow money, the Interfund Lending Committee would make an Interfund Loan from a lending Fund to a borrowing Fund only if the Interfund Loan Rate is: (i) More favorable to the lending Fund than the Repo Rate and, if applicable, the yield of any money market fund in which the lending Fund could otherwise invest, and (ii) more favorable to the borrowing Fund than the Bank Loan Rate.

10. Under the proposed credit facility, the principal investment officer(s) (the ''PIO(s)'') for each participating Fund could provide standing instructions to participate daily as a borrower or lender; alternatively, the PIO(s) could provide instructions from time to time as to when the Fund wishes to participate as a borrower or lender. The Interfund Lending Committee on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds. Once it had determined the aggregate amount of cash available for loans and borrowing demand, the Interfund Lending Committee would allocate loans among borrowing Funds without any further communication from the portfolio managers of the Funds (other than a Money Market portfolio manager acting in his or her capacity as a member of the Interfund Lending Committee). All allocations made by the Interfund Lending Committee will require the approval of at least one member of the Interfund Lending Committee who has the title of Vice President or higher in any business unit of the relevant Adviser and is not a Money Market portfolio manager. Applicants anticipate that there typically will be far more available uninvested cash each day than borrowing demand. Therefore, after the Interfund Lending Committee has allocated cash for Interfund Loans, the Interfund Lending Committee will invest any remaining cash in accordance with the standing instructions of the portfolio managers or such remaining amounts will be invested directly by the portfolio managers of the Funds.

11. The Interfund Lending Committee would allocate borrowing demand and cash available for lending among the Funds on what the Interfund Lending Committee believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Fund's Trustees, including a majority of Trustees who are not ''interested persons'' of the Fund, as that term is defined in section 2(a)(19) of the Act (''Independent Trustees''), to ensure that both borrowing and lending Funds participate on an equitable basis.

12. The relevant Adviser would: (i) Monitor the Interfund Loan Rate and the other terms and conditions of the loans; (ii) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations; (iii) ensure equitable treatment of each Fund; and (iv) make quarterly reports to the Trustees concerning any transactions by the Funds under the proposed credit facility and the Interfund Loan Rate charged.

13. The relevant Adviser, through the Interfund Lending Committee, would administer the proposed credit facility as a disinterested fiduciary as part of its duties under the investment management contract with each Fund and would receive no additional fee as compensation for its services in connection with the administration of the proposed credit facility. The relevant Adviser may collect standard pricing, record keeping, bookkeeping and accounting fees associated with the transfer of cash and/or securities in connection with repurchase and lending transactions generally, including transactions effected through the proposed credit facility. Such fees would be no higher than those applicable for comparable bank loan transactions.

14. No Fund may participate in the proposed credit facility unless: (i) The Fund has obtained shareholder approval for its participation, if such approval is required by law; (ii) the Fund has fully disclosed all material information concerning the credit facility in its prospectus and/or statement of additional information; and (iii) the Fund's participation in the credit facility is consistent with its investment objectives and limitations and organizational documents.

15. As part of the Trustees' review of the continuing appropriateness of a Fund's participation in the proposed credit facility as required by condition 14, the Trustees of the Fund, including a majority of the Independent Trustees, also will review the process in place to appropriately assess: (i) If the Fund participates as a lender, any effect its participation may have on the Fund's liquidity risk; and (ii) if the Fund participates as a borrower, whether the Fund's portfolio liquidity is sufficient to satisfy its obligations under the facility along with its other liquidity needs.

16. In connection with the credit facility, applicants request an order under section 6(c) of the Act exempting them from the provisions of sections 18(f) and 21(b) of the Act; under section 12(d)(1)(J) of the Act exempting them from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act exempting them from sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person of a registered investment company, or affiliated person of an affiliated person, from borrowing money or other property from the registered investment company. Section 21(b) of the Act generally prohibits any registered management company from lending money or other property to any person, directly or indirectly, if that person controls or is under common control

with that company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, such other person. Section 2(a)(9) of the Act defines ''control'' as the ''power to exercise a controlling influence over the management or policies of a company,'' but excludes circumstances in which ''such power is solely the result of an official position with such company.'' Applicants state that the Funds may be under common control by virtue of sharing a common investment adviser or by having an investment adviser that is under common control with those of the other Funds.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an exemption is ''necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act].'' Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants assert that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with strong potential adverse interests to, and some influence over the investment decisions of, a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because: (i) The relevant Adviser, through the Interfund Lending Committee, would administer the program as a disinterested fiduciary as part of its duties under the investment management contract with the applicable Fund; (ii) all Interfund Loans would consist only of uninvested cash reserves that the lending Fund otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through a money market fund; (iii) the Interfund Loans would not involve a significantly greater risk than such other investments; (iv) the lending Fund would receive interest at a rate higher than it could otherwise obtain through such other investments; and (v) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid some up-front commitment fees associated with committed lines of credit. Moreover, applicants assert that the other terms and conditions that applicants propose also would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling securities or other property to the investment company. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from purchasing securities or other property from the investment company. Section 12(d)(1) of the Act generally prohibits a registered investment company from purchasing or otherwise acquiring any security issued by any other investment company except in accordance with the limitations set forth in that section.

5. Applicants state that the obligation of a borrowing Fund to repay an Interfund Loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1). Applicants also state that any pledge of assets in connection with an Interfund Loan could be construed as a purchase of the borrowing Fund's securities or other property for purposes of section 17(a)(2) of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors. Applicants submit that the requested exemptions from sections 17(a)(1), 17(a)(2) and 12(d)(1) are appropriate in the public interest, and consistent with the protection of investors and policies and purposes of the Act for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b). Applicants also state that the requested relief from section 17(a)(2) of the Act meets the standards of section 6(c) and 17(b) because any collateral pledged to secure an Interfund Loan would be subject to the same conditions imposed by any other lender to a Fund that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another Fund) or the same or better conditions (in any other circumstance).

6. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid imposing on investors additional and duplicative costs and fees attendant upon multiple layers of investments. Applicants submit that the proposed credit facility does not involve these abuses. Applicants note that there will be no duplicative costs or fees to the Funds or their shareholders, and that the Adviser will receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds and their shareholders.

7. Section 18(f)(1) of the Act prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, provided, that immediately after the borrowing, there is asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' generally includes any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief under section 6(c) from section 18(f)(1) only to the limited extent necessary to permit a Fund to lend to or borrow directly from other Funds. The Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of a Fund, including combined interfund and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants submit that to allow the Funds to borrow directly from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit an affiliated person of a registered investment company, or any affiliated person of such a person, when acting as principal, from effecting any joint transaction in which the investment company participates, unless, upon application, the transaction has been approved by the Commission. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent

to which such participation is on a basis different from or less advantageous than that of the other participants.

9. Applicants assert that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to insiders. Applicants assert that the proposed credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants assert that each Fund's participation in the proposed credit facility would be on terms that are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Interfund Loan Rate will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, when an Interfund Loan is to be made, the Interfund Lending Committee will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is: (a) More favorable to the lending Fund than the Repo Rate and, if applicable, the yield of any money market fund in which the lending Fund could otherwise invest; and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding bank borrowings, any Interfund Loans to the Fund: (a) Will be at an interest rate equal to or lower than the interest rate of any outstanding bank loan to the Fund; (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan to the Fund that requires collateral; (c) will have a maturity no longer than any outstanding bank loan to the Fund (and in any event not over seven days); and (d) will provide that, if an event of default by the Fund occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the proposed credit facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the proposed credit facility only on a secured basis. A Fund may not borrow through the proposed credit facility or from any other source if its total outstanding borrowings immediately after such borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) Repay all of its outstanding Interfund Loans; (b) reduce its outstanding indebtedness to 10% or less of its total assets; or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition 5 shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceed 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the Interfund Loan.

6. No Fund may lend to another Fund through the proposed credit facility if the loan would cause the lending Fund's aggregate outstanding loans through the proposed credit facility to exceed 15% of the lending Fund's current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to obtain cash sufficient to repay such Interfund Loan, through either the sale of portfolio securities or the net sales of the Fund's shares, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the proposed credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions for the preceding seven calendar days or 102% of the Fund's sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the proposed credit facility must be consistent with its investment objectives and limitations and organizational documents.

12. The Interfund Lending Committee will calculate total Fund borrowing and lending demand through the proposed credit facility, and allocate loans on an equitable basis among the Funds, without the intervention of any portfolio manager of the Funds (other than a Money Market portfolio manager acting in his or her capacity as a member of the Interfund Lending Committee). All allocations made by the Interfund Lending Committee will require the approval of at least one member of the Interfund Lending Committee who has the title of Vice President or higher in any business unit of the relevant Adviser and is not a Money Market portfolio manager. The Interfund Lending Committee will not solicit cash for the proposed credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers (except to the extent that a Money Market portfolio manager on the Interfund Lending Committee has access to loan demand data). The Interfund Lending Committee will invest any amounts remaining after satisfaction of borrowing demand in

accordance with the standing instructions of the portfolio managers or such remaining amounts will be invested directly by the portfolio managers of the Funds.

13. The Interfund Lending Committee will monitor the Interfund Loan Rate and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Trustees of each Fund concerning the participation of the Funds in the proposed credit facility and the terms and other conditions of any extensions of credit under the credit facility.

14. The Trustees of each Fund, including a majority of the Independent Trustees, will:

(a) Review, no less frequently than quarterly, the Fund's participation in the proposed credit facility during the preceding quarter for compliance with the conditions of any order permitting such transactions;

(b) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review, no less frequently than annually, the continuing appropriateness of the Bank Loan Rate formula; and

(c) review, no less frequently than annually, the continuing appropriateness of the Fund's participation in the proposed credit facility.

15. If an Interfund Loan is not paid according to its terms and such default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Adviser will promptly refer such loan for arbitration to an independent arbitrator selected by the Trustees of each Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[2] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Trustees setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction by it under the proposed credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transactions by the Fund, including the amount, the maturity and the Interfund Loan Rate, the rate of interest available at the time each Interfund Loan is made on overnight repurchase agreements and commercial bank borrowings, the yield of any money market fund in which the lending Fund could otherwise invest, and such other information presented to the Fund Trustees in connection with the review required by conditions 13 and 14.

17. The relevant Adviser will prepare and submit to the Trustees for review an initial report describing the operations of the proposed credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of the proposed credit facility, the relevant Adviser will report on the operations of the proposed credit facility at each of the Trustees' quarterly meetings.

Each Fund's chief compliance officer, as defined in rule 38a–1(a)(4) under the Act, shall prepare an annual report for its Trustees each year that the Fund participates in the proposed credit facility, that evaluates the Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance. Each Fund's chief compliance officer will also annually file a certification pursuant to Item 77Q3 of Form N–SAR as such Form may be revised, amended or superseded from time to time, for each year that the Fund participates in the proposed credit facility, that certifies that the Fund and its Adviser have established procedures reasonably designed to achieve compliance with the terms and conditions of the order. In particular, such certification will address procedures designed to achieve the following objectives:

(a) That the Interfund Loan Rate will be higher than the Repo Rate and, if applicable, the yield of the money market funds, but lower than the Bank Loan Rate;

(b) compliance with the collateral requirements as set forth in the application;

(c) compliance with the percentage limitations on interfund borrowing and lending;

(d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Trustees; and

(e) that the Interfund Loan Rate does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

Additionally, each Fund's independent public accountants, in connection with their audit examination of the Fund, will review the operation of the proposed credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the proposed credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its prospectus and/or statement of additional information all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2016–07193 Filed 3–30–16; 8:45 am]

BILLING CODE 8011–01–P

[2] If the dispute involves Funds with different Trustees, the respective Trustees of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 2.25 percent for the April–June quarter of FY 2016.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Dianna L. Seaborn,

Acting Director, Office of Financial Assistance.

[FR Doc. 2016–07313 Filed 3–30–16; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Annual Meeting of the Regional Small Business Regulatory Fairness Boards Office of the National Ombudsman

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open meeting of the Regional Small Business Regulatory Fairness Boards.

SUMMARY: The SBA, Office of the National Ombudsman is issuing this notice to announce the location, date, time and agenda for the annual board meeting of the ten Regional Small Business Regulatory Fairness Boards. The meeting is open to the public.

DATES: The meeting will be held on: Tuesday, April 5, 2016 from 9:00 a.m. to 5:00 p.m. EDT and Wednesday, April 6, 2016 from 9:00 a.m. to 1:00 p.m. EDT.

ADDRESSES: The meeting will be at the DoubleTree by Hilton, 1515 Rhode Island Avenue NW., State Room, lobby level, Washington, DC 20005–5595.

SUPPLEMENTARY INFORMATION: Pursuant to the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121), section 222, SBA announces the meeting of the Regional Small Business Regulatory Fairness Boards (Regional Regulatory Fairness Boards). The Regional Regulatory Fairness Boards are tasked to advise the National Ombudsman on matters of concern to small businesses relating to enforcement activities of agencies and to report on substantiated instances of excessive enforcement actions against small business concerns, including any findings or recommendations of the Board as to agency enforcement practice or policy.

The purpose of the meeting is to discuss the following topics related to the Regional Regulatory Fairness Boards:

—Introduction of the Regional Regulatory Fairness Boards and the staff of the Office of the National Ombudsman
—Panel Discussion with Federal Agency Representatives
—Facilitated discussion of ongoing regulatory issues for small business
—FY2015 Outcomes and comments regarding the Annual Report to Congress
—Office of Advocacy regulatory review
—SBA update and future outreach planning

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Regulatory Fairness Boards must contact Elahe Zahirieh, Case Management Specialist, by March 31, 2016, in writing at the Office of the National Ombudsman, 409 3rd Street SW., Suite 330, Washington, DC 20416, by phone (202) 205–2417, by fax (202) 481–5719 or email *ombudsman@sba.gov*.

Additionally, if you need accommodations because of a disability, translation services, or require additional information, please contact Elahe Zahirieh as well.

For more information on the Office of the National Ombudsman, please visit our Web site at *www.sba.gov/ombudsman.*

Dated: March 25, 2016.

Miguel J. L'Heureux,

SBA Committee Management Officer.

[FR Doc. 2016–07312 Filed 3–30–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9505]

30-Day Notice of Proposed Information Collection: Application for Employment as a Locally Employed Staff or Family Member

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. 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 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to May 2, 2016.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

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 Caroline Cole, Bureau of Human Resources, Office of Overseas Employment, U.S. Department of State, Washington, DC 20006, who may be reached on 202–663–2696 or at *ColeCM@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application for Employment as a Locally Employed Staff or Family Member.
- *OMB Control Number:* 1405–0189.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Human Resources, Office of Overseas Employment (HR/OE).
- *Form Number:* DS–0174.
- *Respondents:* Candidates seeking employment at U.S. Missions abroad, including family members of Foreign Service, Civil Service, and uniformed service members officially assigned to the Mission and under Chief of Mission authority.
- *Estimated Number of Respondents:* 40,000.
- *Estimated Number of Responses:* 40,000.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 40,000 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain 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

The DS–0174, Application for Employment as a Locally Employed Staff or Family Member, is needed to meet information collection requirements for recruitments conducted at approximately 170 U.S. embassies and consulates throughout the world. Current employment application forms do not meet the unique requirements of Mission recruitment (*e.g.,* language skills and hiring preferences) under the FS Act of 1980 and 22 U.S.C. 2669(c). The DS–

0174 is needed to improve data gathering and to clarify interpretation of candidate responses.

Methodology

Candidates for employment use the DS–0174 to apply for Mission-advertised positions throughout the world. Mission recruitments generate approximately 40,000 applications per year. Data that HR and hiring officials extract from the DS–0174 determines eligibility for employment, qualifications for the position, and selections according to Federal policies.

Dated: March 25, 2016.

William E. Schaal,

Director, Department of State.

[FR Doc. 2016–07311 Filed 3–30–16; 8:45 am]

BILLING CODE 4710–15–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36012]

Finger Lakes Railway Corp.—Acquisition and Operation Exemption—Cayuga County Industrial Development Agency, Onondaga County Industrial Development Agency, Ontario County Industrial Development Agency, Schuyler County Industrial Development Agency, and Yates County Industrial Development Agency

Finger Lakes Railway Corp. (FGLK), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Cayuga County Industrial Development Agency, Onondaga County Industrial Development Agency, Ontario County Industrial Development Agency, Schuyler County Industrial Development Agency, and Yates County Industrial Development Agency (collectively, Agencies), and operate, approximately 86.45 miles of rail lines located in New York, as follows: [1] (1) Watkins Glen Industrial Track, located between milepost 41.35 at or near Penn Yan and milepost 16.55 at or near Watkins Glen, in Schuyler and Yates Counties, a distance of 24.8 miles; (2) Canandaigua Secondary, located between milepost 76.00 at or near Canandaigua and milepost 51.30 at or near Geneva, in Ontario County, a distance of 24.70 miles; (3) Auburn Secondary, located between milepost 37.56 at the Seneca/Cayuga County line and milepost 3.61 at or near Solvay Yard, in Cayuga County, a distance of 33.95 miles; (4) Geneva Running Track, located between milepost 344.40 at or near Geneva and milepost 342.8 at the Ontario/Seneca County line, in Ontario County, a distance of 1.6 miles; (5) Lehigh & Northern Industrial Track, located between milepost 349.20 and milepost 348.70 at or near Auburn, in Cayuga County, a distance of 0.90 miles; and (6) Auburn & Ithaca Industrial Track, located between milepost 349.20 and milepost 348.70 at or near Auburn, in Cayuga County, a distance of 0.50 miles. The Agencies and FGLK state that the Agencies currently own the rail lines but FGLK is responsible for all railroad operations over the rail lines.

According to FGLK, the acquisition of the rail lines is part of a series of proposed transactions that will allow FGLK to continue to pay a negotiated ''payment in lieu of taxes'' (PILOT) rather than be subject to local and state taxes. FGLK states that it originally acquired the rail lines in 1995 and transferred title to the Agencies and then leased back the rail lines for purposes of the PILOT arrangement. FGLK states that to extend and restructure the PILOT arrangement, the Agencies will first transfer title to the rail lines to FGLK. This notice relates to that transaction. Then the Agencies will lease the rail lines from FGLK.[2] Lastly, FGLK will sublease the rail lines back from the Agencies to continue operations over them, including all common carrier service and maintenance of the tracks.[3]

FGLK certifies that proposed transaction does not include an interchange commitment.

FGLK states that its projected revenues as a result of this transaction would exceed $5 million. Accordingly, under 49 CFR 1150.42(e), FGLK is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. FGLK, however, has filed a petition for waiver of this 60-day advance labor notice requirement, asserting that there will be no changes for employees working on the rail lines because FGLK already operates the rail lines and will continue to be the sole common carrier operator of the rail lines. FGLK's waiver request will be addressed in a separate decision.

FGLK states that the parties intend to consummate the transaction no sooner than April 14, 2016, the effective date of the exemption (30 days after the verified notice was filed), and only after the Board has ruled on the motion to dismiss in Docket No. FD 36011. The Board will establish in the decision on the waiver request the earliest date this transaction can be consummated.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than April 7, 2016 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 36012, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Clark Hill PLC, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

According to FGLK, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: March 28, 2016.

By the Board, Joseph Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2016–07320 Filed 3–30–16; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 755X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Perry County, KY.

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 0.79-mile rail line on CSXT's Southern Region, Huntington

[1] FGLK and the Agencies jointly filed one notice for two related transactions under 49 CFR 1150.31 and 1150.41, one in this docket and one in Docket No. FD 36011, as described further below. A separate notice will be published for each exemption.

[2] The Agencies filed a verified notice of exemption to acquire the rail lines by lease, in *Cayuga County Industrial Development Agency, et al.—Acquisition Exemption—Finger Lakes Railway Corp.,* FD 36011. The Agencies also filed a motion to dismiss that notice of exemption on grounds that the transaction does not require authorization from the Board.

[3] FGLK and the Agencies requested authority for all three transactions but did not file a separate docket or filing fee for the sublease. This notice, therefore, does not address that transaction.

Division, Rockhouse Subdivision, Engineering Appalachian Division, also known as the Montgomery Creek Branch, between milepost 0VL 254.6 and milepost 0VL 255.39 in Perry County, Ky. (the Line). The Line traverses United States Postal Service Zip Code 41773 and is served by the station at Charlene at milepost 0VL 256.0 (FSAC 42886/OPSL 17352).[1]

CSXT has certified that: (1) No local traffic has moved over the Line for at least two years; (2) because the Line is not a through route, no overhead traffic has operated, and, therefore, none needs to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on April 30, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[2] must be filed by April 8, 2016.[3] Petitions to reopen must be filed by April 20, 2016, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: March 24, 2016.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2016–07290 Filed 3–30–16; 8:45 am]

BILLING CODE 4915–01–P

[1] CSXT states that the station is not located on the Line.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinue proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36011]

Cayuga County Industrial Development Agency, Onondaga County Industrial Development Agency, Ontario County Industrial Development Agency, Schuyler County Industrial Development Agency, and Yates County Industrial Development Agency—Acquisition Exemption—Finger Lakes Railway Corp.

Cayuga County Industrial Development Agency, Onondaga County Industrial Development Agency,[1] Ontario County Industrial Development Agency, Schuyler County Industrial Development Agency, and Yates County Industrial Development Agency (collectively, Agencies) have filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease approximately 86.45 miles of rail lines from Finger Lakes Railway Corp. (FGLK), located in New York, as follows:[2] (1) Watkins Glen Industrial Track, located between milepost 41.35 at or near Penn Yan and milepost 16.55 at or near Watkins Glen, in Schuyler and Yates Counties, a distance of 24.8 miles; (2) Canandaigua Secondary, located between milepost 76.00 at or near Canandaigua and milepost 51.30 at or near Geneva, in Ontario County, a distance of 24.70 miles; (3) Auburn Secondary, located between milepost 37.56 at the Seneca/Cayuga County line and milepost 3.61 at or near Solvay Yard, in Cayuga County, a distance of 33.95 miles; (4) Geneva Running Track, located between milepost 344.40 at or near Geneva and milepost 342.8 at the Ontario/Seneca County line, in Ontario County, a distance of 1.6 miles; (5) Lehigh & Northern Industrial Track, located between milepost 349.20 and milepost 348.70 at or near Auburn, in Cayuga County, a distance of 0.90 miles; and (6) Auburn & Ithaca Industrial Track, located between milepost 349.20 and milepost 348.70 at or near Auburn, in Cayuga County, a distance of 0.50 miles.

According to the Agencies, the acquisition of the rail lines is part of a series of proposed transactions that will allow FGLK to continue to pay a negotiated ''payment in lieu of taxes'' (PILOT), rather than be subject to local and state taxes. The Agencies state that FGLK originally acquired the rail lines in 1995 and transferred the title to the Agencies and then leased back the rail lines for purposes of the PILOT arrangement. The Agencies state that to extend and restructure the PILOT arrangement, they will first transfer title to the rail lines to FGLK.[3] Next, the Agencies will lease the rail lines from FGLK—the transaction at issue in this docket. Lastly, FGLK will sublease the rail lines back from the Agencies to continue operations, including all common carrier service and maintenance of the tracks.[4]

The Agencies state that they will not hold themselves out to provide any rail service, and are not acquiring any of the common carrier obligations with respect to the rail lines.[5] Under the terms of the lease from FGLK to the Agencies and the amended and restated lease from the Agencies to FGLK, the Agencies

[1] According to the notice, Onondaga County Industrial Development Agency (OCIDA) is a non-operating carrier that owns other rail lines not involved in this transaction and the New York Susquehanna & Western Railway Corp. currently provides service over these other rail lines. *See Onondaga Cty. Indus. Dev. Agency—Acquis. and Operation Exemption—Line of Consolidated Rail Corp.,* FD 32287 (ICC served July 7, 1994) and *New York Susquehanna & W. Ry.—Trackage Rights Exemption—Onondaga Cty. Indus. Dev. Agency,* FD 32772 (STB served Aug. 7, 2001).

[2] The Agencies and FGLK jointly filed one notice for two related transactions under 49 CFR 1150.31 and 1150.41, one in this docket and one in Docket No. FD 36012, as described further below. A separate notice will be published for each exemption. Further, because OCIDA is a rail carrier, the notice of exemption in this docket will be treated as request for an exemption from 49 U.S.C. 10902 under the regulations at 49 CFR 1150.41 with regard to OCIDA and as a request for an exemption from 49 U.S.C. 10901 under 49 CFR 1150.31 for the four noncarrier Agencies.

[3] FGLK filed a verified notice of exemption to acquire the rail lines in *Finger Lakes Railway Corp.—Acquis. and Operation Exemption—Cayuga County Industrial Development Agency, et al.,* FD 36012.

[4] FGLK and the Agencies requested authority for all three transactions but did not file a separate docket or filing fee for the sublease. This notice, therefore, does not address that transaction.

[5] A motion to dismiss the notice of exemption on grounds that the transaction does not require authorization from the Board was concurrently filed with this notice of exemption. The motion to dismiss will be addressed in a subsequent Board decision.

maintain that FGLK will continue to be the sole provider of railroad services and will have the rights necessary to operate those services. The Agencies state that they are not leasing or acquiring any of the common carrier obligations with respect to the rail lines. The Agencies further state that they will be precluded from interfering materially with FGLK's common carrier obligation.

The Agencies certify that they would not operate over the rail lines and that the transaction will not result in the creation of a Class I or Class II carrier. The Agencies further state that FGLK is a Class III carrier.

The Agencies state that the parties intend to consummate the transaction no sooner than April 14, 2016, the effective date of the exemption (30 days after the verified notice was filed), and only after the Board has ruled on the motion to dismiss.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than April 7, 2016 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 36011, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Clark Hill PLC, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

According to the Agencies, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: March 28, 2016.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2016–07293 Filed 3–30–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2016–0002–N–9]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the renewal Information Collection Requests (ICRs) abstracted below are being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on December 29, 2015.

DATES: Comments must be submitted on or before May 2, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Safety, Safety Regulatory Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493–6292), or Ms. Kimberly Toone, Information Collection Clearance Officer, Office of Administration, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), and 1320.12. On December 29, 2015, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency is seeking OMB approval. *See* 80 FR 81423. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requests (ICRs) and their expected burdens. The renewal requests are being submitted for clearance by OMB as required by the PRA.

Title: System for Telephonic Notification of Unsafe Conditions at Highway-Rail and Pathway Grade Crossings.

OMB Control Number: 2130–0591.

Abstract: The collection of information is set forth under 49 CFR part 234. The rule is intended specifically to help implement Section 205 of the Rail Safety Improvement Act of 2008 (RSIA), Public Law 110–432, Division A, which was enacted on October 16, 2008. Generally, the rule is intended to increase safety at highway-rail and pathway grade crossings. Section 205 of the RSIA mandates that the Secretary of Transportation require certain railroad carriers to take a series of specified actions related to setting up and using systems by which the public is able to notify the railroad by toll-free telephone number of safety problems at its highway-rail and pathway grade crossings. Such systems are commonly known as Emergency Notification Systems (ENS) or ENS programs. 49 CFR part 234 implements section 2015 of the RSIA. The information collected is used by FRA to ensure that railroad carriers establish and maintain a toll-free telephone service to report emergencies at all public, private, and pedestrian grade crossings for rights-of-way over which they dispatch trains.

Type of Request: Extension with change of a currently approved information collection.

Affected Public: Businesses (Railroads).

Form(s): N/A.

Total Annual Estimated Responses: 331,072.

Total Annual Estimated Burden: 31,705 hours.

Title: Control of Alcohol and Drug Use in Railroad Operations: Addition of Post-Accident Toxicological Testing for Non-Controlled Substances.

OMB Control Number: 2130–0598.

Abstract: Since 1985, as part of its accident investigation program, FRA has conducted post-accident alcohol and drug tests on railroad employees who have been involved in serious train accidents (50 FR 31508, Aug. 2, 1985). If an accident meets FRA's criteria for post-accident testing (*see* 49 CFR 219.201), FRA conducts tests for alcohol and for certain drugs classified as controlled substances under the Controlled Substances Act (CSA), title II of the Comprehensive Drug Abuse Prevention Substances Act of 1970 (CSA, 21 U.S.C. 801 *et seq.*). Controlled substances are drugs or chemicals that are prohibited or strictly regulated because of their potential for abuse or addiction. The Drug Enforcement Agency (DEA), which is primarily responsible for enforcing the CSA, oversees the classification of controlled substances into five schedules. Schedule I contains illicit drugs, such as marijuana and heroin, which have no legitimate medical use under Federal law. Currently, FRA routinely conducts post-accident tests for the following drugs: Marijuana, cocaine, phencyclidine (PCP), and certain opiates, amphetamines, barbiturates, and benzodiazepines. Controlled substances are drugs or chemicals that are prohibited or strictly regulated because of their potential for abuse or addiction.

FRA research indicates that prescription and OTC drug use has become prevalent among railroad employees. For this reason, FRA has added certain non-controlled substances to its routine post-accident testing program, which currently routinely tests only for alcohol and controlled substances. At this time, FRA is adding two types of non-controlled substances, tramadol (a synthetic opioid) and sedating antihistamines. Publication of the PATT Final Rule, however, in no way limits FRA's post-accident testing to the identified substances or in any way restricts FRA's ability to make routine amendments to its standard post-accident testing panel without prior notice. Furthermore, in addition to its standard post-accident testing panel, FRA always has the ability to test for ''other impairing substances specified by FRA as necessary to the particular accident investigation.'' *See* 49 CFR 219.211(a). This flexibility is essential, since it allows FRA to conduct post-accident tests for any substance (*e.g.,* carbon monoxide) that its preliminary investigation shows may have played a role in an accident.

FRA uses the additional information collected for research and accident investigation purposes. The addition of non-controlled substances to the post-accident testing panel helps inform FRA about a broader range of potentially impairing prescription and OTC drugs that may be currently contributing to the cause or severity of train accidents/incidents. Research generated by these data will inform future agency policy decisions regarding these non-controlled substances.

Type of Request: Extension without change of a currently approved information collection.

Form(s): N/A.

Total Annual Estimated Responses: 32.

Total Annual Estimated Burden: 5 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on March 28, 2016.

Corey Hill,

Executive Director.

[FR Doc. 2016–07266 Filed 3–30–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Community Volunteer Income Tax Assistance (VITA) Matching Grant Program—Availability of Application for Federal Financial Assistance

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document provides notice of the availability of the application package for the 2017 Community Volunteer Income Tax Assistance (VITA) Matching Grant Program.

DATES: Application instructions are available electronically from the IRS on May 1, 2016 by visiting: IRS.gov (key word search— ''VITA Grant''). Application packages are available on May 1, 2016 by visiting Grants.gov and searching with the Catalog of Federal Domestic Assistance (CFDA) number 21.009. The deadline for submitting an application to the IRS through Grants.gov for the Community VITA Matching Grant Program is May 31, 2016. All applications must be submitted through Grants.gov.

ADDRESSES: Internal Revenue Service, Grant Program Office, 401 West Peachtree St. NW., Suite 1645, Stop 420–D, Atlanta, GA 30308.

FOR FURTHER INFORMATION CONTACT: Grant Program Office via their email address at *Grant.Program.Office@irs.gov.*

SUPPLEMENTARY INFORMATION: Authority for the Community Volunteer Income Tax Assistance (VITA) Matching Grant Program is contained in the Consolidated Appropriations Act, 2016, Public Law 114–113.

Dated: March 9, 2016.

Mikki Betker,

Chief, Grant Program Office, IRS, Stakeholder Partnerships, Education & Communication.

[FR Doc. 2016–07221 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning creditability of foreign taxes.

DATES: Written comments should be received on or before May 2, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to LaNita Van Dyke, or at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Creditability of Foreign Taxes.

OMB Number: 1545–0746.

Regulation Project Number: LR–100–78.

Abstract: Section 1.901–2A of the regulation contains special rules that apply to taxpayers engaging in business transactions with a foreign government that is also taxing them. In general, such taxpayers must establish what portion of a payment made pursuant to a foreign levy is actually tax and not compensation for a economic benefit received from the foreign government. One way a taxpayer can do this is by electing to apply the safe harbor formula of section 1,901–2A by filing a statement with the IRS.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 110.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 37.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 2, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–07213 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax Counseling for the Elderly (TCE) Program Availability of Application Packages

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document provides notice of the availability of Application Packages for the 2017 Tax Counseling for the Elderly (TCE) Program.

DATES: Application instructions are available electronically from the IRS on May 1, 2016 by visiting: IRS.gov (key word search—''TCE'') or through Grants.gov. The deadline for submitting an application package to the IRS for the Tax Counseling for the Elderly (TCE) Program is May 31, 2016. All applications must be submitted through Grants.gov.

ADDRESSES: Internal Revenue Service, Grant Program Office, 5000 Ellin Road, NCFB C4–110, SE:W:CAR:SPEC:FO:GPO, Lanham, Maryland 20706.

FOR FURTHER INFORMATION CONTACT: Grant Program Office via their email address at *tce.grant.office@irs.gov*.

SUPPLEMENTARY INFORMATION: Authority for the Tax Counseling for the Elderly (TCE) Program is contained in Section 163 of the Revenue Act of 1978, Public Law 95–600 (92 Stat.12810), November 6, 1978. Regulations were published in the **Federal Register** at 44 FR 72113 on December 13, 1979. Section 163 gives the IRS authority to enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year. Because applications are being solicited before the FY 2017 budget has been approved, cooperative agreements will be entered into subject to the appropriation of funds.

Dated: March 9, 2016.

Mikki Betker,

Chief, Grant Program Office, IRS, Stakeholder Partnerships, Education & Communication.

[FR Doc. 2016–07220 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Schedule H (Form 1040)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Schedule H (Form 1040), Household Employment Taxes.

DATES: Written comments should be received on or before May 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the form and instructions should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Household Employment Taxes.

OMB Number: 1545–1971.

Form Number: Schedule H (Form 1040).

Abstract: Schedule H (Form 1040) is used by individuals to report their employment taxes. The data is used to verify that the items reported on the form are correct and also for general statistical use.

Current Actions: There is a change in the paperwork burden previously approved by OMB. This form is being submitted for revision purposes.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 196,500.

Estimated Time per Respondent: 3 hours 56 minutes.

Estimated Total Annual Burden Hours: 772,245.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 15, 2016.

Tuawana Pinkston,

Supervisory Tax Analyst.

[FR Doc. 2016–07215 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2014–49

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2014–49, Disaster Relief.

DATES: Written comments should be received on or before May 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disaster Relief.

OMB Number: 1545–2237.

Form Number: Rev. Proc. 2014–49.

Abstract: This revenue procedure establishes a procedure for temporary relief from certain requirements of § 42 of the Internal Revenue Code for owners of low-income buildings (Owners) and housing credit agencies of States or possessions of the United States (Agencies) affected by major disaster areas declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (Stafford Act).

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 3,500.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–07216 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, (TD 9679), Information Reporting by Passport Applicants.

DATES: Written comments should be received on or before May 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to LaNita Van Dyke, Internal Revenue Service, room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Information Reporting by Passport Applicants.

OMB Number: 1545–1359.

Regulation Project Number: (TD 9679)(final).

Abstract: These final regulations provide information reporting rules for certain passport applicants. These final regulations apply to certain individuals applying for passports (including renewals) and provide guidance to such individuals about the information that must be included with their passport application.

Current Actions: There is no change to the total burden of these final regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents for Passport Applicants: 5,000,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours for Passport Applicants: 500,000.

Estimated Number of Respondent's for Permanent Resident Applicants: 500,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours for Permanent Residence Applicants: 250,000 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 15, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–07219 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the Annual Return/Report of Employee Benefit Plan

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Annual Return/Report of Employee Benefit Plan.

DATES: Written comments should be received on or before May 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Return/Report of Employee Benefit Plan.

OMB Number: 1545–1610.

Form Number: 5500 and Schedules.

Abstract: The Annual Return/Report of Employee Benefit Plan is an annual information return filed by employee benefit plans. The IRS uses this information for a variety of matters, including ascertainment whether a qualified retirement plan appears to conform to requirements under the Internal Revenue Code or whether the plan should be audited for compliance.

Current Actions: PBGC, the Department of Labor (DOL), and the Internal Revenue Service (IRS) work together to produce the Form 5500 Annual Return/Report for Employee Benefit Plan and Form 5500–SF Short Form Annual Return/Report for Small Employee Benefit Plan (Form 5500 Series), through which the regulated public can satisfy the combined reporting/filing requirements applicable to employee benefit plans. The IRS produces Form 5500–SUP, a paper-only form, that is used by certain sponsors and administrators of retirement plans to satisfy certain of the reporting requirements of section 6058 of the Internal Revenue Code. Form 5500–SUP should be used only if certain IRS compliance questions are not answered electronically on the Form 5500 or Form 5500–SF.

IRS Proposed Changes on the 2016 Form 5500 Series Returns

	Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Compliance and Use for
1	a. Name of trust b. Trust's EIN c. Name of trustee or custodian d. Trustee's or custodian's telephone number	Form 5500 Sch. H/I, 5500-SF, 5500-EZ, and 5500-SUP	a. Name of trust b. Trust's EIN c. Name of trustee or custodian d. Trustee's or custodian's telephone number	• This question was approved by OMB for the 2015 Form 5500 Series. • Requiring trust identifying information will assist the IRS in discharging its basic tax compliance and enforcement responsibilities with respect to tax-favored trusts. • This question was on former Schedule P up to 2006 where it had been approved in an information collection.
2	a. Preparer's name (including firm name, if applicable) and address (include room or suite number) b. Preparer's telephone number	Forms 5500, 5500-SF, 5500-EZ, and 5500-Sup.	**a.** Preparer's name (including firm name, if applicable) and address (include room or suite number) **b.** Preparer's telephone number	• This question was approved by OMB for the 2015 Form 5500 Series. • Information on Form 5500 Series preparers will assist the IRS in identifying preparers who have engaged in patterns of noncompliance. • Preparer questions were on Form 5500 through 2009 and after 2011 where they had been approved in an information collection.
3	a. Is the plan a 401(k) plan? ☐ Yes ☐ No b. If "Yes," how does the 401(k) plan satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under sections 401(k)(3) and 401(m)(2)? (See instructions) ☐ Design-based safe harbor method ☐ ADP/ACP test c. If ADP/ACP test is used, did the 401(k) plan perform ADP/ACP testing for the plan year using	Form 5500 Sch R, 5500-SF, and 5500-SUP.	a. Is the plan a 401(k) plan? ☐ Yes ☐ No If "No," skip b. b. How did the plan satisfy the nondiscrimination requirements for employee deferrals under sections 401(k)(3) for the plan year? Check all that apply: ☐ Design-based safe harbor ☐ "Prior year" ADP test ☐ "Current year" ADP test ☐ N/A	• This question seeks basic information on the method by which a 401(k) plan satisfied the nondiscrimination requirements for employee deferrals. This information is fundamental to IRS's ability to monitor plans for compliance with the nondiscrimination rules.

	the "current year testing method" for nonhighly compensated employees (Treas. Reg sections 1.401(k)-2(a)(2)(ii) and 1.401(m)-2(a)(2)(ii))? ☐ Yes ☐ No			
4	a. Check the box to indicate the method used by the plan to satisfy the coverage requirements under section 410(b): ☐ Ratio percentage test ☐ Average benefit test b. Does the plan satisfy the coverage and nondiscrimination tests of sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules? ☐ Yes ☐ No	Form 5500 Sch R, 5500-SF, and 5500-SUP,	a. What testing method was used to satisfy the coverage requirements under section 410(b) for the plan year? Check all that apply: ☐ Ratio percentage test ☐ Average benefit test ☐ N/A b. Did the plan satisfy the coverage and nondiscrimination requirements of sections 410(b) and 401(a)(4) for the plan year by combining this plan with any other plan under the permissive aggregation rules? ☐ Yes ☐ No	• This question seeks basic information on the method by which a qualified plan satisfied the minimum coverage requirements on employee participation. This information is fundamental to IRS's ability to monitor plans for compliance with the minimum coverage rules. • This question was on former Schedule T where it had been approved in an information collection.
5	Were in-service distributions made during the plan year? ☐ Yes ☐ No If "Yes," enter amount _____	Form 5500 Sch H/I, 5500-SF, 5500-EZ, and 5500-SUP	Defined Benefit Plan or Money Purchase Pension Plan only: Were any distributions made during the plan year to an employee who attained age 62 and had not separated from service? ☐ Yes ☐ No	• This question should assist in the identification of whether distributions to employees are being made before otherwise permissible in a defined benefit or money purchase plan.
6	Did the plan trust incur unrelated business taxable income? ☐ Yes ☐ No ☐ N/A If Yes, enter amount ____	Form 5500, Sch H/I, 5500-SF, 5500-EZ, and	Deleted	

		5500-SUP		
7	a. Has the Plan been timely amended for all required law changes? b. Date the last Plan amendment/restatement for the required law changes was adopted__/__/____. Enter the applicable code ____ (See instructions for tax law changes and codes). c. If the plan sponsor is an adopter of a pre-approved master, prototype (M&P), or volume submitter plan that is subject to a favorable opinion or advisory letter from IRS, please enter the date of plan's last opinion or advisory letter__/__/___ and a letter serial number _____. d. If the plan is an individually-designed plan and received a favorable determination letter from IRS, please enter the date of plan's last favorable determination letter __/__/____.	Sch R Line 23a 5500-SF 17a 5500-SUP, Line 6a 5500-EZ, Line 13a	a. If the plan is a master and prototype plan (M&P) or volume submitter plan that received a favorable IRS opinion letter or advisory letter, enter the date of the letter _____/_____/_____ and the serial number _____. b. If the plan is an individually-designed plan that received a favorable determination letter from the IRS, enter the date of the most recent determination letter _____/_____/_____.	• Whether and when a plan received a favorable opinion letter, advisory letter or determination letter from the IRS is a significant indicator of whether the form of the plan satisfies the qualification requirements under section 401(a).
8	Were required minimum distributions made to 5% owners who have attained age 70 ½ (regardless of whether or not retired), as required under section 401(a)(9)? ☐ Yes ☐ No ☐ N/A	Form 5500-SF and 5500-EZ only	Was any plan participant a 5% owner who had attained at least age 70 ½ during the prior plan year? ☐ Yes ☐ No	• This information identifies plans to which special rules apply that require minimum distributions to a participant regardless of whether he or she continues in employment. The information will assist the IRS to monitor plan compliance.

9	Is the Plan maintained in a U.S. territory (i.e., Puerto Rico (if no election under ERISA section 1022(i)(2) has been made), American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the U.S. Virgin Islands)?	Form 5500 Sch R 5500-SF and 5500-SUP.	Deleted	

The aforementioned changes will generate a decrease in burden by 20,000 hours and decrease the estimated number of filers by 16,000 per year. The paper submission of this form will generate 500 responses and 208 burden hours per year.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals and households, not-for profit institutions, and farms.

Estimated Number of Respondents: 806,500.

Estimated Time per Respondent: 23 minutes.

Estimated Total Annual Burden Hours: 320,208.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 24, 2016.

Tuawana Pinkston,

IRS, Reports Clearance Officer.

[FR Doc. 2016–07217 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection Tools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 972, Consent of Shareholder To Include Specific Amount in Gross Income.

DATES: Written comments should be received on or before May 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Consent of Shareholder To Include Specific Amount in Gross Income.

OMB Number: 1545–0043.

Form Number: 972.

Abstract: Form 972 is filed by shareholders of corporations who agree to include a consent dividend in gross income as a taxable dividend. The IRS uses Form 972 as a check to see if an amended return is filed by the shareholder to include the amount in income and to determine if the corporation claimed the correct amount as a deduction on its tax return.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 3 hrs, 51 min.

Estimated Total Annual Burden Hours: 385.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 2, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–07214 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed/and or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C 3506(c)(2)(A)).

DATES: Written comments should be received on or before May 31, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, or copies of the information collection and instructions, or copies of any comments received, contact LaNita Van Dyke at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION: The Department of the Treasury and the Internal Revenue Service, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collections Open for Comment

Currently, the IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

Title: REG 143544–04—Regulations Enabling Elections for Certain Transactions under Section 336(e).

OMB Number: 1545–2125.

Abstract: This document contains final regulations that provide guidance under section 336(e) of the Internal Revenue Code (Code) which authorizes the issuance of regulations under which a corporation (seller) that owns stock in another corporation (target) meeting the requirements of section 1504(a)(2), and that sells, exchanges, or distributes all of such stock, may make an election to treat the sale, exchange, or distribution of target stock as a sale of all of target's underlying assets. Section 336(e) was enacted as part of the legislation repealing the *General Utilities* rule and, like an election under section 338(h)(10), is meant to provide taxpayers relief from a potential multiple taxation at the corporate level of the same economic gain which can result when a transfer of appreciated corporate stock is taxed to a corporation without providing a corresponding step-up in the basis of the assets of the corporation.

Current Actions: Final Regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and households, business or other for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 1,000 hours.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless the collection of information displays a valid OMB control number.

Approved: March 15, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–07218 Filed 3–30–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 28, 2016.

The Department of the Treasury will submit the following information collection requests 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 May 2, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8117, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov*.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0002.

Type of Review: Revision of a currently approved collection.

Title: Personnel Questionnaire—Alcohol and Tobacco Products.

Abstract: The information collected on TTB F 5000.9 enables TTB to determine whether or not an applicant

for a Federal alcohol or tobacco permit, notice, or registration, or certain other personnel, such as officers or directors, of the business applied for, meet the minimum qualifications for that permit, notice, or registration. TTB F 5000.9 is required in certain circumstances in which the information is deemed necessary, and includes such information as the individual's residence, business background, financial sources for the business, and criminal record.

Estimated Total Annual Burden Hours: 14,283.

OMB Number: 1513–0009.

Type of Review: Revision of a currently approved collection.

Title: Application to Establish and Operate Wine Premises, and Wine Bond.

Abstract: TTB F 5120.25, Application to Establish and Operate Wine Premises, is the form used to establish the qualifications of an applicant applying to establish and operate wine premises. The applicant certifies his/her intention to produce and/or store a specified amount of wine and take certain precautions to protect it from unauthorized use. TTB F 5120.36, Wine Bond, is the form used by the proprietor and a surety company as a contract to ensure the payment of the wine excise tax.

Estimated Total Annual Burden Hours: 1,775.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2016–07297 Filed 3–30–16; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Federal Insurance Office, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on a currently approved information collection that is due for extension approval by the Office of Management and Budget. The Federal Insurance Office, which assists the Secretary of the Treasury in the administration of the Terrorism Risk Insurance Program, is soliciting comments concerning the Record Keeping Requirements set forth in 31 CFR part 50.8.

DATES: Written comments must be received not later than May 31, 2016.

ADDRESSES: Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov,* in accordance with the instructions on that site. In general, the Department will post all comments to *www.regulations.gov* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department will also make such comments available for public inspection and copying in the Treasury's Library, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622–0990. All comments, 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 available publicly.

Electronic submissions are encouraged.

Comments may also be mailed to the Department of the Treasury, Terrorism Risk Insurance Program, MT 1410, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1319, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622–2922 (this is not a toll-free number) or Kevin Meehan, Policy Advisor, Federal Insurance Office, Room 1410, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622–7009 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

OMB Number: 1505–0190.

Title: Terrorism Risk Insurance Program—Conflict of Interest Rebuttal Procedures of the Terrorism Risk Insurance Act.

Abstract: The Terrorism Risk Insurance Act of 2002, as amended (TRIA),[1] established the Terrorism Risk Insurance Program (TRIP),[2] which the Secretary of the Treasury administers, with the assistance of the Federal Insurance Office.[3] Section 102 (2) of TRIA defines an ''affiliate'' with respect to an insurer as ''* * * any entity that controls, is controlled by, or is under common control with the insurer''. Section 102 (3) of the Act defines ''control''. Section 102(6) defines ''insurer'' to include ''* * * any affiliate thereof''. Taken together these definitions comprise one element in calculating costs and payments to the insurer under the Program. As such, there could be questions as to whether an affiliate relation exists between specific insurers, which will turn on whether one insurer controls, is controlled by, or is under common control with the other. The regulation, at 31 CFR 50.8 sets forth information which an insurer can provide to refute certain rebuttable presumptions of control described at 31 CFR 50.4(c). If not refuted, these rebuttable presumptions would lead to a determination that an affiliate relationship exists. This clearance action is for the data submission required to rebut a presumption of controlling influence specified in 31 CFR 50.8.

Type of Review: Extension of a currently approved data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 10.

Estimated Average Time per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 400 hours.

Request for Comments: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collections; (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

[1] 15 U.S.C. 6701 note. Because the provisions of TRIA (as amended) appear in a note, instead of particular sections, of the United States Code, the provisions of TRIA are identified by the sections of the law.

[2] *See* 31 CFR pt. 50.

[3] 31 U.S.C. 313(c)(1)(D).

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Michael T. McRaith,

Director, Federal Insurance Office.

[FR Doc. 2016–07268 Filed 3–30–16; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 28, 2016.

The Department of the Treasury will submit the following information collection requests 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 May 2, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8117, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Bureau of the Fiscal Service

OMB Control Number: 1530–0024.

Type of Review: Revision of a currently approved collection.

Title: Request for Payment of Reissue of U.S. Savings Bonds Deposited in Safekeeping.

Abstract: The information is necessary to request payment or reissue of Savings Bonds/Notes held in safekeeping when original safekeeping custody receipts are not available. The information on the form is used by the Department of the Treasury, Bureau of the Fiscal Service, to identify the securities involved, establish entitlement, and to obtain a certified request for payment or reissue. Without the information, the transaction cannot be completed.

Estimated Total Annual Burden Hours: 233.

OMB Control Number: 1530–0044.

Type of Review: Extension of a currently approved collection.

Title: Regulations Governing United States Treasury Certificates of Indebtedness—State and Local Government Series, United States Treasury Notes—State and Local Government Series, and United States Treasury Bonds—State and Local Government Series.

Abstract: The information is requested to establish consideration for a waiver of regulations.

Estimated Total Annual Burden Hours: 434.

OMB Control Number: 1530–0048. (Previously approved as 1535–0098 as a collection conducted by Department of the Treasury/Bureau of the Public Debt.)

Type of Review: Extension of a previously approved collection.

Title: Claim for United States Savings Bonds Not Received.

Abstract: The information collection is used to support a request for relief on account of the nonreceipt of United States Savings Bonds.

Estimated Total Annual Burden Hours: 2,500.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2016–07296 Filed 3–30–16; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Multiemployer Pension Plan Application To Reduce Benefits

AGENCY: Department of the Treasury.

ACTION: Notice of availability; request for comments.

SUMMARY: The Board of Trustees of the Road Carriers—Local 707 Pension Fund, a multiemployer pension plan, has submitted an application to Treasury to reduce benefits under the plan in accordance with the Multiemployer Pension Reform Act of 2014 (MPRA). The purpose of this notice is to announce that the application submitted by the Board of Trustees of the Road Carriers—Local 707 Pension Fund has been published on the Web site of the Department of the Treasury (Treasury), and to request public comments on the application from interested parties, including contributing employers, employee organizations, and participants and beneficiaries of the Road Carriers—Local 707 Pension Fund to reduce benefits under the plan. Road Carriers—Local 707 Pension Fund also submitted to PBGC an application to partition the plan. For further information about partition, see PBGC's Web site at *http://www.pbgc.gov/prac/multiemployer/multiemployer-pension-reform-act-of-2014.html.*

DATES: Comments must be received by April 29, 2016.

ADDRESSES: You may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov,* in accordance with the instructions on that site. Electronic submissions through *www.regulations.gov* are encouraged.

Comments may also be mailed to the Department of the Treasury, MPRA Office, 1500 Pennsylvania Avenue NW., Room 1224, Washington, DC 20220. Attn: Deva Kyle. Comments sent via facsimile and email will not be accepted.

Additional Instructions. All comments received, including attachments and other supporting materials, will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or any other information in your comment or supporting materials that you do not want publicly disclosed. Treasury will make comments available for public inspection and copying on *www.regulations.gov* or upon request. Comments posted on the Internet can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: For information regarding the application from the Board of Trustees of the Road Carriers—Local 707 Pension Fund, please contact Treasury at (202) 622–1534 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Multiemployer Pension Reform Act of 2014 (MPRA) amended the Internal Revenue Code to permit a multiemployer plan that is projected to have insufficient funds to reduce pension benefits payable to participants and beneficiaries if certain conditions are satisfied. In order to reduce benefits, the plan sponsor is required to submit an application to the Secretary of the Treasury, which Treasury, in consultation with the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor, is required to approve or deny.

On March 15, 2016, the Board of Trustees of the Road Carriers—Local 707 Pension Fund submitted an application for approval to reduce benefits under the plan. As required by

MPRA, that application has been published on Treasury's Web site at *http://www.treasury.gov/services/Pages/Plan-Applications.aspx*. Treasury is publishing this notice in the **Federal Register**, in consultation with PBGC and the Department of Labor, to solicit public comments on all aspects of the Road Carriers—Local 707 Pension Fund application.

Comments are requested from interested parties, including contributing employers, employee organizations, and participants and beneficiaries of the Road Carriers—Local 707 Pension Fund. Consideration will be given to any comments that are timely received by Treasury.

Dated: March 25, 2016.

David R. Pearl,

Executive Secretary, Department of the Treasury.

[FR Doc. 2016–07269 Filed 3–30–16; 8:45 am]

BILLING CODE 4810–25–P

UNITED STATES SENTENCING COMMISSION

Rules of Practice and Procedure

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed amendments to the Sentencing Commission's Rules of Practice and Procedure. Request for public comment.

SUMMARY: This notice sets forth proposed amendments to the Commission's Rules of Practice and Procedure. The Commission invites public comment on these proposed amendments.

DATES: Public comment should be received by the Commission not later than June 1, 2016.

ADDRESSES: Public comment should be sent to the Commission by electronic mail or regular mail. The email address for public comment is *Public_Comment@ussc.gov.* The regular mail address for public comment is United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, Washington, DC 20002–8002, Attention: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Matt Osterrieder, Legislative Specialist, (202) 502–4500, *pubaffairs@ussc.gov.*

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

Section 995(a)(1) of title 28, United States Code, authorizes the Commission to establish general policies and promulgate rules and regulations as necessary for the Commission to carry out the purposes of the Sentencing Reform Act of 1984. The Commission originally adopted the Rules of Practice and Procedure in July 1997 and now proposes to make amendments to these rules. In accordance with Rule 1.2 of its Rules of Practice and Procedure, the Commission hereby invites the public to provide comment on the proposed amendments.

Bracketed text within a proposed amendment indicates a heightened interest on the Commission's part in comment and suggestions on whether the proposed provision is appropriate.

Authority: 28 U.S.C. 995(a)(1); USSC Rules of Practice and Procedure, Rule 1.2.

Patti B. Saris,

Chair.

1. Rules of Practice and Procedure

Synopsis of Proposed Amendment: This proposed amendment revises the Commission's Rules of Practice and Procedure. The rules were issued in 1997 ''for the purpose of more fully informing interested persons of opportunities and procedures for becoming aware of and participating in the public business of the Commission.'' *See* Rule 1.1 of the Commission's Rules of Practice and Procedure. The Commission is conducting a review of its rules to determine whether any updates or revisions are appropriate, such as to reflect current technologies, take into account practices of other rulemaking agencies and recommendations of the Administrative Conference of the United States (''ACUS''), and better promote the purpose of the rules. The Commission is publishing this proposed amendment to inform that review.

A. Actions and Meetings

This part of the proposed amendment amends Rules 2.2 and 3.3 to clarify and enumerate the types of Commission actions that are taken in public meetings, the types of actions that may be taken in nonpublic meetings or without a meeting, and the types of discussions with outside parties that may be held in nonpublic meetings. *Cf.* ACUS Recommendation 2014–2, ''Government in the Sunshine Act'' (adopted June 5, 2014) at ¶ 6.

Rule 2.2 identifies certain types of actions that must be taken in a public meeting and a number of other types of actions, described as ''miscellaneous matters,'' as actions that may be taken without a meeting. Many other types of Commission actions are not specifically enumerated. The proposed amendment revises Rule 2.2 to clarify and enumerate the actions that must be taken in public meetings and the actions that may be taken in nonpublic meetings or without a meeting. Specifically, votes on final priorities and votes to approve or revise the minutes of public meetings must be taken at public meetings, and a number of other actions may be taken at nonpublic meetings or without a meeting. It also clarifies that the actions authorized to be taken in nonpublic meetings or without a meeting are not precluded from being taken in public meetings.

Rule 3.3 identifies the purposes for holding nonpublic meetings: To transact certain types of Commission business, to hold discussions with Commission staff, and to discuss with outside parties certain types of sensitive information. The proposed amendment revises Rule 3.3 to clarify and enumerate the purposes for holding nonpublic meetings. As revised, Rule 3.3 identifies five purposes for holding nonpublic meetings and provides more clarity and specificity about these different purposes. To summarize, they include: (1) To take action on other matters pursuant to Rule 2.2; (2) to hold discussions with Commission staff and ex officio staff; (3) to hold discussions with advisory groups, with persons within the judiciary, or with persons in the executive or legislative branches; (4) to discuss sensitive information with outside parties (with a number of examples); and (5) to hold discussions with outside experts, such as in a roundtable or symposium, on matters unrelated to the merits of any pending proposed amendment.

For nonpublic meetings covered by purpose (5), it adds that such meetings may be held under ''Chatham House Rule'' and may include outside observers.

Finally, it amends Rule 6.2 to delete language requiring the Office of Legislative and Public Affairs to maintain certain information about nonpublic meetings.

B. Public Meetings and Hearings

This part of the proposed amendment amends Rules 3.2 and 3.5 to provide more information to the public about

public meetings and hearings. *Cf.* ACUS Recommendation 2014–2, ''Government in the Sunshine Act'' (adopted June 5, 2014).

Rule 3.2 currently provides that notice of a public meeting shall be issued at least seven days prior to the date of the meeting and, where practicable, shall include an agenda and any documents approved for public release. The proposed amendment specifies that any documents approved for public release shall be posted to the Web site and made available by other means, ''as soon as practicable''—if not before the meeting, then at the start of the meeting or in a timely manner afterward.

Rule 3.5 provides for the Commission to ''tape record'' public meetings and maintain a written transcription of public hearings. The proposed amendment specifies that the Commission may provide a live webcast or audiocast of its public meetings and public hearings and make the recordings available through the Web site.

C. Decisions on Retroactivity

This part of the proposed amendment makes substantive and clerical changes to the rules on considering retroactivity. First, as a clerical change, it moves the provision on retroactivity from the end of Rule 4.1 to a new Rule 4.1A. Second, it changes the provision on retroactivity to state that when the Commission wishes to consider whether to make an amendment available for retroactive application, it shall publish a request for comment, make a retroactivity impact analysis available to the public, hold a public hearing, and then vote on whether to make the amendment retroactive at a public meeting at least 60 days before the effective date of the amendment.

D. Public Comment and Priorities

This part of the proposed amendment addresses issues relating to public comment on amendments, as well as the Commission's consideration of priorities.

First, Rule 4.3 addresses the public comment process for amendments to the *Guidelines Manual.* The proposed amendment makes two additions to Rule 4.3. The first addition provides that the Commission may divide a public comment period into an original comment phase and a reply comment phase. *Cf.* ACUS Recommendation 2011–2, ''Rulemaking Comments'' (adopted June 16, 2011). The second addition addresses how, if at all, the Commission considers public comment that arrives late and reply comment on issues not raised during the original comment phase, and states that such late or non-responsive comment may not be considered. *Cf.* ACUS Recommendation 2011–2, ''Rulemaking Comments'' (adopted June 16, 2011).

Second, Rule 5.1 identifies the Office of Legislative and Public Affairs as the repository for the Commission's public comment and public hearing testimony. The proposed amendment adds a sentence to Rule 5.1 to provide that the public comment and public hearing testimony shall be made available to the public ''through the Commission's Web site'' and that this shall occur ''as soon as practicable after the close of the comment period.'' *Cf.* ACUS Recommendation 2011–2, ''Rulemaking Comments'' (adopted June 16, 2011). The proposed amendment also clarifies that, where appropriate, the Commission may decline to make available public comment that is duplicative and may redact sensitive information from public comment.

Finally, the proposed amendment makes several additions to Rule 5.2 to set forth certain matters to be considered by the Commission in setting its priorities. It also establishes a new Rule 5.6 to address petitions filed by defendants under 28 U.S.C. 994(s). *Cf.* ACUS Recommendation 2014–6, ''Petitions for Rulemaking'' (adopted December 5, 2014).

The first addition relates to the Commission's responsibility under 28 U.S.C. 994(g) to consider the impact on available penal and correctional resources. Currently, Rule 4.2 requires the Commission to consider prison impact before it promulgates an amendment. The proposal would revise Rule 5.2 to include a similar requirement that the Commission consider prison impact in setting its priorities. Relatedly, the proposal would state that, in setting its priorities, the Commission shall also consider, among other factors, the number of defendants potentially involved and the magnitude of the potential impact.

The second addition to Rule 5.2 is a set of factors to be considered by the Commission in determining which, if any, circuit conflicts to resolve. These factors were originally published by the Commission in the **Federal Register** in August 2000, *see* 65 FR 50034 (August 16, 2000).

The final addition to Rule 5.2 would clarify how written submissions and section 994(s) petitions relate to the priorities. Although the Commission provides a specific period each year for public comment on the priorities, suggestions about priorities have been made at other times of the year. An outside party may submit a suggestion immediately before the comment period on the priorities has opened, or long after it has closed, or during a different comment period (such as the comment period on a proposed amendment). The proposed amendment would provide for these mis-timed submissions to be carried over to the next priorities cycle and considered during that priorities cycle.

Similarly, defendants may submit petitions under section 994(s) at any time of the year. The proposed amendment would provide for section 994(s) petitions to be treated in the same way, *i.e.,* they would be carried over to the next priorities cycle and considered during that priorities cycle. In addition, the proposed amendment would establish a new Rule 5.6 for section 994(s) petitions. The new rule would incorporate section 994(s) into the Rules of Practice and Procedure and provide that the Commission will give due consideration to the petitions when it sets its priorities.

E. Input From Outside Parties; Ex Parte Communications

This part of the proposed amendment provides guidance on the Commission's practices relating to input from outside parties. *Cf.* ACUS Recommendation 2014–4, '''Ex Parte' Communications in Informal Rulemaking'' (adopted June 6, 2014); ACUS Recommendation 80–6, ''Intragovernmental Communications in Informal Rulemaking Proceedings'' (adopted December 12, 1980). The Commission's practice of soliciting input from outside parties is currently contained in a single sentence at the end of Rule 5.4 (which generally relates to the Commission's established advisory groups). It states that ''the Commission expects to solicit input, from time to time, from outside groups representing the federal judiciary, prosecutors, defense attorneys, crime victims, and other interested groups.''

The proposed amendment moves this principle to a new Rule 5.5 and revises it to clarify that the Commission, individual Commissioners, and Commission staff may consult with such outside groups, and that the consultation may involve any matter affecting the Commission's business.

In addition, the proposed amendment provides specific guidance on ex parte communications on the merits of a proposed amendment, during the pendency of the proposed amendment, from outside parties.

F. Use of Social Media Platforms

This part of the proposed amendment expands Rule 6.3, which relates to the Commission's Web site and the

information available there. Specifically, the proposed amendment would expand Rule 6.3 to also encompass other electronic resources offered by the Commission, including social media platforms (such as Twitter) and electronic distribution mechanisms (such as email listservs). It would add to Rule 6.3 a requirement that the Commission ''use a variety of electronic means to distribute public meeting notices and provide other information about the Commission,'' such as social media platforms and electronic distribution mechanisms. *Cf.* ACUS Recommendation 2014–2, ''Government in the Sunshine Act'' (adopted June 5, 2014) at ¶ 3.

G. Clerical Changes

Finally, the proposed amendment makes certain clerical changes to the Rules. It provides an introductory provision about the Commission, updates the name of the Office of Legislative and Public Affairs, provides relevant statutory citations, and inserts subdivision designations to divide rules into separate parts.

Proposed Amendment

(A) Actions and Meetings

Rule 2.2 is amended by inserting ''(a)'' before ''Except''; by inserting ''(b)'' before ''Promulgation''; by striking ''The decision to instruct staff to prepare a retroactivity impact analysis for a proposed amendment shall require the affirmative vote of at least three members at a public meeting.'' and inserting the following new paragraphs:

''Approval of a notice of priorities shall require the affirmative vote, at a public meeting, of a majority of the members then serving.

Adoption or revision of the minutes of a public meeting shall require the affirmative vote, at a public meeting, of a majority of the members then serving.'';

by striking the paragraph that begins ''Action on miscellaneous matters'' and inserting the following as a new subsection:

''(c) Action on other matters may be taken (1) at a nonpublic meeting; or (2) without a meeting by written or oral communication (*e.g.,* by ''notation voting''), and shall be based on the affirmative vote of a majority of the members then serving. Such matters include the approval of budget requests, administrative and personnel issues, decisions on contracts and cooperative agreements, decisions on workshops and training programs, decisions on publishing reports and making recommendations to Congress, decisions to hold hearings and call witnesses, decisions on litigation and administrative proceedings involving the Commission, decisions relating to the formation and membership of advisory groups, the approval pursuant to 28 U.S.C. 994(w) of a statement of reasons form, notices of proposed priorities, extensions of public comment periods, notices of proposed amendments to these rules, approval of technical and clerical amendments to these rules, and decisions to hold a nonpublic meeting. The Commission is not precluded from acting on such matters at a public meeting.'';

and by inserting ''(d)'' before ''A motion to reconsider''.

Rule 3.3 is amended by striking ''The Commission may hold'' and all that follows through the period at the end and inserting the following:

''The Chair may call nonpublic meetings for purposes of the following:

(1) To take actions on other matters (*see* Rule 2.2(c)).

(2) To receive information from, and participate in discussions with, Commission staff or any person designated by an ex officio Commissioner as support staff for that Commissioner.

(3) To receive information from, and participate in discussions with, (A) members of advisory groups; (B) interested parties within the judicial branch (*e.g.,* federal judges; the Criminal Law Committee; the Federal Public and Community Defenders); or (C) interested parties within the executive or legislative branches.

(4) Upon a decision by a majority of the members then serving, to receive or share information, from or with any other person, that is inappropriate for public disclosure (*e.g.,* classified information; privileged or confidential information; trade secrets; or information the disclosure of which would interfere with law enforcement proceedings, deprive a person of a right to a fair trial, constitute an unwarranted invasion of personal privacy, compromise a confidential source, disclose law enforcement investigative techniques and procedures, endanger the life or safety of judicial or law enforcement personnel, or be likely to significantly frustrate implementation of a proposed agency action).

(5) Upon a decision by a majority of the members then serving, to receive information from, and participate in discussions with, outside experts, on matters unrelated to the merits of any pending proposed amendment to the guidelines, policy statements, or commentary (*e.g.,* to hold a symposium, convene an expert roundtable, or discuss local practices with a locality's judges and practitioners). At the discretion of the Chair, such a meeting may be held under 'Chatham House Rule.' Subject to the discretion and control of the Chair, one or more persons may be permitted to attend such a meeting as outside observers. Where the number of outside observers is limited, the Chair may give priority to individuals referred to in subdivision (3).''

Rule 6.2 is amended in the heading by striking ''Publishing'' and inserting ''Legislative'', and in the text by striking ''Publishing'' each place the term appears and inserting ''Legislative''; by inserting ''and'' before ''(5)''; and by striking ''; and (6)'' and all that follows through ''parties.'' and inserting a period.

(B) Public Meetings and Hearings

Rule 3.2 is amended by inserting after the first sentence the following: ''*See* 28 U.S.C. 993(a).''; by inserting after ''approved'' the following: ''by the Chair''; by inserting after ''public release.'' the following new sentence: ''The notice shall be made available to the public on the Commission's Web site.''; and by inserting after that new sentence the following new paragraph:

''Any related documents approved for public release shall be made available to the public as soon as practicable (*e.g.,* if not in advance of the meeting, then at the start of the meeting or in a timely manner after the meeting), on the Commission's Web site.''.

Rule 3.5 is amended in the heading by striking ''Written Record of Meetings and Hearings'' and inserting ''Live Webcasts and Written Records''; in the text by inserting before the first paragraph the following new paragraph:

''To the extent practicable, and at the discretion and control of the Chair, the Commission shall provide a live webcast or audiocast of its public meetings and public hearings and shall make available a recording of the webcast or audiocast through the Commission's Web site.'';

and by striking ''tape record'' and inserting ''make an audio recording of''.

(C) Decisions on Retroactivity

Rule 4.1 is amended by inserting the following heading before the paragraph that begins ''Generally,'' to establish it as a new Rule 4.1A:

''Rule 4.1A—Retroactive Application of Amendments''.

Rule 4.1A (as so established) is amended by striking '', it shall decide whether to make'' and all that follows through the period at the end and inserting the following: ''(*see* 28 U.S.C.

994(u); 18 U.S.C. 3582(c)(2)), the Commission shall—

(1) at the public meeting at which it votes to promulgate the amendment, or in a timely manner thereafter, vote to publish a request for comment on whether to make the amendment available for retroactive application;

(2) instruct staff to prepare a retroactivity impact analysis of the amendment, if practicable, and make such an analysis available in a timely manner to Congress and the public;

(3) hold a public hearing on whether to make the amendment available for retroactive application; and

(4) at a public meeting held at least 60 calendar days before the effective date of the amendment, vote on whether to make the amendment available for retroactive application.''.

(D) Public Comment and Priorities

Rule 4.3 is amended by adding at the end the following new paragraphs:

''Where appropriate, the Commission may divide a comment period into an original comment phase and a reply comment phase. For example, the Commission may divide a comment period of 60 calendar days into an original comment phase of 40 calendar days and a reply comment phase of 20 calendar days. Comments during a reply phase are limited to issues raised in the original comment phase.

Public comment received after the close of the comment period, and reply comment received on issues not raised in the original comment phase, may not be considered.''.

Rule 5.1 is amended by striking ''Publishing'' and inserting ''Legislative''; in the paragraph that begins ''The Office'' by adding at the end of the paragraph the following: ''As soon as practicable after the close of the comment period (or the comment phase, as applicable), public comment and public hearing testimony shall be made available to the public through the Commission's Web site.''; by striking ''pursuant to a solicitation'' and inserting ''pursuant to or in anticipation of a request for public comment''; and by adding at the end the following new paragraph:

''Where appropriate, the Commission may decline to make available public comment that is duplicative and may redact sensitive information from public comment.''.

Rule 5.2 is amended by inserting ''(a)'' before ''The Commission'' in the first paragraph; by striking ''tentative'' both places such term appears and inserting ''proposed''; and by adding at the end the following new paragraphs:

''(b) In setting its priorities, the Commission shall consider the impact of the priorities on available penal and correctional resources, and on other facilities and services. *See* 28 U.S.C. 994(g). The Commission shall also consider, among other factors, the number of defendants potentially involved and the potential impact.

(c) The Commission's priorities may include resolution of circuit conflicts, pursuant to the Commission's continuing authority and responsibility, under 28 U.S.C. 991(b)(1)(B) and *Braxton* v. *United States,* 500 U.S. 344 (1991), to resolve conflicting interpretations of the guidelines by the federal courts. The Commission will consider the following non-exhaustive list of factors in deciding whether a particular guideline circuit conflict warrants resolution by the Commission:

(1) potential defendant impact;

(2) potential impact on sentencing disparity;

(3) number of court decisions involved in the conflict and variation in holdings; and

(4) ease of resolution, both as a discrete issue, and in the context of other agenda matters scheduled for consideration during the available amendment cycle.

(d) There may be circumstances in which the Commission receives—before the comment period on the next year's priorities begins—a written submission from an outside party or a petition of a defendant under section 994(s) of title 28, United States Code *(see* Rule 5.6), that raises an issue more appropriately considered for the next year's priorities. In such circumstances, the Commission shall consider that issue when it sets the next year's priorities.''.

Part V is amended by adding at the end the following new Rule 5.6:

''Rule 5.6—Petitions Filed By Defendants Under Section 994(s)

Pursuant to section 994(s) of title 28, United States Code, a defendant may file a petition with the Commission requesting a modification of the guidelines used in sentencing that defendant. To be covered by section 994(s), the petition must be on the basis of changed circumstances unrelated to the defendant, including changes in (1) the community view of the gravity of the offense; (2) the public concern generated by the offense; and (3) the deterrent effect particular sentences may have on the commission of the offense by others. *See* 28 U.S.C. 994(s).

The Commission shall give due consideration to petitions covered by section 994(s) when it sets its priorities under Rule 5.2.''.

(E) Input From Outside Parties; ''Ex Parte'' Communications

Rule 5.4 is amended by striking the paragraph that begins ''In addition,''.

Part V is amended by inserting after Rule 5.4 the following new Rule 5.5:

''Rule 5.5—Outside Consultations and Ex Parte Communications

(a) From time to time, the Commission, individual Commissioners, and Commission staff may consult with outside parties representing judges, prosecutors, defense attorneys, crime victims, and other interested parties. The consultation may involve any matter affecting the Commission's business, including matters relating to the Commission's priorities.

(b) However, during the pendency of a proposed amendment:

(1) The Commission does not intend to solicit ex parte communications (*i.e.,* communications outside the public comment process) on the merits of the proposed amendment from outside parties, except where it can be done in an equitable manner.

(2) Outside parties should not make unsolicited ex parte communications on the merits of the proposed amendment to an individual Commissioner or to the Commissioners collectively.

(3) If any communication covered by subdivision (2) is received by an individual Commissioner or the Commissioners collectively, [and the communication involves significant information or argument on the merits,] the communication shall be treated as public comment and disclosed accordingly. If it is an oral communication, a summary of the communication shall be treated as public comment and disclosed accordingly.

[(c) Subsection (b) does not apply to communications with—

(1) an ex officio Commissioner or any person designated by an ex officio Commissioner as support staff for that Commissioner;

(2) Members of Congress, congressional staff, and legislative branch agencies;

(3) the Executive Office of the President; and

(4) Justices of the Supreme Court, federal judges, and the leadership staff of the Judicial Conference of the United States or its committees.]''.

(F) Use of Social Media Platforms

Rule 6.3 is amended in the heading by inserting after ''Internet Site'' the following: ''and Other Electronic Resources''; in the text by striking ''Web site'' both places such term appears and

inserting ''Web site''; and by adding at the end the following new paragraph:

''To the extent practicable, the Commission shall use a variety of electronic means to distribute public meeting notices and provide other information about the Commission. For example, the Office of Legislative and Public Affairs shall, where practicable and appropriate, use social media platforms (such as Twitter) and electronic distribution mechanisms (such as an email listserv). Information about these platforms and mechanisms shall be posted to the Commission's Web site.''.

(G) Clerical Changes

The Rules of Practice and Procedure are amended by inserting before Part I the following undesignated section:

''About the Commission

The United States Sentencing Commission is an independent agency in the judicial branch of government. Its principal purposes are:

(1) to establish sentencing policies and practices for the federal courts, including guidelines to be consulted regarding the appropriate form and severity of punishment for offenders convicted of federal crimes;

(2) to advise and assist Congress and the executive branch in the development of effective and efficient crime policy; and

(3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues, serving as an information resource for Congress, the executive branch, the courts, criminal justice practitioners, the academic community, and the public.''.

Rule 1.1 is amended by inserting a paragraph break before ''The Commission, an agency''; by inserting after ''Federal Advisory Committee Act'' the following: ''(5 U.S.C. App.)''; by striking ''Sunshine Act'' and inserting ''Government in the Sunshine Act (5 U.S.C. 552b)''; by inserting after ''Freedom of Information Act'' the following: ''(5 U.S.C. 552)''; and by inserting a paragraph break before ''Accordingly,''.

Rule 3.1 is amended by inserting after ''meetings.'' the following: ''*See* 28 U.S.C. 993(a).''.

Rule 3.4 is amended by inserting after ''business.'' the following: ''*See* 28 U.S.C. 995(a)(21).''.

Rule 4.2 is amended by inserting after ''public.'' the following: ''*See* 28 U.S.C. 994(g).''.

Rule 5.3 is amended by striking ''Publishing'' and inserting ''Legislative''.

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Part II

Department of Homeland Security

Coast Guard

46 CFR Part 69
Tonnage Regulations Amendments; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 69

[Docket No. USCG–2011–0522]

RIN 1625–AB74

Tonnage Regulations Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard amends its tonnage regulations to implement amendments to the tonnage measurement law made by the 2010 Coast Guard Authorization Act, codify principal technical interpretations, and incorporate administrative, non-substantive clarifications and updates. The Coast Guard believes these changes will lead to a better understanding of regulatory requirements.

DATES: This final rule is effective May 2, 2016.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2011–0522. To view public comments or documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Marcus Akins, Marine Safety Center, Tonnage Division (MSC–4), Coast Guard; telephone 202–795–6787, email *Marcus.J.Akins@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826, toll free 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

BLS Bureau of Labor Statistics
CFR Code of Federal Regulations
E.O. Executive Order
FR Federal Register
IMO International Maritime Organization
MSC Marine Safety Center
MSSC Marine Safety and Security Council
MTN Marine Safety Center Technical Note
NAICS North American Industry Classification System
NPRM Notice of Proposed Rulemaking
NVIC Navigation and Vessel Inspection Circular
OMB Office of Management and Budget
Pub. L. Public Law
§ Section Symbol
SBA Small Business Administration
U.S.C. United States Code

II. Regulatory History

We published a notice of proposed rulemaking (NPRM) on April 8, 2014 (79 FR 19420) in the **Federal Register**. This document invited public comment on proposed changes to the tonnage regulations to implement amendments to the tonnage measurement law made by section 303 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281, 124 Stat. 2924 (2010), referred to in this document as the 2010 Coast Guard Authorization Act), to codify principal technical interpretations issued by the Coast Guard, and to incorporate administrative, non-substantive clarifications and updates. We subsequently published a notice of public meeting on May 21, 2014 (79 FR 29149) and held the public meeting on June 5, 2014.

III. Basis and Purpose

The tonnage measurement law, codified in Title 46, United States Code (U.S.C.), Subtitle II, Part J, ''Measurement of Vessels,'' provides for assignment of gross and net tonnages to any vessel to which a law of the United States applies based on the vessel's tonnage. The 2010 Coast Guard Authorization Act included amendments which updated, clarified, and eliminated inconsistencies in the tonnage measurement law. Under the authority of 46 U.S.C. 14302, 14512, and 14522, and delegation of that authority to the Coast Guard in Department of Homeland Security Delegation No. 0170.1 para. 92(j), the Coast Guard administers the implementing regulations for the tonnage measurement law. The regulations are found in title 46, Code of Federal Regulations (CFR), part 69, ''Measurement of Vessels,'' and referred to as the tonnage regulations.

The purpose of this rule is to implement the changes made to the vessel measurement statutes by the 2010 Coast Guard Authorization Act. This rule also codifies principal policy interpretations, and incorporates additional clarifications and other administrative updates to the tonnage regulations.

IV. Background

In this final rule, we are amending 46 CFR part 69, ''Measurement of Vessels.'' These regulations are referred to as the ''tonnage regulations'' and provide for assignment of vessel gross and net tonnages and registered dimensions.

V. Discussion of Comments and Changes

A. Comments

We received comments on the NPRM from six individuals or entities through submissions to the online docket. We heard from one person whose affiliation or occupation was not disclosed, one naval architect, one shipbuilder, one owner-operator of offshore vessel services, and two industry associations. We received no oral or written comments on the NPRM at the public meeting. A summary of the comments that we received follows, along with our resolution to each.

1. One commenter requested that the Coast Guard clarify the rule with regards to when the owner may, or must, use Convention Measurement System or Regulatory Measurement System tonnage to determine applicability of an international requirement.

While we acknowledge the usefulness of including more detailed information in the regulation on how assigned tonnages are used, we believe that this could result in an overly detailed regulation that would be difficult to keep up to date. We believe that the new section on tonnage applicability, included in the regulatory text, strikes the correct balance between providing limited information on the use of tonnage, as is the case with the existing regulations, and providing extensive detail on the large number of individual tonnage thresholds that appear in international agreements and other laws of the United States.

2. One commenter expressed concern that, absent a clarification from the

Coast Guard, the terminology ''vessel that engages on a foreign voyage'' could have the effect of broadening the universe of vessels for which Convention Measurement System tonnage must be used to apply international requirements. The commenter cited the distinction between a vessel that is currently engaged on an international voyage and one that is currently engaged on a domestic voyage but also engages on international voyages from time to time.

We disagree and believe the regulatory text in question, as drafted, does not affect how assigned tonnages are used when applying tonnage-based requirements. The regulation comes into play only in determining whether a vessel must be measured under the Convention Measurement System and, if so, whether an International Tonnage Certificate (1969) must be carried onboard. If a U.S. flag vessel of 79 feet or more in length, regardless of keel-laid date, is engaged on a domestic voyage but also engages on foreign voyages from time to time, then Convention measurement is required. However, whether or not the assigned Convention tonnage is used when applying international agreements depends on tonnage applicability language in those agreements. The regulatory text in question only clarifies that requirements for Convention measurement apply at all times to such vessels, and are not exclusively limited to those times when such vessels are engaged on a foreign voyage.

The language in the rule is substantially the same as it is defined in the statute in 46 U.S.C. 14101. We are not permitted to enlarge or reduce the language that is in U.S. statute.

3. One commenter requested that the tonnage regulations clearly pronounce the preclusion from measurement under the Regulatory Measurement System of certain foreign flag vessels.

We know of no practical way to add this single pronouncement without substantively restructuring and expanding the regulatory text to identify other preclusions related to measurement system applicability. For example, whether or not a particular tonnage measurement system applies to a vessel can depend on a number of factors, including the vessel's flag, length, voyage type, keel laid or substantial alteration date, and whether or not it is self-propelled. Our Navigation and Vessel Inspection Circular (NVIC) 11–93 Change 3, ''Applicability of Tonnage Measurement Systems to U.S. Flag Vessels,'' presents this kind of information using a matrix approach that cross-references eight different tables, with each table listing applicable requirements and restrictions. We believe that presenting information in this fashion, while potentially helpful in explaining the requirements, is not suited for inclusion in the tonnage regulations, especially in an expanded form to address foreign flag vessels. Accordingly, we have not incorporated any corresponding change to the regulatory text.

4. One commenter requested changes to the tonnage regulations to make clear that a foreign flag vessel engaged on a foreign voyage between places outside of the United States is effectively outside the jurisdiction of United States law.

We agree that where laws of the United States, including obligations under international agreements, do not apply to a vessel, tonnage measurement requirements under U.S. law similarly do not apply, as in the case the commenter cited. However, along the same lines as our response to the previous comment, we believe that the regulation, as drafted, is sufficiently clear to cover this case, especially in view of the language in §§ 69.3 and 69.11, as amended by this rulemaking, that addresses when tonnage measurement under U.S. law is required.

5. One commenter took issue with the amendment to § 69.17 clarifying that the vessel owner is responsible for submitting applications for measurement. The commenter cited difficulties in identifying the owner in certain cases where, for vessels under construction, ownership may reside in contractual relationships between the yard, prospective owners, and lien holders.

We believe the clarification regarding vessel owner responsibility is appropriate, as the tonnage measurement law and existing regulations provide for owners to exercise certain measurement options. However, we recognize that identifying the specific individual or entity who owns the vessel may be especially problematic early in the construction process, when the current regulation requires application submission. Accordingly, we have amended the associated regulatory text to replace the term ''must'' with the term ''should'', so that early application submission is recommended, rather than mandatory.

6. One commenter stated that portable enclosed spaces should not be included in a vessel's tonnage, as they effectively serve the function of deck cargo, which is similarly not included. The commenter described the unique mission requirements of offshore support vessels, noting that they frequently involve the fitting of equipment used to service offshore energy exploration and production facilities and other infrastructure that do not usually form a permanent part of a vessel's structure. The commenter argued that an offshore support vessel transporting such items was equivalent to a cargo ship transporting deck cargo, and proposed possible mechanisms for evaluating the point at which such installations could be treated as permanent additions to the vessel.

We disagree. Fundamentally, the question of whether or not a space should be included in a vessel's tonnage depends on whether the enclosed volume in question is treated as part of the vessel. With limited exceptions, national and international measurement systems dating to at least the 18th century have not treated deck cargo as part of the vessel, with deck cargo generally taken to mean freight carried on the weather decks for the purpose of its transport between two separate and distinct locations. Under this historical framework, the relatively recent adaptation for shipboard use of portable quarters units, equipment vans and similar portable spaces that all function as part of the vessel, even for periods of short duration, argues for their treatment as part of the host vessel, as opposed to deck cargo.

7. Two commenters expressed the view that the Convention does not provide for including portable enclosed spaces in tonnage, and therefore, such spaces should not be included under the Convention Measurement System.

While we agree that the matter of portable enclosed spaces is not explicitly addressed in the Convention, we interpret Regulation 2(4) of the Convention to require including their volumes in tonnage, unless they are effectively open to the weather and meet other conditions for treatment as excluded spaces. We consider the side boundaries of portable enclosed spaces to be analogous to the ''portable partitions'' described in this regulation. Further, we believe that Article 2 of the Convention, which defines gross tonnage as a measure of the vessel's overall size, supports this interpretation. Accordingly, we maintain that portable enclosed spaces should be accounted for in a similar manner to enclosed spaces that are part of the vessel's permanent structure, when assigning vessel tonnage under the Convention Measurement System.

8. One commenter stated that other governments do not include portable enclosed-space volumes in tonnage, and therefore, requested that the tonnage

regulations be amended to align with internationally agreed-to requirements on this subject.

We disagree with the requested amendment. We are aware that some governments do not, in general, include the volumes of such spaces in tonnage, although we know of no reliable source of information on how the 156 governments currently party to the Convention treat these spaces. However, we note that during recent correspondence group work at the International Maritime Organization (IMO), the United States was among the majority of those governments that include these volumes in tonnage (see Table 1–4 of Annex 2 to IMO document SDC 1/INF.4 dated October 18, 2013), although international consensus was not obtained on this matter. In addition, we are unaware of any explicit internationally agreed-to requirements, or even guidance, on this subject. IMO recently considered tonnage implications of portable enclosed spaces (referred to as ''temporary deck equipment'' in IMO documents based on U.S. terminology at the time), but did not address this matter in the updated interpretations of TM.5/Circ.6 dated May 19, 2014 (see Annex 4 to IMO document SDC 1/4 dated October 18, 2013).

9. One commenter expressed the view that including portable enclosed spaces in tonnage under the Standard and Dual Regulatory Measurement Systems appears fair, but only in cases where these items serve as long-term fixtures aboard the vessel. However, the commenter cautioned that such treatment could be especially problematic for certain fixtures (*e.g.,* survival craft or a submersible on a mother ship).

We believe that the operative statutory language for the Standard and Dual Regulatory Measurement Systems supports including such spaces in tonnage, without regard to the duration of their installation on board. Whether or not a portable enclosed space is included in tonnage under these systems should depend on whether the space is permanently closed-in (*e.g.,* the bounding structure itself is of a permanent, rather than a temporary, nature), as opposed to whether it is permanently installed on the vessel. Accordingly, we maintain that the duration of installation has no bearing on a vessel's tonnage assignment. Also, we note that the Coast Guard treats survival craft and submersibles as separate vessels under the tonnage regulations, and their volumes are not included in the tonnages of the host vessels.

10. Two commenters expressed concern over the impact of including portable enclosed spaces in tonnage with regard to remeasuring a vessel following the installation or removal of such items, with both contending that this is especially problematic for vessels close to tonnage thresholds. One commenter noted that the Coast Guard is not codifying the related remeasurement criteria in this rulemaking.

We currently apply a volumetric remeasurement criterion following vessel changes exceeding 5 percent of the vessel's tonnage, which includes installation and removal of portable enclosed spaces (see NVIC 11–93, Change 3). This allows the installation and removal of many such items without the need for remeasurement. Also, beginning in 1997, we authorized a maximum allowance for such items, which is reflected in a vessel's assigned tonnage. This avoids the need to remeasure the vessel following the installation or removal of portable enclosed spaces, provided the maximum allowance is not exceeded. Based on the valuable information exchanged on this subject during the recent IMO work on the Convention, we continue to believe this approach offers the best way to account for the presence of these spaces, consistent with the Convention and the tonnage measurement law. This does not affect our long-standing use of the 5 percent criterion, and as such our policy on that issue remains consistent.

11. One commenter requested that the issue of enforcement be addressed with respect to the installation and removal of portable enclosed spaces, as it may not be obvious to owners and operators that such changes could impact tonnage assignments.

As stated in the NPRM, one of our objectives in codifying principal policy interpretations was to facilitate understanding of, and compliance with, the tonnage regulations. We believe that the codification of the interpretations related to portable enclosed spaces, coupled with our continued use of a 5 percent remeasurement criterion, will reduce those situations where an enforcement action is necessary.

12. One commenter highlighted terminology differences between the definition ''portable enclosed space'' and the term ''temporary deck equipment'' used in previous policy documents, noting that the term ''not permanent'' in the NPRM's regulatory text, as drafted, significantly differed from the term ''semi-permanent'' used in policy. The commenter questioned whether the changes were intended to constitute a substantive amendment to the language.

While we acknowledge the differences between the text in policy documents and the codified regulatory text, as drafted, we believe that the codification makes no substantive changes. When we developed the proposed definitions for the terms ''deck cargo'' and ''portable enclosed space'' that appeared in the NPRM, we made adjustments to the policy text for clarity and to better harmonize the definitions. These adjustments included avoiding the use of the term ''temporary,'' which like the term ''semi-permanent,'' can be construed in a variety of ways unless accompanied by amplifying text, and omitting the example of the portable aviation fuel (''JP–5'') tank that is treated as either deck cargo or part of the vessel, depending on whether it is offloaded with its contents intact. Instead, we use more general and, in our view, clearer language in the ''deck cargo'' and ''portable enclosed space'' definitions, which we believe has the same effect as the language used in current policy.

13. Two commenters expressed the view that portable enclosed spaces should not be classified as superstructure spaces under the tonnage regulations, as the term ''superstructure'' has a different meaning in other maritime contexts (*e.g.,* it can refer only to permanent structures, and/or only structures that extend from side-to-side).

Although we recognize the benefits of using consistent, universally understood terminology in the tonnage regulations, in this instance we are unaware of any term widely used in the maritime industry that effectively encompasses all manner of above-deck enclosed spaces that are not bounded by the hull. Further, since 1989, when the tonnage regulations were amended to adopt the term ''superstructure'' to describe such spaces, we are unaware of any instance where using this term resulted in a vessel designer or measurement organization incorrectly applying the tonnage rules. Accordingly, we made no changes to the regulatory text, as drafted, in this regard.

14. One commenter stated the new term ''water ballast double bottom'' appears unnatural, and suggested that the term ''double bottom (water) ballast tank'' be used instead.

We agree that the term in the proposed regulatory text, as drafted, could be improved upon for the reason stated. Because the term is applied only when measuring a vessel for which the vessel's double bottom is solely used for water ballast, we believe the suggested

reference to ballast tanks is unnecessary, and could cause confusion. Accordingly, we have revised the regulatory text to replace the term ''water ballast double bottom'' with the term ''double bottom for water ballast,'' which we believe adds clarity while satisfactorily addressing the commenter's stated concern.

15. One commenter stated that the proposed regulatory text for the codified interpretation on passenger support spaces could not be found.

The draft text in question was inadvertently omitted from the NPRM during the regulatory development process. In view of the fact that these amendments were fully described in the NPRM, accounted for in its Regulatory Analyses section, and were not the subject of any other comment, we incorporated amendments to add the missing text in 69.117(c)(2) of the final rule. The added text is from the policy document, without change (see Section 69.117(c)(2) of Marine Safety Center Technical Note (MTN) 01–99 Change 7, ''Tonnage Technical Policy'').

16. One commenter urged the Coast Guard to amend the size criteria for the treatment of ordinary frame openings being codified in this rulemaking. Specifically, the commenter requested an exception be made to the specified criteria under certain circumstances, to allow the fitting of larger frame openings without a corresponding increase in the vessel's tonnage. This change would allow for improved access of personnel through the frames for rescue operations, consistent with current classification society and international rules that apply in similar situations. Another commenter expressed support for the main points raised in this comment.

We disagree with the requested exception to the size criteria. The criteria are historically rooted, with their origins dating to the early 20th century, and are based, at least in part, on the concept of impeding movement of personnel and cargo through the frame. We also believe that the magnitude of the requested size increase (more than doubling the effective opening area) could have a significant effect on tonnage assignments of both present vessels and future vessels measured or remeasured under the Standard and Dual Regulatory Measurement Systems. Finally, while we acknowledge the safety benefits of larger openings for rescue operations, it is not clear that such a departure from long-standing practice and policy would have a net positive impact on aggregate safety of U.S flag vessels, as the relaxation of opening restrictions could facilitate the construction of larger vessels regulated to lower tonnage-based standards.

17. One commenter stated that by not revising the criteria for measurement treatment of openings consistent with current classification society and international rules, the Coast Guard is forcing an owner to choose between accepting a higher tonnage, or building a smaller, less capable, vessel with the same tonnage.

We disagree. Under the Standard and Dual Regulatory Measurement Systems, designers have wide latitude in incorporating a multitude of design features that serve to artificially reduce a vessel's tonnage. While the undesirability of some of these features from a cost and efficiency perspective has long been recognized, their use has generally been accepted by the U.S. maritime community, and is common practice. The tonnage regulations, as amended, will not preclude a designer from taking advantage of these features to reduce a vessel's tonnage to the desired tonnage objective, while simultaneously meeting tank access and other safety requirements. The use or non-use of numerous features that can effectively reduce a vessel's tonnage is the designer's, and ultimately the owner's, choice.

18. One commenter stated that the ordinary frame opening size criteria being codified are arbitrary. In seeking relaxed criteria, the commenter also stated that there is precedent for increasing the minimum opening size.

We disagree with the commenter's characterization of the size criteria as arbitrary, and we describe the basis of the size criteria in our response to Comment 16. However, from our review of this matter, we concluded that the criteria for the measurement treatment of oval openings, first established by the Coast Guard in 1988 but limited to fuel tanks, could be applied to such openings in other locations, subject to certain restrictions to maintain the principle of impeding personnel and cargo movement. We have amended the regulatory text accordingly. While this does not provide the same degree of relaxation sought by the commenter, it gives designers additional flexibility to fit somewhat larger oval openings in more locations, without tonnage penalty.

19. One commenter questioned the Coast Guard's legal authority to codify size criteria for the treatment of ordinary frame openings that differ from criteria in classification society rules and international standards that provide for larger ''rescue openings'' in vertical bulkheads. The commenter claimed that codifying these criteria will reduce safety.

The Secretary of the department in which the Coast Guard is operating may—and in some cases, must—issue rules and regulations to implement certain statutes. The vessel measurement statutes mandate that the ''Secretary shall measure a vessel to which this chapter applies'' as per 46 U.S.C. 14302 and 46 U.S.C. 14502. The Secretary has delegated this authority to the Coast Guard.

This rule is not in conflict with the classification society rules or international standards. It does not prevent the placement of larger openings in bulkheads in the cargo area. However, if these larger openings are present, we recognize that a potential tonnage reduction benefit is lost. That is the present situation, and it is unaffected by this rule. The effect of fitting the larger openings could be to raise the vessel's Regulatory Measurement System tonnage, potentially making the vessel subject to more stringent safety measures that apply to larger vessels. That indirect safety consequence is, in fact, why many maritime rules and standards are tonnage-based.

Assigned tonnages are measures of a vessel's overall size and/or useful capacity. It is true that certain provisions of the U.S. Regulatory Measurement System can be used to an owner's benefit to reduce a vessel's tonnage, as the commenter suggested. However, design features from such provisions are generally not taken into account by classification society rules or international standards. Likewise, classification society rules and international standards are generally not taken into account by the tonnage regulations. To that extent, the commenter's suggestion that these regulations be amended to reflect classification society rules and international standards is beyond the scope of this rulemaking.

These rules are not intended to change any of the present Coast Guard policies in effect, except those changes required by the 2010 Coast Guard Authorization Act. There is no suggestion in the comment that present policy is not being applied consistently by the Coast Guard. As this rule merely codifies that policy into regulation, this rule maintains the status quo. See the response to Comment 22, below, for further discussion of the cost implications of this rule.

20. Two commenters expressed the view that the tonnage measurement rules should not be at odds with safety-related standards or other requirements.

While acknowledging this view, we note that the tonnage parameters assigned under the measurement rules of the Convention and Regulatory Measurement Systems are size parameters, based on a vessel's geometry and the use of its spaces. There is currently no language in U.S. law that would allow tonnage measurement rules to be modified for consistency with other rules unrelated to tonnage measurement. We are not aware of any conflict between the safety standards and tonnage rules; however, as discussed in our response to the next comment, vessel design features required for compliance with safety standards are still subject to tonnage measurement rules.

21. One commenter requested a new section be added to the tonnage regulations, expressing the fundamental principle that safety-related improvements not be subject to tonnage penalty.

We disagree. Assigned tonnages are used by numerous public and private sector entities for a variety of purposes, including the application of tonnage-based safety, security and environmental protection regulations and standards; the crediting of seafarers for service on vessels depending on their tonnage; and the assessment of taxes and other fees. Consequently, a safety improvement that added considerable volume but was exempted from tonnage might allow the modified vessel to escape more stringent size-based standards that would otherwise apply, and could adversely impact seafarers earning credit for sea service and others who might otherwise benefit from a higher tonnage assignment. Absent any mandate under U.S. law, it would be inappropriate for the Coast Guard to amend the tonnage regulations in the manner requested.

22. Two commenters took issue with the NPRM's ''no cost'' characterization of the codified interpretation related to the treatment of portable enclosed spaces, expressing a general concern that there would be costs. Similarly, another commenter expressed disagreement with the ''no cost'' characterization of the codified interpretations related to ordinary frame opening size, citing significant cost impacts should the current criteria continue to be applied.

We acknowledge the concerns raised by the commenters, but believe that the NPRM correctly characterized the codification of these long-standing and frequently applied interpretations as ''no cost.'' These interpretations appear in publicly available policy documents, used by Coast Guard field personnel and organizations that perform tonnage measurement work on the Coast Guard's behalf. Codifying the interpretations should give vessel owners better access to important information upon which to base business decisions that are tonnage related, and could help avert costly impacts from tonnage assignments that do not meet owners' objectives.

We are not aware of any specific instance in which the interpretations are not being followed due to the lack of their codification in the regulations, and the commenters did not identify any specific instance. The Coast Guard makes its interpretations available to authorized measurement organizations and other stakeholders, and conducts a rigorous oversight program, including audits of tonnage certifications, to ensure these interpretations are correctly applied. Our discussion in this section explains why we believe there is no cost to codifying the interpretations in regulation.

With respect to the ordinary frame opening size, the commenter acknowledges that the present interpretation ''continues to be enforced'' and is not new or sporadically applied. As we discussed in Comment 16 above, the size criteria are long-standing and rooted in the origins of tonnage measurement. This rule merely codifies the status quo. And, as we discussed in Comments 17 and 19 above, the commenter's position on vessel design options conflates the Regulatory and Convention Measurement Systems to give the appearance of conflict when there is none.

The commenter requests that the rescue opening requirements in international safety conventions such as SOLAS be applied in a manner that does not adversely affect tonnage assignments under our national tonnage rules. However, vessels of 79 feet or more in length that comply with SOLAS in order to engage in international voyages must also have a Convention tonnage measurement; under the International Tonnage Convention the spaces in question would be included in tonnage because the vessel's Convention tonnage is based on its total enclosed volume, not just the volume bounded by the framing. Therefore, a vessel owner may elect to take advantage of tonnage reduction options under the U.S. Regulatory Measurement System, understanding that the limited opening size that is part of this system may conflict with opening size requirements necessary to overseas trade. This design choice is not new, and the considerations weighed when making this choice are not changed by this rule. We acknowledge that vessels subject to various international requirements must have openings of a certain size, but as a matter of domestic law we neither require nor prevent installation of these openings: The vessel owner may choose.

With respect to portable spaces, existing statute and regulation provide for remeasurement if the vessel or the use of its space is changed.[1] As we described in Comment 10, two current policy provisions help minimize the need for remeasurement. First, we apply a volumetric change threshold of 5 percent for remeasurement, which includes the addition and removal of portable spaces. Second, we authorize a maximum allowance for portable spaces in a vessel's tonnage assignment. This allows for the addition and removal of portable spaces without remeasurement as long as the specified maximum tonnage is not exceeded.

The Coast Guard's current interpretation, which provides for inclusion of portable spaces as we describe in Comments 6 through 13 above, is long-standing and is understood by all authorized measurement organizations. If owners are not contacting authorized measurement organizations prior to changes involving portable spaces, they may be violating 46 CFR 69.19(a). The other possible source of costs would be owners who do contact an authorized measurement organization as required, are informed that the vessel does need to be remeasured due to changes involving portable spaces, but then fail to have it remeasured. We reached out to authorized measurement organizations to inquire about this possibility, but did not learn of any such communications.

To summarize, this final rule codifies current, long-standing interpretations, including provisions for portable spaces and frame openings. Although we received comments related to compliance with these two interpretations, public comments did not indicate that the codification of tonnage interpretations would affect the current compliance level. As such, we conclude that while this rulemaking does not provide relief for current business concerns, it also does not impose additional regulatory costs.

23. One commenter expressed preference for the regulatory alternative discussed in the NPRM of codifying all published Coast Guard interpretations in the tonnage regulations, and not just

[1] 46 U.S.C. 14504(a)(2) (''To the extent necessary, the Secretary shall remeasure a vessel to which this chapter applies if . . . the vessel or the use of its space is changed in a way that substantially affects its tonnage.''); See also 46 CFR 69.19(a).

the principal interpretations as we proposed in the NPRM. This commenter stated that interpretations characterized as ''vague'' and ''flexible'' have given rise to a consulting niche known as ''tonnage experts'' and that the Coast Guard refers requests for interpretations to authorized measurement organizations, rather than issuing uniform interpretations.

We acknowledge the commenter's stated preference and characterization of published interpretations, but do not find the commenter persuasive in arguing for codifying all interpretations. We exercise considerable care when developing such interpretations, which involves a comprehensive review of all related decisions, rulemakings, legislative history, international interpretations and similar documents. Consequently, once published, the interpretations are not substantively changed, although they may be updated or expanded upon to address new situations that arise. Further, although we routinely refer owners to the measurement organizations for detailed design reviews as part of the tonnage measurement process, the measurement organizations do not have the authority to interpret the tonnage regulations on the Coast Guard's behalf. Accordingly, we believe that the regulatory approach we are using best serves the public interest, by facilitating our timely publication of interpretations while avoiding compliance difficulties with an overly detailed regulation.

24. One commenter requested an additional public meeting specifically to address two changes in the NPRM — the proposed new tonnage applicability section, and the proposed new section on treatment of novel type vessels under the Simplified Measurement System. This commenter cited general concerns with the policy upon which the new tonnage applicability section is based, and the need to discuss the matter of novel type vessels, taking into consideration related IMO work. The commenter also requested a public meeting prior to any interim rulemaking.

We believe that we provided sufficient opportunity for public input on these sections. This includes our explanation of them and invitation for comments at the public meeting held on June 5, 2014. As reflected in the meeting synopsis available in the docket, no such concerns were raised. Further, we see no need for an interim rulemaking. Accordingly, and in view of the nature of the other comments we received, we believe that the requested additional public meetings were not warranted, and would have unnecessarily delayed issuance of this final rule.

B. Additional Changes

In the paragraphs below, we discuss additional changes to the NPRM's proposed regulatory text, which we identified when developing this final rule, along with the reasons for implementing these changes. These changes do not result in any new requirements substantively different from those in the NPRM.

We organized the discussion according to the section number in which each change will appear in the finalized regulatory text. Changes of a strictly clerical nature are not discussed.

§ 69.9 Definitions

To facilitate understanding of the tonnage regulations, we revised the regulatory text to include the new term ''Formal Measurement System,'' which is used in the tonnage measurement law to describe Standard and Dual measurement. We included Convention measurement in this definition, to allow for differentiation between those measurement systems that employ a detailed computational method using measurements of the entire vessel (*i.e.,* the Convention, Standard, and Dual Measurement Systems) and the Simplified measurement, which employs a simple computational method using hull dimensions as the principal inputs. For clarity and completeness, we also revised the NPRM's proposed new definition for the term ''remeasurement'' to reflect that remeasurement includes assigning tonnages or registered dimensions under a different measurement system. This is consistent with the use of this term in the tonnage measurement law and Coast Guard policy.

§ 69.11 Determining the measurement system or systems for a particular vessel

To facilitate understanding of the tonnage regulations, we revised the regulatory text to include the new term ''Formal Measurement System'' when referring to the Convention, Standard, and Dual Measurement Systems. We also added the parenthetical phrase ''(except a vessel that engages on a foreign voyage)'' in the paragraph addressing applicability of the Convention Measurement System to older U.S. flag vessels. This phrase was inadvertently omitted during the regulatory development process, and is necessary to ensure the regulatory text has the same effect as provided for by the tonnage measurement law, and the existing tonnage regulations. Additionally, for clarity we removed the regulatory text regarding voyage types for Simplified measurement of non-self-propelled and pleasure vessels. The tonnage measurement law provides for such measurement without regard to voyage type.

§ 69.17 Application for measurement services

For clarity and completeness, we revised the regulatory text to distinguish between Formal measurement services, which are provided by authorized measurement organizations, and Simplified measurement services, which are provided by the Coast Guard. The revised text identifies where Simplified measurement applications may be obtained, and refers to the appropriate section of the tonnage regulations for requirements on their disposition.

§ 69.19 Remeasurement

For consistency with the changes to § 69.11 described above, we revised the regulatory text to distinguish between reporting requirements for vessels requiring Formal, as opposed to Simplified, measurement services.

C. Change Summary

Table 1 summarizes the changes to the NPRM's proposed regulatory text made in this final rule, along with the additional changes we made when finalizing the rule excepting those of a strictly clerical nature. The table indicates the type of, and reason for, each change. Except as noted in Table 1, we adopted as final all changes proposed in the NPRM.

TABLE 1—SUMMARY OF CHANGES

Description of change	Reason for change
Subpart A-General	
69.9 Definitions	
Adds the new tonnage measurement term ''Formal Measurement System''	Facilitates understanding of the regulations.
Revises the definition for the term ''remeasurement'' to address measurement under additional systems	Clarity and completeness.
§ 69.11 Determining the measurement system or systems for a particular vessel	
Revises the section to incorporate the term ''Formal Measurement System'' when referencing the related systems. Adds the omitted parenthetical phrase ''(except a vessel that engages on a foreign voyage)'' and amends language to clarify that Simplified measurement is not dependent on voyage type.	Facilitates understanding of the regulations.
§ 69.17 Application for measurement services	
Revises the section to distinguish between Formal and Simplified measurement services	Clarity and completeness.
Amends the requirements to make early submission of applications recommendatory, rather than mandatory.	Response to comment.
§ 69.19 Remeasurement and adjustment of tonnage	
Revises the section to distinguish between Formal and Simplified measurement services	Clarity and completeness.
Subpart C—Standard Regulatory Measurement System	
§ 69.103 Definitions	
Replaces the term ''water ballast double bottom'' with the term ''double bottom for water ballast''	Response to comment.
§ 69.109 Under-deck tonnage	
Replaces the term ''water ballast double bottom'' with the term ''double bottom for water ballast''.	Response to comment.
Revises the criteria related to the measurement treatment of oval-shaped frame openings	Response to comment.
§ 69.117 Spaces exempt from inclusion in tonnage	
Adds the regulatory text on treatment of passenger support spaces, which was inadvertently omitted in the NPRM.	Response to comment.

VI. Regulatory Analyses

The Coast Guard developed this rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866, Regulatory Planning and Review, and 13563 Improving Regulation and Regulatory Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

A final regulatory assessment follows. This assessment replicates the regulatory assessment of the NPRM except for changes to reflect amendments to the NPRM's regulatory text made by this final rule, as summarized in Table 1.

We received comments on economic impacts only for the provisions relating to portable enclosed spaces and openings in ordinary frames. In previous discussions of Comment 22 in section V.A., we respond to these comments and explain our rationale for maintaining the ''no cost'' characterization for these two provisions. We have no information from either comments or other sources to lead us to change our ''no cost'' assessment for the other codification provisions. We retain our ''no cost'' determination from the NPRM.

The primary objective of the final rule is to implement amendments to the tonnage measurement law made by the 2010 Coast Guard Authorization Act. One amendment precludes the owner of a foreign flag vessel of 79 feet or more in length that engages solely on U.S. domestic voyages from obtaining a future measurement under the Regulatory Measurement System, with an exception allowed for a Canadian flag vessel operating solely on the Great Lakes. The remaining amendments eliminate inconsistencies and incorporate clarifications or updates that are either consistent with long-standing Coast Guard policy or reflective of current Coast Guard practice.

In addition, the Coast Guard seeks to facilitate understanding of, and compliance with, existing tonnage regulations by codifying principal technical interpretations that have been issued by the Coast Guard to keep pace with developments in vessel designs. These interpretations are included in Coast Guard policy documents made available to the public via Coast Guard

Web sites, and are used by authorized measurement organizations that perform tonnage work on the Coast Guard's behalf.

Table 2 provides a summary of the rule's costs and benefits.

TABLE 2—SUMMARY OF THE RULE'S IMPACTS

Category	Summary
Applicability	U.S. and foreign flag vessels to which a law of the United States applies based on vessel tonnage.
Affected Population	Vessels that will be initially measured or remeasured under the tonnage regulations, estimated at 10,000 vessels per year.
Cost Impacts	No additional costs as changes are consistent with current practice or policy.
Non-quantified Benefits	Adds flexibility to use foreign flag tonnages. Clarifies tonnage measurement requirements. Facilitates understanding of regulations, leading to more effective and efficient tonnage certifications.

Affected Population

The tonnage regulations, as amended by this rule, apply to all U.S. and foreign flag vessels to which the application of a law of the United States depends on the vessel's tonnage. Once assigned initially, tonnages remain valid until a vessel changes flag, or undergoes a change that substantially affects its tonnage.

Because none of the changes are retroactive, the population potentially affected by this rulemaking is limited to vessels that will be measured in the future, including those remeasured following alterations, modifications, or other changes substantially affecting their tonnage. The Coast Guard estimates this population to be approximately 10,000 vessels each year, based on the 8,615 simplified measurement applications and 386 formal measurement applications submitted annually, and our estimate of approximately 1,000 additional vessels that are measured annually without the submission of a measurement application.[2]

Cost Impacts

Table 3 details 117 changes to the tonnage regulations in the rule, with an assessment of the cost impacts of each change. A summary follows:

- The single change to implement the statutory amendment that precludes certain foreign flag vessels of 79 feet or more in length from being measured under the Regulatory Measurement System could potentially prevent operation of a future vessel in a similar manner to that of currently operating vessels. No such vessels have been brought into service within the last 10 years. Further, other options to operate similar vessels (*e.g.,* under U.S. flag) are available. Thus, no cost impact from this change is expected.
- The six remaining changes needed for statutory alignment are consistent with current Coast Guard interpretations or industry practice, and will not result in any additional cost as described in the following table.
- The 26 changes related to codification of principal Coast Guard technical interpretations will result in no additional cost, because the interpretations have been used for tonnage work for multiple years.
- The 84 changes labeled ''Administrative'' are of a non-substantive nature and merely provide clarity and will not result in any additional cost.
- As noted in the resolution to Comment 22 in section V.A., we concluded that this final rule is cost neutral. Accordingly, we retain our ''no cost'' determination from the NPRM for this final rule.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE

Description of change	Type of change	Cost impact
Subpart A—General		
§ 69.1 Purpose		
Eliminates the disparate treatment of documented and undocumented U.S. flag vessels.	Mandatory statutory alignment	No cost. Consistent with policy in effect since 1993 (NVIC 11–93).
Expands the explanation of the use of tonnage to include environmental and security purposes.	Administrative: Clarification on tonnage usage.	No cost.
Relocates the descriptions of each measurement system to the corresponding definitions in § 69.9.	Administrative: Editorial change to improve usability.	No cost.
§ 69.3 Applicability		
Expands the scope to apply to foreign flag vessels	Mandatory statutory alignment	No cost. Consistent with Coast Guard practice since the 1986 amendments to the tonnage measurement law.
Removes the 5 net ton minimum size restriction	Administrative: Clarification that statutory requirements for measurement apply to vessels of all sizes.	No cost. Consistent with policy in effect since 1993 (NVIC 11–93).

[2] Refer to Collection of Information 1625–0022 for more comprehensive information on measurement application submissions. The Coast Guard does not collect information on measurement of vessels for which measurement applications are not submitted, but estimates that on the order of 1,000 such vessels are measured per year based on the number of inquiries received by the Marine Safety Center from the public and Coast Guard field units.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
§ 69.5 Vessels required or eligible to be measured		
Deletes section to align with revised § 69.3	Administrative: Editorial realignment.	No cost.
§ 69.7 Vessels transiting the Panama and Suez Canals		
Deletes requirement for vessels transiting the Panama and Suez Canals to be measured under the respective Panama and Suez Canal measurement systems.	Administrative: Update to reflect lack of Coast Guard responsibility for canal measurements, consistent with statutory changes.	No cost.
§ 69.9 Definitions		
Adds definitions for certain tonnage measurement terms	Administrative: New definitions	No cost.
Revises existing definitions for certain tonnage measurement terms	Administrative: Clarifications and updates.	No cost.
Changes the term ''vessel engaged on a foreign voyage'' to ''vessel that engages on a foreign voyage''.	Mandatory statutory alignment	No cost. Consistent with current practice.
§ 69.11 Determining the measurement system or systems for a particular vessel		
Eliminates the disparate treatment of documented and undocumented U.S. flag vessels.	Mandatory statutory alignment	No cost. Consistent with policy in effect since 1993 (NVIC 11–93).
Precludes certain foreign flag vessels of 79 feet or more in length from being measured under the Regulatory Measurement System.	Mandatory statutory alignment	No cost. Not retroactive. No such foreign vessels have been brought into service using the regulatory measurement system in recent years.
Relocates ''how tonnage thresholds are applied'' language to § 69.20	Administrative: Editorial change	No cost.
Establishes new nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Amends language to clarify that Simplified measurement is not dependent on voyage type.	Administrative: Clarification	No cost.
§ 69.13 Deviating from the provisions of a measurement system		
Requires authorized measurement organizations to observe Coast Guard interpretations of the tonnage measurement law and regulations.	Administrative: Clarifies the extent of measurement organization authority.	No cost. Consistent with written agreements with measurement organizations, and policy in effect since 1998 (see MTN 01–98 and MTN 01–99).
Identifies that Coast Guard interpretations may be obtained from the Marine Safety Center.	Administrative: Facilitates public access to interpretive documents.	No cost.
Allows grandfathering of superseded tonnage measurement rules	Administrative: Facilitates transition to codified interpretations.	No cost. Precludes mandatory retroactive application of codified interpretations.
§ 69.15 Authorized measurement organizations		
Establishes new nomenclature consistent with revisions to § 69.9 and § 69.11.	Administrative: Editorial change	No cost.
Deletes information that is repeated in the regulations or is available elsewhere.	Administrative: Editorial change	No cost.
§ 69.17 Application for measurement services		
Identifies that the vessel owner is responsible to apply for vessel measurement or remeasurement.	Administrative: Clarification consistent with current practice.	No cost.
Omits reference to boiler installation as indicator of stage of vessel construction.	Administrative: Update to reflect decreasing use of steam propulsion.	No cost.
Distinguishes between Formal and Simplified measurement services	Administrative: Clarification and update.	No cost.
Provides for early submission of applications to be recommendatory, rather than mandatory.	Administrative: Update	No cost.
§ 69.19 Remeasurement and adjustment of tonnage		
Clarifies circumstances under which a vessel must undergo remeasurement.	Administrative: Clarification	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
Distinguishes between Formal and Simplified measurement services ..	Administrative: Clarification and update.	No cost.
§ 69.20 Applying tonnage thresholds		
Provides comprehensive requirements on how tonnage thresholds are to be applied.	Administrative: Facilitates public understanding of long-standing statutory requirements.	No cost. Consistent with the tonnage measurement law and policy in effect since 1993 (See NVIC 11–93).
§ 69.25 Penalties		
Updates civil penalty amounts as per the Federal Civil Penalties Inflation Adjustment Act.	Administrative: Update	No cost.
§ 69.27 Delegation of authority to measure vessels		
Revises section to reflect the nomenclature in § 69.11	Administrative: Editorial change	No cost.
Deletes outdated reference to 49 CFR 1.46	Administrative: Update	No cost.
§ 69.28 Acceptance of measurement by a foreign country		
Adds provisions for accepting tonnage assignments for certain foreign flag vessels.	Mandatory statutory alignment	No cost. Provides flexibility to use foreign flag tonnages.
Subpart B—Convention Measurement System		
§ 69.53 Definitions		
Adds definition for tonnage measurement term	Administrative: New definition	No cost.
Revises existing tonnage measurement terms consistent with revisions to § 69.9.	Administrative: Editorial change	No cost.
§ 69.55 Application for measurement services		
Requires the ''delivery date'' to be specified on a tonnage application instead of the less specific ''build date''.	Administrative: Clarification	No cost.
§ 69.57 Gross tonnage ITC		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Clarification	No cost.
§ 69.59 Enclosed spaces		
Incorporates interpretations on the treatment of portable spaces	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 1999 (NVIC 11–93 CH–2 and MTN 01–99).
§ 69.61 Excluded spaces		
Incorporates interpretations on treatment of qualifying spaces as excluded spaces ''open to the sea''.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 1999 (MTN 01–99).
§ 69.63 Net tonnage ITC		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Clarification	No cost.
§ 69.65 Calculation of volumes		
Removes language addressing specific calculation methods to ensure that accepted naval architecture practices are used in all cases.	Administrative: Clarification	No cost. Reflects increased use of computer-based computational methods.
§ 69.69 Tonnage certificates		
Incorporates more complete requirements from the 1969 Tonnage Convention for reissuance of an International Tonnage Certificate (1969) under certain circumstances, including the 3-month grace period following flag transfer.	Administrative: Clarification	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
Requires issuance of a U.S. Tonnage Certificate as evidence of measurement under the Convention Measurement System under certain circumstances, and that the International Tonnage Certificate (1969) is delivered to the vessel's owner or master.	Mandatory statutory alignment	No cost. Consistent with policy in effect since 1998 (MTN 01–98).
§ 69.71 Change of net tonnage		
Clarifies that the Commandant determines the magnitude of alterations of a major character.	Administrative: Clarification	No cost.
§ 69.73 Treatment of unique or otherwise novel type vessels		
Revises section title and clarifies that submission of plans and sketches is not required in all cases.	Administrative: Clarification	No cost.
§ 69.75 Figures		
Updates the existing figures to resolve minor labeling inconsistencies, and for visual clarity.	Administrative: Clarifications and updates.	No cost.
Subpart C—Standard Regulatory Measurement System		
§ 69.101 Purpose		
Reflects revised title of subpart C	Administrative: Clarification	No cost.
§ 69.103 Definitions		
Adds definitions for tonnage measurement terms	Administrative: New definitions	No cost.
Revises existing definitions for tonnage measurement terms	Administrative: Clarifications and updates.	No cost.
§ 69.105 Application for measurement services		
Requires the ''delivery date'' to be specified on a tonnage application instead of the less specific ''build date''.	Administrative: Clarification	No cost.
§ 69.107 Gross and net register tonnages		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Clarification	No cost.
Clarifies that the U.S. Tonnage Certificate reflects measurement for the Convention and Regulatory Measurement Systems, as applicable, and need not be carried aboard.	Administrative: Clarification	No cost.
§ 69.108 Uppermost complete deck		
Establishes comprehensive requirements related to the ''uppermost complete deck''.	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–5).
§ 69.109 Under-deck tonnage		
Clarifies that enumerated decks are used to determine the tonnage deck.	Administrative: Clarification	No cost.
Establishes how to determine enumerated decks	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
Replaces the phrase ''at different levels from stem to stern'' with the more commonly used term ''stepped''.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Establishes minimum breadth and length criteria for steps used in establishing the line of the tonnage deck.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Reflects that the frames evaluated in determining the tonnage length should be ''ordinary frames''.	Administrative: Clarification	No cost.
Deletes the sentence ''when a headblock extends . . . thickness of an ordinary side frame and shell plating''.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
Provides for a maximum reduction in the tonnage length of 8½ feet ...	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
Requires that the under-deck sections, referred to as ''tonnage stations,'' be sequentially numbered.	Administrative: Clarification	No cost.
Replaces the terms ''double bottom'' and ''cellular double bottom'' with ''double bottom for water ballast''.	Administrative: Clarification	No cost.
Deletes the existing language regarding outside shaft tunnel exclusions and inserts new ''open to the sea'' language.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Incorporates the term ''uppermost complete deck''	Administrative: Clarification	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
Provides requirements on the measurement treatment of ordinary frames in the under-deck, including construction, frame spacing, different sized frames, frame openings, and asymmetrical framing.	Codification: Principal interpretations from policy document, with revised criteria on oval frame openings.	No cost. Interpretations on different sized framing in effect since 1950 (Treasury Decision 52578). Other interpretations in effect since 2002 (MTN 01–99 CH–4). Revised criteria to permit more flexibility for oval openings without tonnage impact.
§ 69.111 Between-deck tonnage		
Replaces the phrase ''at different levels from stem to stern'' with the more commonly used term ''stepped''.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Requires a minimum size for a longitudinal step being used as the basis for establishing the line of the uppermost complete deck.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Replaces the phrase ''face of the normal side frames'' with the phrase ''line of the normal frames''.	Administrative: Clarification	No cost.
§ 69.113 Superstructure tonnage		
Incorporates interpretations on treatment of portable spaces	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 1997 (NVIC 11–93 CH–2).
Clarifies that measurements are to be taken to the ''line of the normal frames''.	Administrative: Clarification	No cost.
Defines superstructure tonnage as the tonnage of all superstructure spaces.	Administrative: Clarification	No cost.
§ 69.115 Excess hatchway tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Clarification	No cost.
§ 69.117 Spaces exempt from inclusion in tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Revises the definition of passenger space to preclude passenger support spaces and spaces used by both passengers and crew from being exempted as passenger space.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Establishes the minimum height above the uppermost complete deck for exemptible passenger spaces.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Removes the prohibition of exempting a passenger space as an open space when it has berthing accommodations.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
Establishes requirements on open structure exemptions for structures divided into compartments.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Prohibits the progression of open space vertically between structures and allows a space outside a structure's boundary bulkhead meeting certain conditions to be considered open to the weather.	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Provides end opening and interior space circulation requirements	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Requires compartments from which open space progresses to meet certain opening requirements.	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Requires temporary cover plates to be fitted against the weather side of a bulkhead in applying open-to-the-weather criteria.	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Specifies that in applying the size requirements of § 69.117(d)(7), an opening need not also meet the size requirements of § 69.117(d)(2).	Administrative: Clarification	No cost.
Provides for exemption of space in way of opposite side openings	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Replaces the phrase ''next lower deck'' with the phrase ''uppermost complete deck''.	Administrative: Clarification	No cost.
Precludes battening, caulking, seals, or gaskets of any material from being used in association with a middle line opening cover.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–6).
Deletes the requirement to provide calculations in a specific format	Administrative: Update	No cost. Reflects increased use of computer-based computational methods.
Requires use of the zone of influence method to ensure accuracy and consistency in calculating volumes of exempted under-deck spaces.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–6).
§ 69.119 Spaces deducted from tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
§ 69.121 Engine room deduction		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.123 Figures		
Updates the existing figures to resolve minor labeling inconsistencies, and for visual clarity.	Administrative: Clarifications and updates.	No cost.
Subpart D—Dual Regulatory Measurement System		
§ 69.151 Purpose		
Reflects the revised title of subpart D	Administrative: Clarification	No cost.
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.153 Application of other laws		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.155 Measurement requirements		
Revises nomenclature consistent with revisions to § 69.9 and deletes reference to the ''Dual Measurement System''.	Administrative: Editorial change	No cost.
§ 69.157 Definitions		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.159 Application for measurement services		
Deletes reference to the ''Standard Measurement System''	Administrative: Editorial change	No cost.
§ 69.161 Gross and net register tonnages		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Clarifies that the U.S. Tonnage Certificate reflects measurement for the Convention and Regulatory Measurement Systems, as applicable, and need not be carried aboard.	Administrative: Clarification	No cost.
§ 69.163 Under-deck tonnage		
Deletes reference to the ''Dual Measurement System''	Administrative: Editorial change	No cost.
§ 69.165 Between-deck tonnage		
Deletes reference to the ''Dual Measurement System''	Administrative: Editorial change	No cost.
§ 69.167 Superstructure tonnage		
Deletes reference to the ''Dual Measurement System''	Administrative: Editorial change	No cost.
§ 69.169 Spaces exempt from inclusion tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.173 Tonnage assignments for vessels with only one deck		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.175 Tonnage assignments for vessels with a second deck		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Clarifies that the vessel owner may elect to use the lower set of tonnages when opting for single tonnage assignment under the Dual Measurement System.	Administrative: Clarification	No cost.
Requires a load line to be assigned at a level below the line of the second deck.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
§ 69.177 Markings		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
Adds exception to allow the line of the second deck to be marked on the side of the vessel if the second deck is the actual freeboard deck for purposes of load line assignment.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
§ 69.181 Locating the line of the second deck		
Updates the existing examples for visual clarity	Administrative: Clarifications and updates.	No cost.
§ 69.183 Figures		
Updates the existing figures to resolve minor labeling inconsistencies, and for visual clarity.	Administrative: Clarifications and updates.	No cost.
Subpart E—Simplified Regulatory Measurement System		
§ 69.201 Purpose		
Reflects revised title of subpart E	Administrative: Clarification	No cost.
§ 69.205 Application for measurement services		
Specifies how vessel owners not seeking documentation should process an application for simplified measurement.	Administrative: Clarification	No cost. Provides additional guidance.
Specifies that a completed application for simplified measurement serves as evidence of measurement under the Simplified system.	Administrative: Clarification	No cost.
Specifies the vessel information required to be provided by the owner when completing the Application for Simplified Measurement.	Administrative: Clarification	No cost.
Deletes reference to a specific section of the Builders Certificate and First Transfer of Title form (CG–1261) to allow for revisions to this form without the need to revise regulations.	Administrative: Removes an unneeded requirement from the regulations.	No cost.
§ 69.207 Measurements		
Relaxes measurement tolerances consistent with current practice	Administrative: Update	No cost.
§ 69.209 Gross and net register tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Specifies that a vessel's Certificate of Documentation serves as evidence of measurement under the Simplified system.	Administrative: Clarification	No cost.
§ 69.211 Treatment of unique or otherwise novel type vessels		
Identifies the Coast Guard office to contact for questions on a vessel for which the Simplified measurement rules may not readily be applied.	Administrative: Facilitates resolutions of questions from the public.	No cost.

Benefits

Part 69, subpart A (Sections 69.1–69.29):

The revisions to 46 CFR part 69, subpart A, will clarify and update general tonnage measurement requirements, consistent with the changes mandated by the 2010 Coast Guard Authorization Act, and codify certain interpretations affecting vessels measured under the four U.S. measurement systems. These changes are expected to benefit the public through increased regulatory clarity and by adding flexibility to use foreign flag tonnages.

Part 69, subparts B, C, and D (Sections 69.51–69.183):

The revisions to 46 CFR part 69, subparts B, C, and D, clarify and update tonnage measurement requirements, and codify principal interpretations of the tonnage technical rules. These changes benefit the public through increased regulatory clarity and by facilitating understanding of the tonnage regulations, which could help avert costs and delays associated with bringing vessels into regulatory compliance.

Part 69, subpart E (Sections 69.201–69.209):

The revisions to 46 CFR part 69, subpart E, clarify and update tonnage measurement requirements, and are expected to benefit the public through increased regulatory clarity.

Table 4 summarizes the benefits of the final rule.

TABLE 4—SUMMARY OF BENEFITS

Requirement	Benefit
Part 69, Subpart A (Sections 69.1–69.29)	• Clarifies tonnage measurement requirements. • Add flexibility to use of foreign flag tonnages.
Part 69, Subparts B, C, and D (Sections 69.51–69.183)	• Clarifies tonnage measurement requirements.

TABLE 4—SUMMARY OF BENEFITS—Continued

Requirement	Benefit
Part 69, Subpart E (Sections 69.201–69.209)	• Facilitates the understanding of tonnage measurement requirements to allow more effective and efficient tonnage certifications. • Clarifies tonnage measurement requirements.

Alternatives

The Coast Guard concluded that some changes to the existing tonnage regulations are required to implement changes to the tonnage measurement law made by the 2010 Coast Guard Authorization Act. Based on the preceding discussion, we further concluded that the additional changes to the tonnage regulations described above could provide a net benefit to the public, and should also be made.

In arriving at these conclusions, the Coast Guard considered two alternatives to the final rule's selected approach in order to maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Alternative 1—Codify All Interpretations

Alternative 1 would revise the tonnage regulations to incorporate not only the changes and principal interpretations of the selected alternative, but to also include all published Coast Guard interpretations. This would consolidate all tonnage interpretative information into one source. Unlike the selected alternative, Alternative 1 would induce an additional cost and burden to both industry and government due to a lack of flexibility in applying regulations.

Initially, we believed this alternative, when compared to the current situation of a regulation not reflective of published interpretations, would produce some additional benefit due to the increased visibility of both the principal and secondary interpretations. We concluded that, over time, new technologies and vessel construction practices would lead to difficulties in complying with an overly detailed regulation. This would likely lead to additional requests for clarifications and interpretations and additional rulemakings, potentially causing tonnage certification delays and negatively impact design innovations. Based on these considerations, we did not accept Alternative 1.

Alternative 2—Incorporate Only Mandatory Changes

Alternative 2 would amend the tonnage regulations to only incorporate changes that reflect the tonnage technical amendments of the 2010 Coast Guard Authorization Act, while continuing the Coast Guard's practice of communicating tonnage regulation interpretations to industry via policy documents. This would sustain the Coast Guard's current flexibility in applying tonnage measurement interpretations and preclude additional costs to industry. However, it would not clarify tonnage measurement requirements or increase the understanding of the tonnage measurement regulations. Based on this consideration, we did not accept Alternative 2.

B. Small Entities

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) (RFA) and Executive Order 13272 require a review of proposed and final rules to assess their impacts on small entities. An agency must prepare an initial regulatory flexibility analysis (IRFA) unless it determines and certifies that a rule, if promulgated, would not have a significant impact on a substantial number of small entities.

Under the Regulatory Flexibility Act we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For all vessels our economic analysis concludes that this final rule will have no cost impact and will not affect the small entities described above that own and operate these vessels.

During the NPRM stage, we certified that this rulemaking will not have a significant economic impact on a substantial number of small entities. All interested parties were invited to submit data and information regarding the potential economic impact that would result from adoption of the proposals in the NPRM. We received comments on two provisions in our cost analysis, but after review of the issues raised, we retained our no cost determination. We received no comment relative to the certification. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121, we offered to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The current OMB approval number for this part, 1625–0022, remains unchanged and effective.

E. Federalism

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

It is well settled that States may not regulate in fields reserved for regulation by the Coast Guard. Under 46 U.S.C., Subtitle II, Part J, ''Measurement of Vessels,'' Congress specifically

mandated that certain vessels be measured in accordance with Chapters 141 and 143, as applicable. Congress provided this exclusive measurement authority to the Secretary. The authority to carry out these functions was specifically delegated to the Coast Guard by the Secretary. As this rulemaking implements amendments to the tonnage measurement law, as well as incorporates technical interpretations and administrative clarifications of existing tonnage regulations, it falls within the scope of authority Congress granted exclusively to the Secretary and States may not regulate within this field. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, E.O. 13132 specifically directs agencies to consult with State and local governments during the rulemaking process.

The Coast Guard invited State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to the NPRM. In accordance with Executive Order 13132, Federalism, the Coast Guard provides this federalism impact statement:

(1) There were no comments submitted by State or local governments to the NPRM published in the **Federal Register** on April 8, 2014 (79 FR 19420).

(2) There were no concerns expressed by State or local governments.

(3) As no concerns were expressed or comments received from State or local government, there is no statement required to document the extent to which any concerns were met.

F. 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 final rule will not result in such an expenditure, we do discuss the effects of this final rule elsewhere in this preamble.

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that E.O. because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards will be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final 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 final determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A final environmental analysis checklist supporting this determination is available in docket number USCG–2011–0522 at the Federal eRulemaking Portal online at *http://www.regulations.gov.*

This action falls under section 2.B.2, figure 2–1, paragraphs (34)(a) and (d) of the Instruction and involves regulations, which are editorial or procedural and regulations concerning admeasurement of vessels.

List of Subjects in 46 CFR Part 69

Measurement standards, Penalties, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 69 as follows:

PART 69—MEASUREMENT OF VESSELS

■ 1. The authority citation for part 69 is revised to read as follows:

Authority: 46 U.S.C. 2301, 14103, 14104; Department of Homeland Security Delegation No. 0170.1.

Subpart A—General

■ 2. Revise § 69.1 to read as follows:

§ 69.1 Purpose.

This part implements legislation concerning the measurement of vessels to determine their tonnage (part J of 46 U.S.C. subtitle II). Tonnage is used for a variety of purposes, including the application of vessel safety, security, and environmental protection regulations and the assessment of taxes and fees. This part indicates the particular measurement system or

systems under which the vessel is required or eligible to be measured, describes the measurement rules and procedures for each system, identifies the organizations authorized to measure vessels under this part, and provides for the appeal of measurement organizations' decisions.

■ 3. Revise § 69.3 to read as follows:

§ 69.3 Applicability.

This part applies to any vessel for which the application of an international agreement or other law of the United States to the vessel depends on the vessel's tonnage.

§ 69.5 [Removed and Reserved]

■ 4. Remove and reserve § 69.5.

■ 5. Revise § 69.7 to read as follows:

§ 69.7 Vessels transiting the Panama and Suez Canals.

For vessels that will transit the Panama Canal and/or Suez Canal, the respective canal authorities may require special tonnage certificates in addition to those issued under this part. These special certificates may be issued by measurement organizations who have received appropriate authorization from the respective canal authorities.

■ 6. Revise § 69.9 to read as follows:

§ 69.9 Definitions.

As used in this part:

Authorized measurement organization means an entity that is authorized to measure vessels under this part.

Commandant means Commandant of the Coast Guard at the following address: Commanding Officer, Marine Safety Center (MSC–4), U.S. Coast Guard Stop 7430, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7430.

Convention means the International Convention on Tonnage Measurement of Ships, 1969.

Convention Measurement System means the measurement system under subpart B of this part, which is based on the rules of the Convention. This Formal Measurement System uses the vessel's total enclosed volume as the principal input for tonnage calculations along with other characteristics related to the vessel's carrying capacity, including the volume of cargo spaces and number of passengers. Tonnages assigned under this system are expressed in terms of gross tonnage ITC (GT ITC) or net tonnage ITC (NT ITC).

Deck cargo means freight carried on the weather decks of a vessel for the purpose of its transport between two separate and distinct locations, and which is off-loaded from the vessel in its original container (if applicable) without undergoing any processing or other use while onboard the vessel.

Dual Regulatory Measurement System means the measurement system under subpart D of this part, which is one of three sub-systems of the Regulatory Measurement System. This Formal Measurement System is based on the rules of the Standard Regulatory Measurement System, with adjustments that allow for the assignment of two sets of Regulatory Measurement System tonnages whose use depends on the loading condition of the vessel. Tonnages assigned under this system are expressed in terms of gross register tons (GRT) or net register tons (NRT).

Foreign flag vessel means a vessel that is not a U.S. flag vessel.

Formal Measurement System means a measurement system that employs a detailed computational method using measurements of the entire vessel, and which also takes into account the use of vessel spaces. The measurement systems prescribed under subparts B, C, and D of this part are Formal Measurement Systems.

Great Lakes means the Great Lakes of North America and the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island, and, on the north side of Anticosti Island, the meridian of longitude 63 degrees west.

Gross register tonnage (GRT) means the gross tonnage measurement of the vessel under the Regulatory Measurement System. Refer to § 69.20 for information on applying tonnage thresholds expressed in terms of gross register tons (also referred to as GRT).

Gross tonnage ITC (GT ITC) means the gross tonnage measurement of the vessel under the Convention Measurement System. In international conventions, this parameter may be referred to as ''gross tonnage (GT).'' Refer to § 69.20 for information on applying tonnage thresholds expressed in terms of gross tonnage ITC.

National Vessel Documentation Center means the organizational unit designated by the Commandant to process vessel documentation transactions and maintain vessel documentation records.

Net register tonnage (NRT) means the net tonnage measurement of the vessel under the Regulatory Measurement System. Refer to § 69.20 for information on applying tonnage thresholds expressed in terms of net register tons.

Non-self-propelled vessel means a vessel that is not a self-propelled vessel.

Overall length means the horizontal distance of the vessel's hull between the foremost part of a vessel's stem to the aftermost part of its stern, excluding fittings and attachments.

Portable enclosed space means an enclosed space that is not deck cargo, and whose method of attachment to the vessel is not permanent in nature. Examples of portable enclosed spaces include modular living quarters, housed portable machinery spaces, and deck tanks used in support of shipboard industrial processes.

Register ton means a unit of volume equal to 100 cubic feet.

Regulatory Measurement System means the measurement system that comprises subparts C, D, and E of this part (Standard, Dual, and Simplified Regulatory Measurement Systems, respectively), and is sometimes referred to as the national measurement system of the United States. Tonnages assigned under this system are expressed in terms of gross register tons (GRT) or net register tons (NRT).

Remeasurement means the process by which tonnages or registered dimensions of a vessel that was previously measured are assigned or reassigned to that vessel, or are verified to be correct, as appropriate. This includes assignment of tonnages or registered dimensions under a different measurement system.

Self-propelled vessel means a vessel with a means of self-propulsion, including sails.

Simplified Regulatory Measurement System means the measurement system under subpart E of this part, which is one of three sub-systems of the Regulatory Measurement System. It is based on the rules of the Standard Regulatory Measurement System but employs a simplified computational method using hull dimensions as the principal inputs. Tonnages assigned under this system are expressed in terms of gross register tons (GRT) or net register tons (NRT).

Standard Regulatory Measurement System means the measurement system under subpart C of this part, which is one of three sub-systems of the Regulatory Measurement System. This Formal Measurement System is based on the rules of the British Merchant Shipping Act of 1854 and uses volumes of internal spaces as the principal inputs for tonnage calculations, allowing for exemptions or deductions of qualifying spaces according to their location and use. Tonnages assigned under this system are expressed in terms of gross register tons (GRT) or net register tons (NRT).

Tonnage means the volume of a vessel's spaces, including portable enclosed spaces, as calculated under a measurement system in this part, and is

categorized as either gross or net. Gross tonnage refers to the volumetric measure of the overall size of a vessel. Net tonnage refers to the volumetric measure of the useful capacity of the vessel. Deck cargo is not included in tonnage.

Tonnage threshold means a delimitating tonnage value specified in an international convention or a Federal statute or regulation.

U.S. flag vessel means a vessel of United States registry or nationality, or one operated under the authority of the United States.

Vessel of war means ''vessel of war'' as defined in 46 U.S.C. 2101.

Vessel that engages on a foreign voyage means a vessel:

(1) That arrives at a place under the jurisdiction of the United States from a place in a foreign country;

(2) That makes a voyage between places outside of the United States;

(3) That departs from a place under the jurisdiction of the United States for a place in a foreign country; or

(4) That makes a voyage between a place within a territory or possession of the United States and another place under the jurisdiction of the United States not within that territory or possession.

■ 7. Revise § 69.11 to read as follows:

§ 69.11 Determining the measurement system or systems for a particular vessel.

(a) *Convention Measurement System (subpart B of this part).* (1) Except as otherwise provided in this section, this Formal Measurement System applies to any vessel for which the application of an international agreement or other law of the United States to the vessel depends on the vessel's tonnage.

(2) This system does not apply to the following vessels:

(i) A vessel of war, unless the government of the country to which the vessel belongs elects to measure the vessel under this part.

(ii) A vessel of less than 79 feet in overall length.

(iii) A U.S. flag vessel, or one of Canadian registry or nationality, or operated under the authority of Canada, and that is operating only on the Great Lakes, unless the vessel owner requests.

(iv) A U.S. flag vessel (except a vessel that engages on a foreign voyage), the keel of which was laid or was at a similar stage of construction before January 1, 1986, unless the vessel owner requests or unless the vessel subsequently undergoes a change that the Commandant finds substantially affects the gross tonnage.

(v) A non-self-propelled U.S. flag vessel (except a non-self-propelled vessel that engages on a foreign voyage), unless the vessel owner requests the application.

(b) *Standard Regulatory Measurement System (subpart C of this part).* This Formal Measurement System applies to a vessel not measured under the Convention Measurement System for which the application of an international agreement or other law of the United States to the vessel depends on the vessel's tonnage. Upon request of the vessel owner, this system also applies to a U.S. flag vessel that is also measured under the Convention Measurement System.

(c) *Dual Regulatory Measurement System (subpart D of this part).* This Formal Measurement System may be applied, at the vessel owner's option, instead of the Standard Regulatory Measurement System.

(d) *Simplified Regulatory Measurement System (subpart E of this part).* This system may be applied, at the vessel owner's option, instead of the Standard Regulatory Measurement System to the following vessels:

(1) A vessel that is under 79 feet in overall length.

(2) A vessel of any length that is non-self-propelled.

(3) A vessel of any length that is operated only for pleasure.

■ 8. Revise § 69.13 to read as follows:

§ 69.13 Applying provisions of a measurement system.

(a) Except as noted under paragraph (c) of this section, all provisions of a measurement system as prescribed in this part that are applicable to the vessel must be observed. Coast Guard interpretations of these provisions are published by, and may be obtained from, Commanding Officer, Marine Safety Center (MSC–4).

(b) The provisions of more than one measurement system must not be applied interchangeably or combined, except where specifically authorized under this part.

(c) Unless otherwise provided for by law, the tonnage measurement rules and procedures that immediately predate the rules and procedures prescribed in this part may be applied, at the option of the vessel owner, to the following vessels:

(1) A vessel which has not been measured and which was contracted for on or before May 2, 2016.

(2) A vessel which has been measured, but which has undergone modifications contracted for on or before May 2, 2016.

■ 9. Amend § 69.15 as follows:

■ a. Revise paragraphs (a), (b), (c), and (e); and

■ b. In paragraph (d), remove the words ''to determine its tonnage'' and add, in their place, the words ''under this part''.

The revisions read as follows:

§ 69.15 Authorized measurement organizations.

(a) Except as noted under paragraphs (c) and (d) of this section, measurement or remeasurement of all vessels under the Convention Measurement System and Standard and Dual Regulatory Measurement Systems must be performed by an authorized measurement organization meeting the requirements of § 69.27. A current listing of authorized measurement organizations may be obtained from the Commanding Officer, Marine Safety Center (MSC–4).

(b) Measurement or remeasurement of all vessels under subpart E of this part must be performed by the Coast Guard.

(c) Measurement or remeasurement of all U.S. Coast Guard vessels and all U.S. Navy vessels of war must be performed by the Coast Guard.

* * * * *

(e) The appropriate tonnage certificate, as provided for under this part, is issued by the authorized measurement organization as evidence of the vessel's measurement under this part.

■ 10. Amend § 69.17 as follows:

■ a. Revise paragraph (a); and

■ b. In paragraph (c):

■ i. Following the words ''the application'', remove the word ''must'' and add, in its place, the word ''should''; and

■ ii. Following the words ''of encumbrances,'', remove the words ''engine and boilers'' and add, in their place, the word ''engines''.

The revision reads as follows:

§ 69.17 Application for measurement services.

(a) The vessel owner is responsible for having the vessel measured or remeasured under this part. Applications for Formal Measurement may be obtained from any measurement organization and, once completed, are submitted to the authorized measurement organization that will perform the measurement services. Applications for Simplified Measurement may be obtained from the Commanding Officer, Marine Safety Center (MSC–4) and, once completed, are submitted or retained as described in § 69.205. The contents of the application are described in this part under the requirements for each system.

* * * * *

■ 11. Revise § 69.19 to read as follows:

§ 69.19 Remeasurement.

(a) If a vessel that is already measured is to undergo a structural alteration, a change to its service, or if the use of its space is to be changed, a remeasurement may be required. For vessels measured under a Formal Measurement System, owners must report immediately to an authorized measurement organization any intent to structurally alter the vessel or to change its service or the use of its space. The measurement organization advises the owner if remeasurement is necessary. For all other vessels, owners must report the intent to structurally alter the vessel to Commanding Officer, Marine Safety Center (MSC–4), for a remeasurement determination. Remeasurement is initiated by completing and submitting, where applicable, the appropriate application for measurement services. Spaces not affected by the alteration or change need not be remeasured.

(b) Remeasurement must also be performed as follows:

(1) When there is a perceived error in the application of this part, the vessel owner should contact the responsible measurement organization, or Commanding Officer, Marine Safety Center (MSC–4), as appropriate. Remeasurement is performed to the extent necessary to verify and correct the error.

(2) At the vessel owner's option, to reflect the latest tonnage measurement rules and associated interpretations under this part.

(c) For vessels measured under a Formal Measurement System, if a remeasurement or adjustment of tonnage is required, the authorized measurement organization will issue a new tonnage certificate. For all other vessels, Commanding Officer, Marine Safety Center (MSC–4) will take action, as appropriate.

(d) A vessel of less than 79 feet in overall length measured under a Formal Measurement System may be remeasured at the owner's request under the Simplified Regulatory Measurement System.

■ 12. Add § 69.20 to read as follows:

§ 69.20 Applying tonnage thresholds.

(a) *General.* Tonnage thresholds are applied using the vessel's tonnage assigned under this part, and as provided for by paragraphs (b) through (d) of this section. In general, and except as under paragraphs (b) and (c) of this section, tonnage thresholds expressed in terms of ''gross tonnage,'' ''gross tonnage ITC,'' or ''GT ITC'' are applied using Convention Measurement System tonnage (if assigned) and thresholds expressed in terms of ''gross tons,'' ''registered gross tons,'' or ''GRT'' are applied using the Regulatory Measurement System tonnage (if assigned). Similarly, in general, and except as under paragraphs (b) and (c) of this section, tonnage thresholds expressed in terms of ''net tonnage,'' ''net tonnage ITC,'' or ''NT ITC'' are applied using Convention Measurement System tonnage (if assigned) and thresholds expressed in terms of ''net tons,'' ''registered net tons,'' or ''NRT'' are applied using the Regulatory Measurement System tonnage (if assigned).

(b) *Thresholds found in international conventions.* Unless otherwise provided for by law, apply tonnage thresholds in international conventions as follows:

(1) For vessels measured under the Convention Measurement System, apply all tonnage thresholds using Convention Measurement System tonnage, except as provided for under the following international tonnage grandfathering provisions, which may be applied at the option of the vessel owner:

(i) Under *Article 3(2)(d) of the Convention:*

(A) For a U.S. flag vessel, this Article allows associated tonnage thresholds in effect on or before July 18, 1994 to be applied, at the vessel owner's option, using Regulatory Measurement System tonnage to a vessel whose keel was laid on or before July 18, 1982, and which did not subsequently undergo alterations resulting in a change in its tonnage of a magnitude deemed by the Commandant to constitute a substantial variation in its tonnage.

(B) For a foreign flag vessel, this Article allows associated tonnage thresholds in effect on or before July 18, 1994, to be applied, at the vessel owner's option, using the foreign country's national measurement system tonnage to a vessel whose keel was laid on or before July 18, 1982, and which did not subsequently undergo alterations resulting in a change in its tonnage of a magnitude deemed by that country to constitute a substantial variation in its tonnage.

(ii) Under *International Maritime Organization (IMO) Resolutions A.494 (XII) of November 19, 1981 and A.541 (XIII) of November 17, 1983:*

(A) For a U.S. flag vessel, these resolutions allow tonnage thresholds in effect on July 18, 1994 to be applied using the gross register tonnage (Regulatory Measurement System), to a vessel whose keel was laid on or after July 18, 1982 but before July 19, 1994, and which did not subsequently undergo alterations resulting in a change substantially affecting its tonnage as deemed by the Commandant.

(B) For a foreign flag vessel, these resolutions allow tonnage thresholds in effect on July 18, 1994 to be applied, at the vessel owner's option, using the foreign country's national measurement system tonnage, to a vessel whose keel was laid on or after July 18, 1982, but on or before July 18, 1994, and which did not undergo alterations after July 18, 1994 of a magnitude deemed by that country to constitute a substantial variation in its tonnage subject to the provisions of these resolutions.

(iii) Any other international grandfathering provisions as authorized under appropriate International Maritime Organization instruments to which the United States is a party, or which are otherwise recognized or accepted by the United States.

(2) For all other vessels, apply all tonnage thresholds using Regulatory Measurement System tonnage.

(c) *Thresholds found in Federal statutes and regulations.* Unless otherwise provided for by law, apply tonnage thresholds in Federal statutes and regulations as follows:

(1) For vessels measured under the Convention Measurement System only, apply all thresholds using Convention Measurement System tonnage.

(2) For vessels measured under the Regulatory Measurement System only, apply all thresholds using Regulatory Measurement System tonnage.

(3) For all other vessels, apply thresholds in effect before July 19, 1994 using the vessel's Regulatory Measurement System tonnage, and all other thresholds using the vessel's Convention Measurement System tonnage.

(d) *Alternate tonnage thresholds.* 46 U.S.C. 14104 authorizes the Coast Guard to establish tonnage thresholds based on the Convention Measurement System as an alternative to tonnage thresholds based on the Regulatory Measurement System. Although 46 U.S.C. 14104 addresses only thresholds in Federal statutes, it does not preclude establishing alternate tonnage thresholds for Federal regulations that currently specify thresholds that were based on the Regulatory Measurement System, where appropriate.

(1) If an alternate tonnage threshold is prescribed or authorized by Federal statute or regulation, apply the alternate tonnage threshold using the Convention Measurement System tonnage.

(2) A vessel regulated under paragraph (d) of this section must not be measured under the Regulatory Measurement System.

§ 69.25 [Amended]

■ 13. Amend § 69.25 as follows:

■ a. In paragraph (a), remove the words ''The owner'', add, in their place, the words ''The vessel owner''; and
■ b. In paragraphs (a) and (b), remove the figure ''$20,000'', and add, in its place, the figure ''$30,000''.
■ 14. Amend § 69.27 as follows:
■ a. Revise paragraphs (a), (b) introductory text, and (b)(4) and (5); and
■ b. In paragraph (c)(3), remove the text ''Convention, Standard, and Dual Measurement Systems'' and add, in its place, the text ''Convention Measurement System and Standard and Dual Regulatory Measurement Systems''; and
■ c. In paragraph (c)(4), remove the text ''Convention, Standard, or Dual Measurement Systems'' and add, in its place, the text ''Convention Measurement System or Standard or Dual Regulatory Measurement Systems''.

The revisions read as follows:

§ 69.27 Delegation of authority to measure vessels.

(a) Under 46 U.S.C. 14103, the Coast Guard is authorized to delegate to a ''qualified person'' the authority to measure and certify U.S. flag vessels under this part.

(b) Authority to measure and certify U.S. flag vessels under the Convention Measurement System and Standard and Dual Regulatory Measurement Systems may be delegated to an organization that—

* * * * *

(4) Is capable of providing all measurement services under the Convention Measurement System and Standard and Dual Regulatory Measurement Systems for vessels domestically and internationally;

(5) Maintains a tonnage measurement staff that has practical experience in measuring U.S. flag vessels under the Convention Measurement System and Standard and Dual Regulatory Measurement Systems; and

* * * * *

■ 15. Add § 69.28 to read as follows:

§ 69.28 Acceptance of measurement by a foreign country.

(a) The Commandant must accept the measurement of a foreign flag vessel by a foreign country as complying with subpart B of this part if:

(1) The vessel was measured under the terms of the Convention and the foreign country is party to the Convention; or

(2) The Commandant finds that the laws and regulations of that country related to measurement are similar to those of subpart B of this part.

(b) The Commandant may accept the measurement of a foreign flag vessel by a foreign country as complying with subpart C, D, or E of this part if the Commandant finds that the laws and regulations of that country related to measurement are substantially similar to those of subpart C, D, or E, respectively, of this part.

Subpart B—Convention Measurement System

■ 16. Amend § 69.53 by removing the definitions of ''Gross tonnage'' and ''Net tonnage'' and adding the definition of ''Boundary bulkhead'' in alphabetical order to read as follows:

§ 69.53 Definitions.

* * * * *

Boundary bulkhead means the bulkhead or partition that separates an enclosed interior space from the surrounding weather. In general, the exterior bulkhead of a deck structure is the boundary bulkhead.

* * * * *

§ 69.55 [Amended]

■ 17. Amend § 69.55(d) by:
■ a. Removing the words ''and year''; and
■ b. After the word ''built'', adding the words ''and delivery date (or scheduled delivery date)''.

§ 69.57 [Amended]

■ 18. Amend § 69.57 as follows:
■ a. In the section heading, add the text ''ITC'' after the text ''Gross tonnage'';
■ b. After the text ''Gross tonnage'' and ''(GT'', add the text ''ITC''; and
■ c. Following the text ''following formula GT'', add the text ''ITC''.

■ 19. Amend § 69.59 by adding a sentence at the end of the paragraph to read as follows:

§ 69.59 Enclosed spaces.

* * * Portable enclosed spaces, regardless of method of attachment to the vessel, are treated as enclosed spaces as defined in this paragraph.

■ 20. Amend § 69.61 as follows:
■ a. Revise paragraph (a); and
■ b. In paragraph (g), remove the words ''paragraphs (b) through (f)'' and add, in their place, the words ''paragraphs (a) through (f)''.

The revision reads as follows:

§ 69.61 Excluded spaces.

(a) *Excluded space* means an enclosed space which is excluded from the total volume of all enclosed spaces (V) in calculating gross tonnage ITC. Spaces that are below the upper deck and open to the sea, as well as those spaces listed in paragraphs (b) through (f) of this section, are excluded spaces, except as under paragraph (g) of this section.

* * * * *

■ 21. Revise § 69.63 to read as follows:

§ 69.63 Net tonnage ITC.

Net tonnage ITC (NT ITC) is determined by the formula:

$$NT\ ITC = K_2 V_c \left(\frac{4d}{3D}\right)^2 + K_3 \left(N_1 + \frac{N_2}{10}\right),$$

in which:

V_c = total volume of cargo spaces in cubic meters.

$K_2 = 0.2 + 0.02 \log_{10} V_c$

$K_3 = 1.25 \left(\frac{GT\ ITC + 10{,}000}{10{,}000}\right)$

D = molded depth amidships in meters, as "molded depth" is defined in § 69.53.

d = molded draft amidships in meters, as "molded draft" is defined in § 69.53.

N_1 = number of passengers in cabins with not more than eight berths, as "passenger" is defined in § 69.53.

N_2 = number of other passengers, as "passenger" is defined in § 69.53.

GT ITC = gross tonnage ITC as determined under § 69.57.

N_1 plus N_2 must equal the total number of passengers the vessel is permitted to carry as indicated on the ship's Passenger Certificate. If N_1 plus N_2 is less than 13, both N_1 and N_2 are zero.

$\left(\frac{4d}{3D}\right)^2$ must not be greater than unity.

$K_2 V_c \left(\frac{4d}{3D}\right)^2$ must not be less than 0.25 GT ITC.

NT ITC must not be less than 0.30 GT ITC.

■ 22. Revise § 69.65 to read as follows:

§ 69.65 Calculation of volumes.

(a) Volumes V and V_c used in calculating gross tonnage ITC and net tonnage ITC, respectively, must be measured and calculated according to accepted naval architectural practices for the spaces concerned.

(b) Measurements must be taken, regardless of the fitting of insulation or the like, to the inner side of the shell or structural boundary plating in vessels constructed of metal, and to the outer surface of the shell or to the inner side of structural boundary surfaces in all other vessels.

■ 23. Revise § 69.69 to read as follows:

§ 69.69 Tonnage certificates.

(a) On request of the vessel owner, the authorized measurement organization must issue an International Tonnage Certificate (1969) as evidence of the vessel's measurement under this subpart for a vessel that is 24 meters (79.0 feet) or more in registered length, will engage on a foreign voyage, and is not a vessel of war. The Certificate is delivered to the vessel owner or master and must be maintained on board the vessel when it is engaged on a foreign voyage. For a vessel for which a remeasurement under § 69.71 resulted in a net tonnage ITC decrease due to changes other than alterations or modifications to the vessel deemed by the Commandant to be of a major character, an International Tonnage Certificate (1969) reflecting the decreased net tonnage ITC will not be reissued until 12 months have elapsed from the date of measurement indicated on the current certificate.

(b) If an International Tonnage Certificate (1969) is not issued for a vessel measured under this part, the measurement organization must issue a U.S. Tonnage Certificate as evidence of the vessel's measurement under this subpart, which must also indicate the vessel's measurement under any other subpart of this part. There is no requirement to maintain the U.S. Tonnage Certificate on board the vessel.

(c) For a vessel that transfers flag to a foreign country that is party to the Convention, the International Tonnage Certificate (1969) remains valid for a period not to exceed 3 months after the flag transfer, or until an International Tonnage Certificate (1969) is issued under authority of the foreign country to replace it, whichever is earlier.

§ 69.71 [Amended]

■ 24. In § 69.71(c)(2), remove the words ''Coast Guard'' and, in their place, add the word ''Commandant''.

■ 25. In § 69.73, revise the section heading and paragraph (b) to read as follows:

§ 69.73 Treatment of novel type vessels.

* * * * *

(b) Requests for a determination must be submitted to the Commandant, explaining the reasons for seeking a determination, and including a description of the spaces in question, if applicable.

■ 26. Revise § 69.75 to read as follows:

§ 69.75 Figures.

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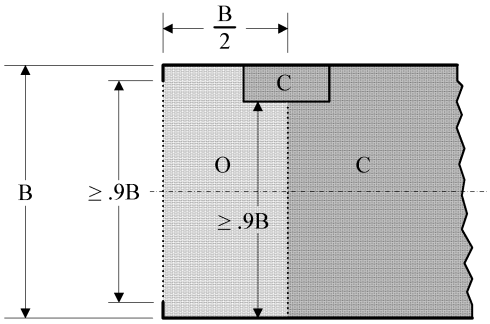


Figure 1

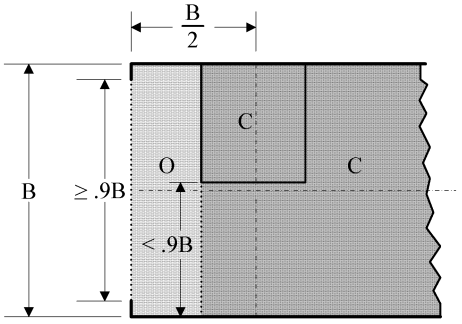


Figure 2

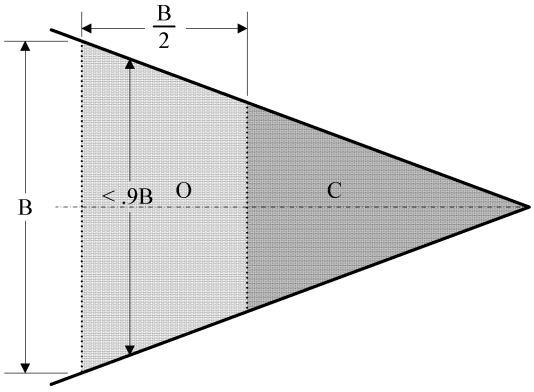
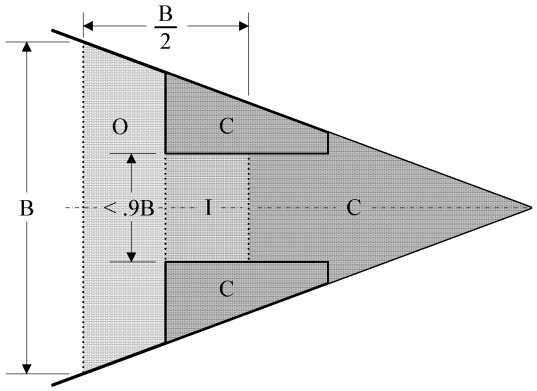


Figure 3



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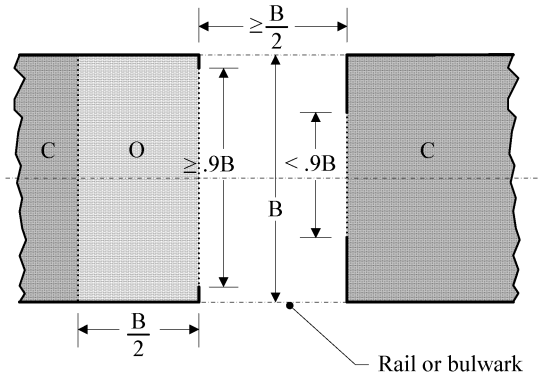

Figure 5

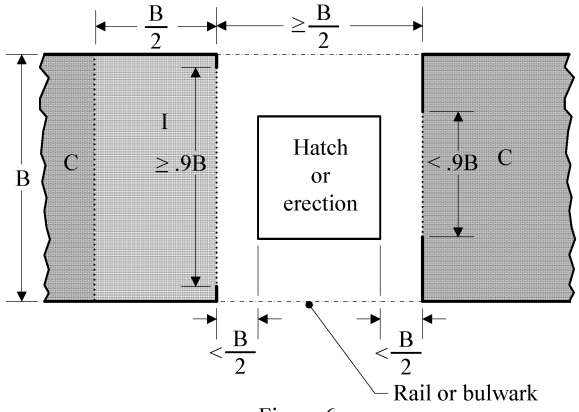

Figure 6

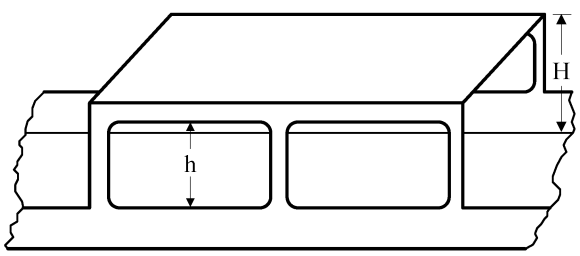

Figure 7

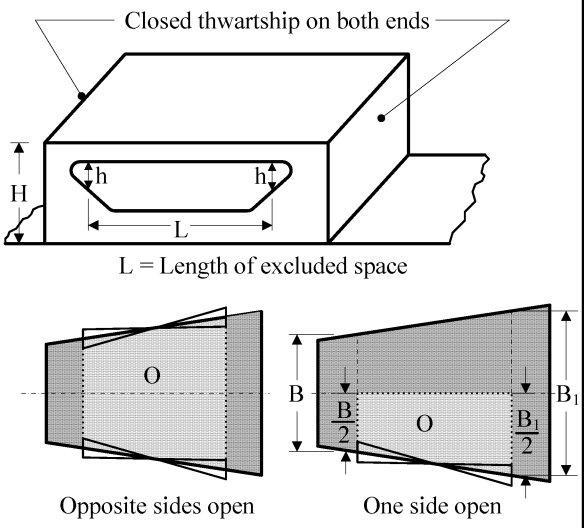

Figure 8

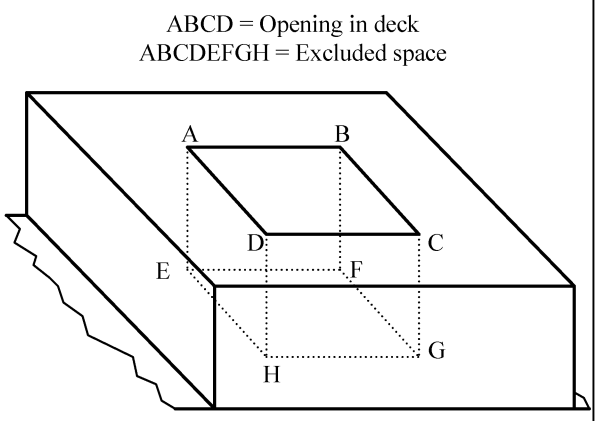

Figure 9

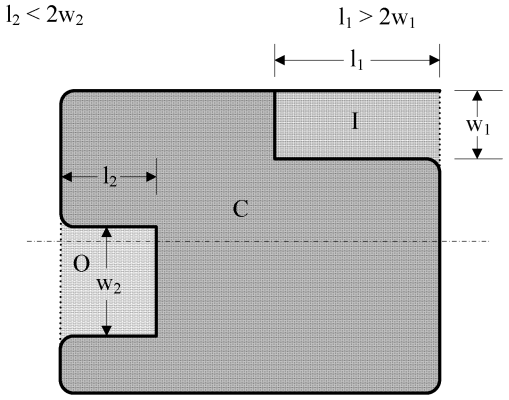

Figure 10

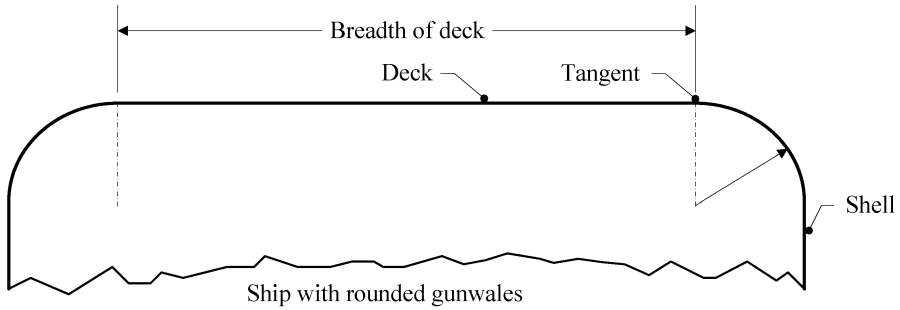

Figure 11

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■ 27. Revise the heading for subpart C to read as follows:

Subpart C—Standard Regulatory Measurement System

§ 69.101 [Amended]

■ 28. In § 69.101, after the word ''Standard'', add the word ''Regulatory''.

■ 29. Amend § 69.103 as follows:

■ a. In the definition of ''Gross tonnage'', after the word ''Gross'', add the word ''register'';

■ b. Add, in alphabetical order, the definitions of ''Double bottom for water ballast'', ''Line of the normal frames'', ''Line of the ordinary frames'', ''Normal

frame'', ''Ordinary frame'', ''Tonnage interval'', ''Tonnage station'', and ''Zone of influence method'';

■ c. In the definition of ''Net tonnage'', after the word ''Net'', add the word ''register''; and

■ d. Revise the definitions of ''Superstructure'' and ''Uppermost complete deck''.

The additions and revisions read as follows:

§ 69.103 Definitions.

* * * * *

Double bottom for water ballast means a space at the bottom of a vessel between the inner and outer bottom plating, used solely for water ballast.

* * * * *

Line of the normal frames means the imaginary horizontal line that connects the inboard faces of the smallest normal frames.

Line of the ordinary frames means the line of intersection of the imaginary surface or surfaces tangent to the inboard faces of the ordinary frames (or the inside of the vessel's skin, if there are no ordinary frames), and the imaginary plane running transversely through the vessel at the tonnage station of interest.

* * * * *

Normal frame means a frame, regardless of size, used to stiffen a structure.

Ordinary frame means a primary side or bottom frame or floor used for strengthening the hull.

* * * * *

Superstructure means all permanently closed-in structures, including all portable enclosed spaces, on or above the line of the uppermost complete deck or, if the vessel has a shelter deck, on or above the line of the shelter deck. Examples of superstructure spaces include forecastles, bridges, poops, deckhouses, breaks, portable tanks, and modular quarters units.

* * * * *

Tonnage interval means the longitudinal distance between transverse sections of a vessel's under-deck, between-deck, or superstructure when divided into an even number of equal parts for purposes of volume integration.

* * * * *

Tonnage station means the longitudinal location of each transverse section where breadth and depth measurements are taken when calculating under-deck volumes under this subpart. Tonnage stations are numbered consecutively from fore to aft, beginning with the number one.

Uppermost complete deck is defined in § 69.108.

Zone of influence method means a Simpson's first rule integration method for determining volumes of under-deck spaces that limits the sectional areas associated with these spaces to the sectional areas at adjacent under-deck tonnage stations, depending on their proximity to those stations. For stations for which the under-deck sectional areas are multiplied by four, the zone of influence extends two-thirds of a tonnage interval on either side of the under-deck station, and for the remaining stations, the zone of influence extends one-third of a tonnage interval on either side of the station.

§ 69.105 [Amended]

■ 30. Amend § 69.105(d) by:

■ a. Removing the words ''and year''; and

■ b. After the word ''built'', adding the words ''and delivery date (or scheduled delivery date)''.

■ 31. Amend § 69.107 as follows:

■ a. Revise the section heading and paragraphs (a) introductory text and (b); and

■ b. Add paragraph (c).

The revisions and addition read as follows:

§ 69.107 Gross and net register tonnage.

(a) The vessel's gross register tonnage is the sum of the following tonnages, less the tonnages of certain spaces exempt under § 69.117:

* * * * *

(b) The vessel's net register tonnage is the gross register tonnage less deductions under §§ 69.119 and 69.121.

(c) The authorized measurement organization must issue a U.S. Tonnage Certificate as evidence of a vessel's measurement under this subpart, which must also indicate the vessel's measurement under the Convention Measurement System in subpart B of this part, if applicable. There is no requirement to maintain the U.S. Tonnage Certificate on board the vessel.

■ 32. Add § 69.108 to read as follows:

§ 69.108 Uppermost complete deck.

(a) *Defined.* ''Uppermost complete deck'' means the uppermost deck which extends from stem to stern and from side to side at all points of its length and is bound by the vessel's hull.

(b) *Restrictions.* The uppermost complete deck must not:

(1) Extend above any space exempted as open space under paragraph (d) of § 69.117;

(2) Extend below the design waterline, except in the case of vessels such as submersibles, where the entire uppermost complete deck is submerged during normal operations; or

(3) Rest directly on consecutive or alternating ordinary bottom frames or floors for a distance of over one-half of the tonnage length.

(c) *Deck discontinuities.* Decking athwartships of the following deck discontinuities is not considered to be part of the uppermost complete deck:

(1) Through-deck openings that are not protected from the sea and the weather, such as would be provided by hatch covers or a surrounding superstructure that encloses the opening and whose area is more than 10 percent of the total deck area from stem to stern as viewed from above.

(2) Middle line openings conforming to the requirements of § 69.117(e)(2).

(3) Deck recesses that are not through-hull for which the depth of the deck recess at its deepest point is more than five feet below adjacent portions of the deck, and whose area (as viewed from above) is more than 10 percent of the total deck area from stem to stern, as viewed from above.

(4) Notches bounded by a deck below that wrap around from the ends to the sides of the vessel for which the depth at the deepest point is more than five feet below adjacent portions of the deck, the area is more than one percent of the total deck area from stem to stern as viewed from above, the length of the notch in the direction of the vessel's longitudinal axis exceeds 10 feet at any point across its width, and the width of the notch in the direction of the vessel's longitudinal axis exceeds two feet at any point along its length.

■ 33. Amend § 69.109 as follows:

■ a. In paragraph (c), after the words ''two or less'', ''more than two'', and ''is the second'', add the word ''enumerated'';

■ b. Revise paragraphs (d), (e)(2), (f)(2), (n), and (o)(1);

■ c. Add paragraphs (f)(4) and (p);

■ d. In paragraph (f)(1), after the words ''inboard face of the'', add the word ''ordinary'';

■ e. In paragraph (g)(2), after the words ''division of the tonnage length'' add the words '', whose location is referred to as a tonnage station, and assigned sequential tonnage station numbers, beginning at the stem'';

■ f. In paragraph (h)(1):

■ i. Remove the word ''cellular''; and

■ ii. Add, after the words ''double bottom'', the words ''for water ballast'';

■ g. In paragraphs (h)(2) and (3), after the words ''double bottom'', add the words ''for water ballast'';

■ h. In paragraph (i)(3), after the words ''double bottom'', add the words ''for water ballast''; and

■ i. In the heading of paragraph (m) and paragraph (m)(1), after the words ''double bottom'', add the words ''for water ballast''.

The revisions and additions read as follows:

§ 69.109 Under-deck tonnage.

* * * * *

(d) *Enumerating the decks to identify the second deck from the keel.* The uppermost complete deck is an enumerated deck. Decks below the uppermost complete deck that extend from stem to stern and side to side at all points along their lengths are also enumerated, provided they are not disqualified by either of the following deck discontinuities:

(1) A through-deck opening that is not fitted with a cover (or equivalent) and whose area is more than 10 percent of the total deck area, as viewed from above.

(2) A deck recess that is not through-hull for which the depth at its deepest point is more than five feet below adjacent portions of the deck and whose area as viewed from above is more than 10 percent of the total deck area from stem to stern, as viewed from above.

(e) * * *

(2) If the tonnage deck is stepped, the line of the tonnage deck is the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck. Steps that do not extend from side to side or are less than three feet in length are ignored when establishing the line of the tonnage deck. (See § 69.123, figures 1 and 2.) Spaces between the line of the tonnage deck and the higher portions of that deck are not included in under-deck tonnage.

(f) * * *

(2) For a vessel having a headblock or square end with framing which extends from the tonnage deck to the bottom of the vessel, the tonnage length terminates on the inboard face of the headblock or ordinary end frames. (See § 69.123, figure 4.)

* * * * *

(4) The forward and after termini of the tonnage length must be a distance of no more than eight and one-half feet from the associated inboard surface of the skin of the hull at the bow and stern as measured at the centerline of the vessel, and the after terminus must not be forward of the centerline of the rudderstock.

* * * * *

(n) *Spaces open to the sea.* In calculating the tonnage of spaces below the uppermost complete deck, subtract from each breadth measurement the portion of that measurement that spans a space, or a portion thereof, that is open to the sea.

(o) * * *

(1) An open vessel is a vessel without an uppermost complete deck.

* * * * *

(p) *General requirements on ordinary frames*—(1) *Construction.* An ordinary frame must not be penetrated by an intersecting frame used to strengthen the vessel's hull, except in a vessel of wooden construction. Ordinary frames must be of the same material, or have the same material properties, as the adjacent hull, and attach to the adjacent hull to at least the same extent as adjacent ordinary and normal frames. If comprised of different elements, the elements must be joined to each other to the same extent that the frame is joined to the hull. The frame, or portions thereof, not meeting these requirements must be treated as if not there when establishing the line of the ordinary frames.

(2) *Frame spacing and extension.* Ordinary frames used to establish the line of the ordinary frames must be spaced on centers that are a maximum of four feet apart. These frames must extend for a length of at least one tonnage interval that begins at, ends at, or crosses the associated tonnage station. For a longitudinally-framed vessel, the frames must begin and end at a transverse ordinary frame or at the vessel's hull.

(3) *Different sized framing.* When an ordinary frame has a different depth of frame than an adjacent ordinary frame, the line of the ordinary frames is established using the set of alternating frames that yields the smallest sectional area at the associated tonnage station, with the sectional area based on the frame with the smallest depth of frame in the chosen alternating set.

(4) *Frame openings.* If an opening in an ordinary frame is oversized, or is penetrated by a frame other than an ordinary frame, the line of the ordinary frames is established as if the frame material above and inboard of the opening is not there. Similarly, frame material separating adjacent openings that are within the longest linear dimension of either opening must be treated as if not there when establishing the line of the ordinary frames. An opening is oversized if the opening is:

(i) Circular in shape with a diameter exceeding 18 inches;

(ii) Oval in shape of a size greater than 15×23 inches (*i.e.,* either the minor axis exceeds 15 inches or the major axis exceeds 23 inches, and the oval's area exceeds 255 square inches (345 square inches in a fuel tank)); or

(iii) Any shape other than circular or oval, whose area exceeds 255 square inches (345 square inches in a fuel tank).

(5) *Asymmetrical framing.* Where ordinary frames are configured such that the line of the ordinary frames would be asymmetrical about the centerline of the vessel, breadth measurements are determined by taking half-breadths on the side of the vessel that yields the greatest sectional area at the associated tonnage station, and multiplying those half-breadths by a factor of two to yield the full breadths.

■ 34. Amend § 69.111 as follows:

■ a. Revise paragraph (b)(2);

■ b. In paragraph (c)(1), remove the words ''inboard face of the normal side frames'' and add, in their place, the words ''normal frames''; and

■ c. In paragraph (c)(3):

■ i. Remove the words ''between the faces of the normal side frames''; and

■ ii. After the words ''of the space'', add the words ''to the line of the normal frames''.

The revision reads as follows:

§ 69.111 Between-deck tonnage.

* * * * *

(b) * * *

(2) If the uppermost complete deck is stepped, the line of the uppermost complete deck is the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck. Steps that do not extend from side to side or are less than three feet in length are ignored when establishing the line of the uppermost complete deck. Spaces between the line of the uppermost complete deck and the higher portions of the deck are included in superstructure tonnage.

* * * * *

■ 35. Amend § 69.113 as follows:

■ a. Revise paragraphs (a) and (b)(1);

■ b. In paragraph (b)(3), after the words ''inside breadth'', add the words ''to the line of the normal frames''; and

■ c. In paragraph (f), add a sentence at the end of the paragraph.

The revisions and addition read as follows:

§ 69.113 Superstructure tonnage.

(a) *Defined.* ''Superstructure tonnage'' means the tonnage of all superstructure spaces.

(b) * * *

(1) Measure the length of each structure along its centerline at mid-height to the line of the normal frames. (See § 69.123, figure 11.)

* * * * *

(f) * * * All measurements are terminated at the line of the normal frames.

■ 36. Revise § 69.115(c) to read as follows:

§ 69.115 Excess hatchway tonnage.

* * * * *

(c) From the sum of the tonnage of the hatchways under this section, subtract one-half of one percent of the vessel's gross register tonnage exclusive of the hatchway tonnage. The remainder is added as excess hatchway tonnage in calculating the gross register tonnage.

■ 37. Amend § 69.117 as follows:

■ a. Revise the section heading and paragraphs (c)(2) and (3), (d)(1), (d)(2) introductory text, and (d)(2)(i);

■ b. In paragraph (a), remove the word ''gross'';

■ c. Remove paragraphs (c)(4) and (f)(4)(iii);

■ d. Redesignate paragraphs (f)(4)(iv) through (ix) as paragraphs (f)(4)(iii) through (viii), respectively;

■ e. In paragraph (d)(3):

■ i. Remove the text ''through (d)(2)(iii)'' and add, in its place, the text ''and (iii)''; and

■ ii. Add a sentence at the end of the paragraph;

■ f. Add paragraphs (d)(3)(i) and (ii) and (d)(8);

■ g. In paragraphs (d)(5)(ii) and (d)(6)(iii), after the words ''tightly against the'', add the words ''weather side of the'';

■ h. In paragraph (d)(7), remove the initial word ''A'' and add, in its place, the words ''Notwithstanding the opening size requirements of paragraph (d)(2) of this section, a'';

■ i. In the heading of paragraph (e), remove the words ''next lower deck'' and add, in their place, the words ''uppermost complete deck'';

■ j. In paragraph (e)(1):

■ i. Remove the words ''next lower deck'' and add, in their place, the words ''uppermost complete deck''; and

■ ii. After the words ''exempt from'', remove the word ''gross'';

■ k. In paragraph (e)(2)(v), add a sentence at the end of the paragraph;

■ l. In paragraph (f) introductory text, following the words ''be exempt from'', remove the word ''gross'';

■ m. In paragraph (f)(4):

■ i. After the words ''to be exempted from'', remove the word ''gross''; and

■ ii. After the words ''percent of the vessel's gross'', add the word ''register'';

■ n. In paragraph (f)(5), add a sentence at the end of the paragraph; and

■ o. In paragraph (g)(3), after the words ''under-deck was divided'', add the words '', and the zone of influence method must be applied if the ordinary frames upon which the under-deck breadth measurements are based do not have the same depth of frame''.

The revisions and additions read as follows:

§ 69.117 Spaces exempt from inclusion in tonnage.

* * * * *

(c) * * *

(2) As used in this section, ''passenger space'' means a space reserved exclusively for the use of passengers and includes, but is not limited to, berthing areas, staterooms, bathrooms, toilets, libraries, writing rooms, lounges, dining rooms, saloons, smoking rooms, and recreational rooms. The space need not be part of or adjacent to a berthing area to be considered a passenger space. Spaces used by both passengers and crew members (*e.g.,* first aid stations), or used for passenger support but not accessible to passengers at all times (*e.g.,* vaults on a gaming vessel) cannot be exempted as passenger space.

(3) A passenger space located on, or above the first deck above the uppermost complete deck is exempt from tonnage. To qualify as the first deck above the uppermost complete deck, the deck must be at least six inches above the uppermost complete deck at all points along its length.

(d) * * *

(1) Structures that are located on or above the line of the uppermost complete deck that are under cover (sheltered), but open to the weather are exempt from tonnage as open space. The following additional requirements apply:

(i) If a structure is divided into compartments, only those compartments which are open to the weather are exempt from tonnage under the provisions of this section.

(ii) Open space cannot progress vertically through openings in a deck within the structure.

(iii) A space that is outside a structure's boundary bulkhead as defined in § 69.53 is considered open to the weather provided the space is eligible to be treated as an excluded space under the provisions of § 69.61, regardless of whether or not the space is fitted with means designed for securing cargo or stores.

(2) A structure is considered open to the weather when an exterior end bulkhead of the structure is open and, except as provided in paragraphs (d)(4), (5), and (6) of this section, is not fitted with any means of closing. To be considered open to the weather, the end bulkhead must not have a coaming height of more than two feet in way of any required opening nor any permanent obstruction within two and one-half feet of the opening, it must be fitted with a deck or platform that is a minimum of two and one-half feet wide on the exterior side of the opening, and it must have one of the following:

(i) Two openings, each at least three feet wide and at least four feet high in the clear, one on each side of the centerline of the structure. If the openings lead to two separate interior compartments, there must be circulation of open space between the two compartments via a single such opening, or series of such openings, in the intermediate bulkhead(s).

* * * * *

(3) * * * The following additional requirements apply:

(i) For the interior compartment to be considered open to the weather, any compartment or series of compartments from which the open space progresses must have an opening or openings meeting the requirements for end bulkhead openings, except that the opening(s) need not be located in the forward or after end of the compartment.

(ii) Open space may not progress from a space that is open under the provisions of paragraph (d)(1)(iii) of this section unless the space may also be considered open under another provision of this section.

* * * * *

(8) A structure is considered open to the weather if:

(i) Both sides of the structure are open and not fitted with any means of closing other than temporary covers meeting the requirements of paragraphs (d)(4), (5), and (6) of this section;

(ii) The openings are directly across from each other, are not separated by a bulkhead or bulkheads, and do not have any permanent obstruction within two and one-half feet of either opening; and

(iii) The openings have a continuous height of at least three feet, or the full height of the structure, whichever is less, and either extend the full length of the structure or each have an area of 60 square feet.

(e) * * *

(2) * * *

(v) * * * Battening, caulking, seals, or gaskets of any material may not be used in association with any middle line opening cover.

* * * * *

(f) * * *

(5) * * * Changes in vessel service must also be reported if a water ballast justification was required to be submitted for the vessel.

* * * * *

■ 38. Amend § 69.119 as follows:

■ a. Revise the section heading and paragraph (a); and

■ b. In paragraphs (d) and (m), after the word ''gross'', wherever it appears, add the word ''register''.

The revisions read as follows:

§ 69.119 Spaces deducted from tonnage.

(a) *Purpose.* This section lists the requirements for spaces (other than propelling machinery spaces under § 69.121) which, though included in calculating gross register tonnage (*i.e.,* are not exempt under § 69.117), are deducted from tonnage in deriving net register tonnage.

* * * * *

■ 39. Amend § 69.121 as follows:

■ a. In paragraphs (a), (b)(2)(vii), (d)(3), (e)(1), (e)(2)(i) through (iii), and (e)(3)(i) through (iii), after the word ''gross'', wherever it appears, add the word ''register''; and

■ b. In paragraphs (e)(2)(iii) and (e)(3)(iii), remove the words ''vessel's owner'' and add, in their place, the words ''vessel owner'';

■ c. In paragraph (b)(1), following the words ''spaces exempt from'', remove the word ''gross''; and

■ d. Revise paragraph (d)(1).

The revision reads as follows:

§ 69.121 Engine room deduction.

* * * * *

(d) * * *

(1) Under § 69.117(b)(4), framed-in spaces located above the line of the uppermost complete deck and used for propelling machinery or for admitting light or air to a propelling machinery space are exempt from inclusion in tonnage. However, upon written request to a measurement organization listed in § 69.15, the vessel owner may elect to have these spaces included in calculating the gross register tonnage, then deducted from the gross register tonnage as propelling machinery spaces under paragraph (b)(2)(viii) of this section when calculating the net register tonnage.

* * * * *

■ 40. In § 69.123, revise Figures 1 through 12 to read as follows:

§ 69.123 Figures.

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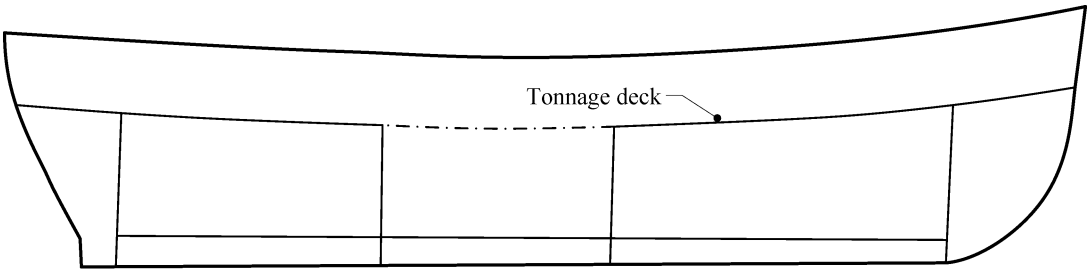

Figure 1

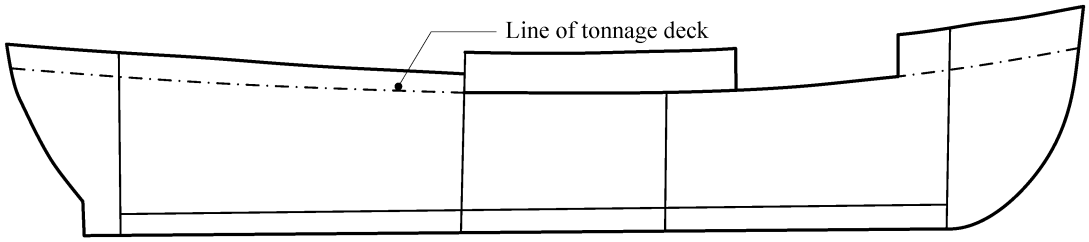

Figure 2

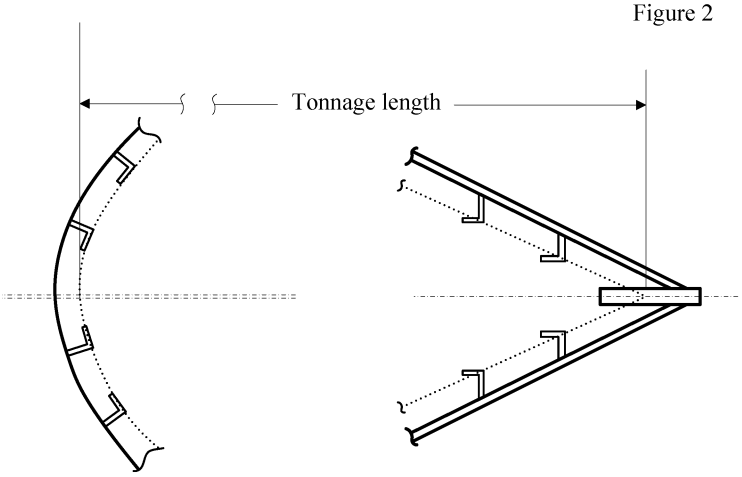

Figure 3

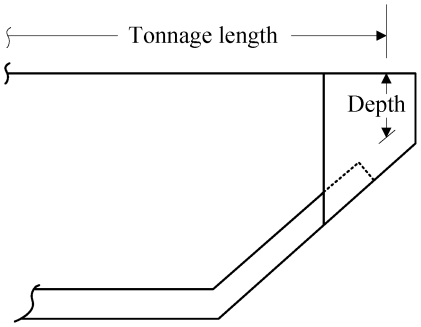

Figure 4

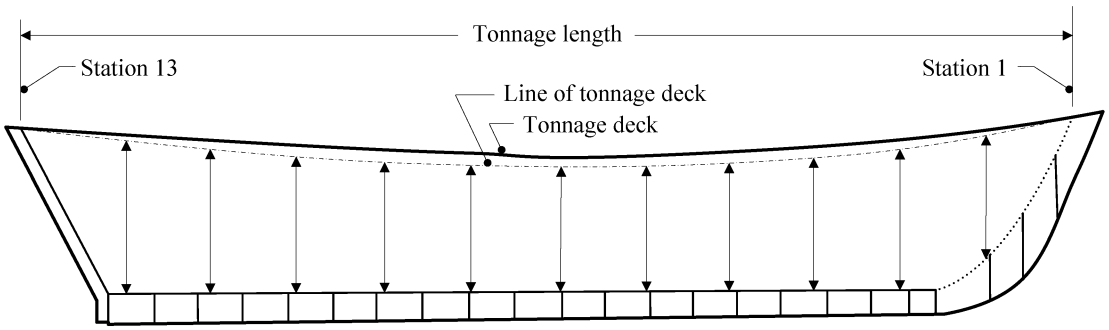

Figure 5

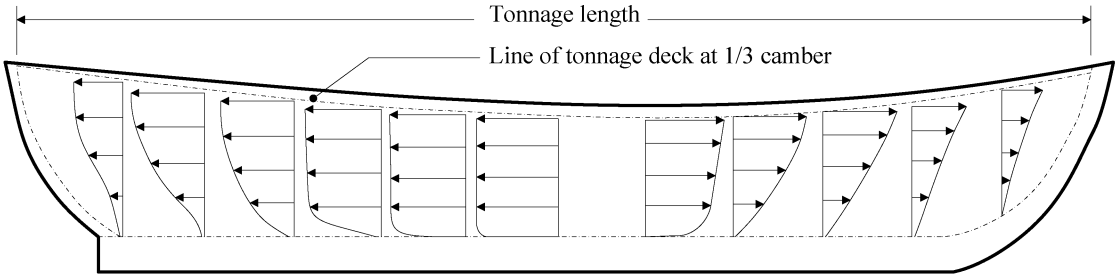

Figure 6

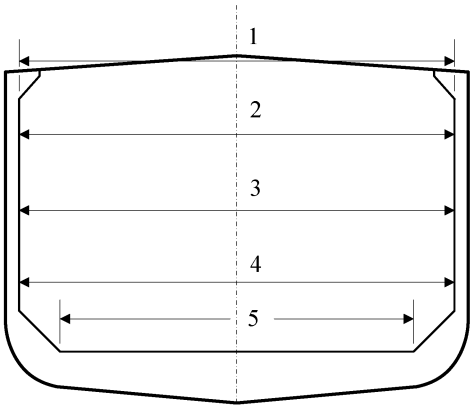

Figure 7

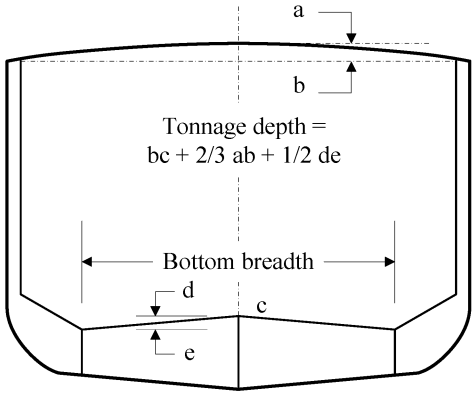

Figure 8

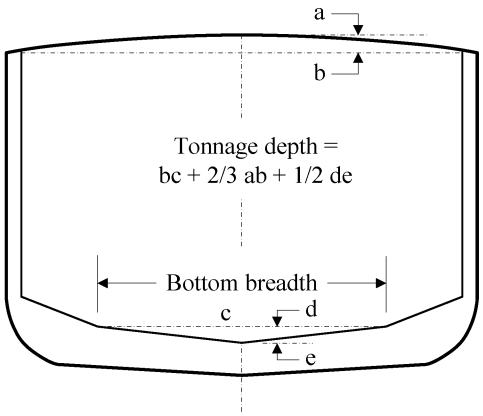

Figure 9

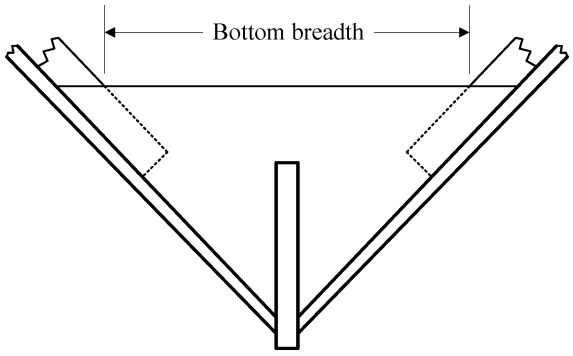

Figure 10

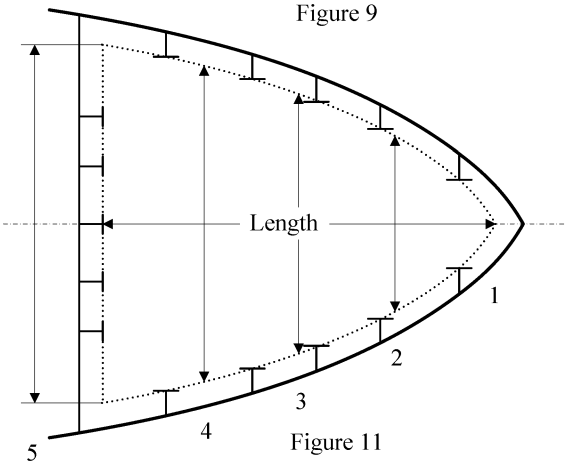

Figure 11

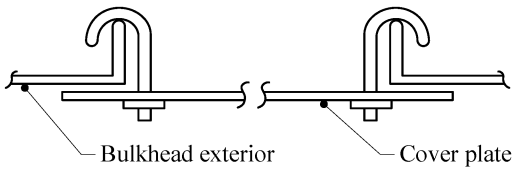

Figure 12

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* * * * *

■ 41. Revise the heading for subpart D to read as follows:

Subpart D—Dual Regulatory Measurement System

§ 69.151 [Amended]

■ 42. In § 69.151:
■ a. After the words ''one net'' and ''two net'', add the word ''register''; and
■ b. Remove the words ''the Dual Measurement System'' and add, in their place, the words ''this subpart''.

§ 69.153 [Amended]

■ 43. In § 69.153(a), after the words ''two gross'' and ''higher gross'', add the word ''register''.

§ 69.155 [Amended]

■ 44. In § 69.155:
■ a. After the word ''Standard'', add the word ''Regulatory''; and
■ b. Remove the words ''the Dual Measurement System'' and add, in their place, the words ''this subpart''.

§ 69.157 [Amended]

■ 45. In § 69.157, in the definitions of ''Gross tonnage'' and ''Net tonnage'', before the word ''tonnage'', add the word ''register''.

§ 69.159 [Amended]

■ 46. In § 69.159, remove the words ''for the Standard Measurement System''.

■ 47. Amend § 69.161 as follows:
■ a. Revise the section heading;
■ b. In paragraph (a) introductory text, after the word ''Gross'', add the word ''register'';
■ c. In paragraphs (a)(5) and (b), after the word ''gross'', add the word ''register'';
■ d. In paragraph (b), after the word ''Net'' add the word ''register''; and
■ e. Add paragraph (c).

The revision and addition read as follows:

§ 69.161 Gross and net register tonnages.

* * * * *

(c) The authorized measurement organization must issue a U.S. Tonnage Certificate as evidence of a vessel's measurement under this subpart, which must also indicate the vessel's measurement under the Convention Measurement System in subpart B of this part, if applicable. There is no requirement to maintain the U.S. Tonnage Certificate on board the vessel.

§ 69.163 [Amended]

■ 48. In § 69.163, remove the words ''the Dual Measurement System'' and add, in their place, the words ''this subpart''.

§ 69.165 [Amended]

■ 49. In § 69.165, remove the words ''the Dual Measurement System'' and add, in their place, the words ''this subpart''.

§ 69.167 [Amended]

■ 50. In § 69.167, remove the words ''the Dual Measurement System'' and add, in their place, the words ''this subpart''.

§ 69.169 [Amended]

■ 51. In § 69.169, in the section heading and the introductory text, remove the word ''gross''.

§ 69.173 [Amended]

■ 52. In § 69.173, before the word ''tonnage'', wherever it appears, add the word ''register''.

§ 69.175 [Amended]

■ 53. Amend § 69.175 as follows:
■ a. In paragraph (a):
■ i. After the words ''two net'', add the word ''register''; and
■ ii. Remove the words ''one net tonnage'', and add, in their place, the words ''one net register tonnage corresponding to the lower gross and net register tonnages'';
■ b. In paragraph (b), after the words ''two net'', add the word ''register''; and
■ c. In paragraph (c):
■ i. After the words ''low net'', add the word ''register''; and
■ ii. After the words ''On these vessels,'' add the words ''a load line must be assigned at a level below the line of the second deck, and''.

§ 69.177 [Amended]

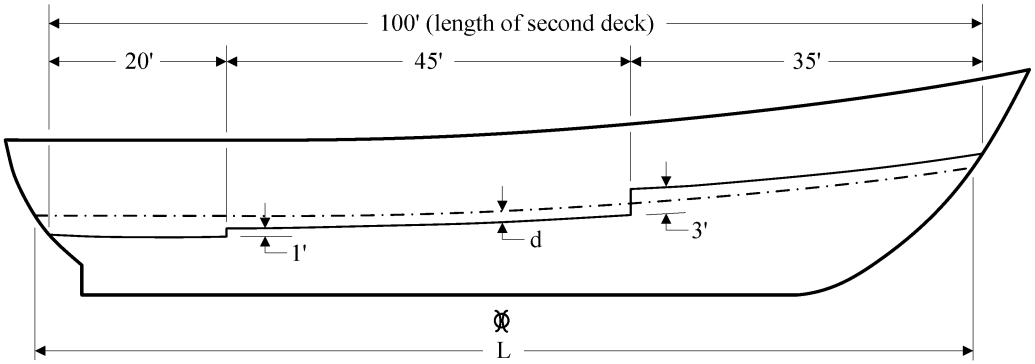
■ 54. Amend § 69.177 as follows:
■ a. In paragraph (a)(1), remove the words ''the Dual Measurement System'' and add, in their place, the words ''this subpart'';
■ b. In paragraph (a)(6)(i), after the words ''one net'', add the word ''register'';
■ c. In paragraph (c), after the word ''two net'', add the word ''register''; and
■ d. In paragraph (d), after the words ''side of the vessel'' add the words '', except in the case of a freeboard deck line mark placed at the location of the second deck if the second deck is the actual freeboard deck for purposes of a vessel's load line assignment''.

■ 55. In § 69.181, revise Examples (1) and (2) to read as follows:

§ 69.181 Locating the line of the second deck.

* * * * *

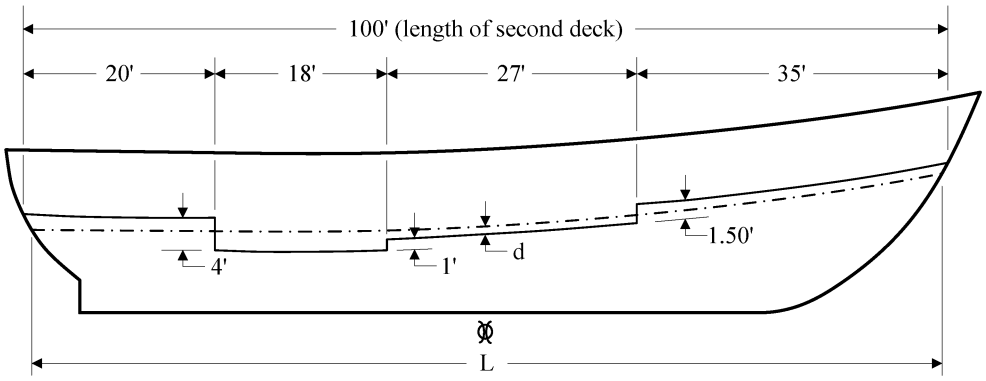
Example: (1)



L = Length of the line of the second deck.
d = Distance from amidship portion of second deck to line of second deck.

$$d = \frac{35 \times 3}{100} - \frac{20 \times 1}{100} = +0.85 \text{ feet.}$$

Example: (2)

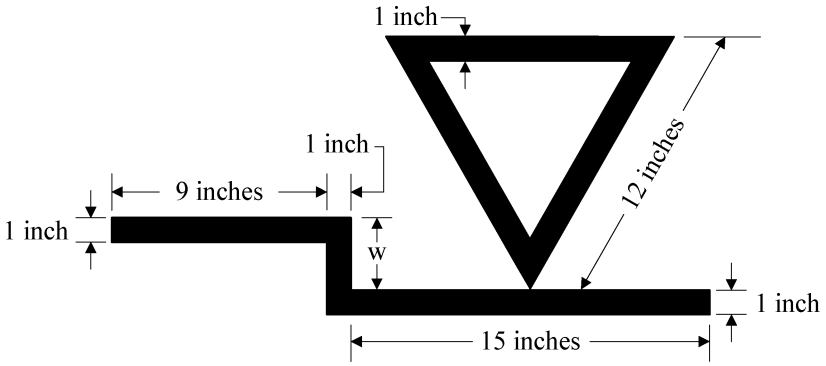


$$d = \frac{20 \times 3}{100} + \frac{35 \times 1.5}{100} - \frac{18 \times 1}{100} = +0.945 \text{ feet.}$$

■ 56. In § 69.183, in paragaphs (a), (b), and (c), revise the images to read as follows:

§ 69.183 Figures.

(a) * * *



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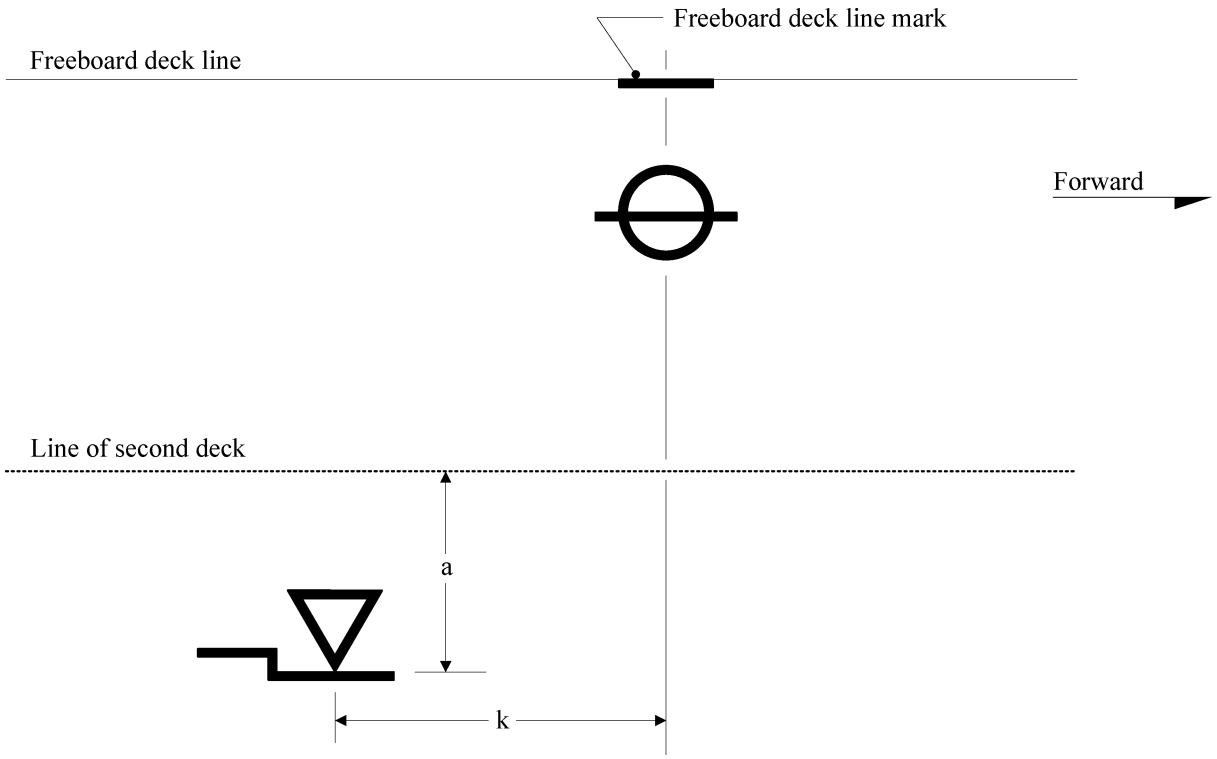
(b) * * *



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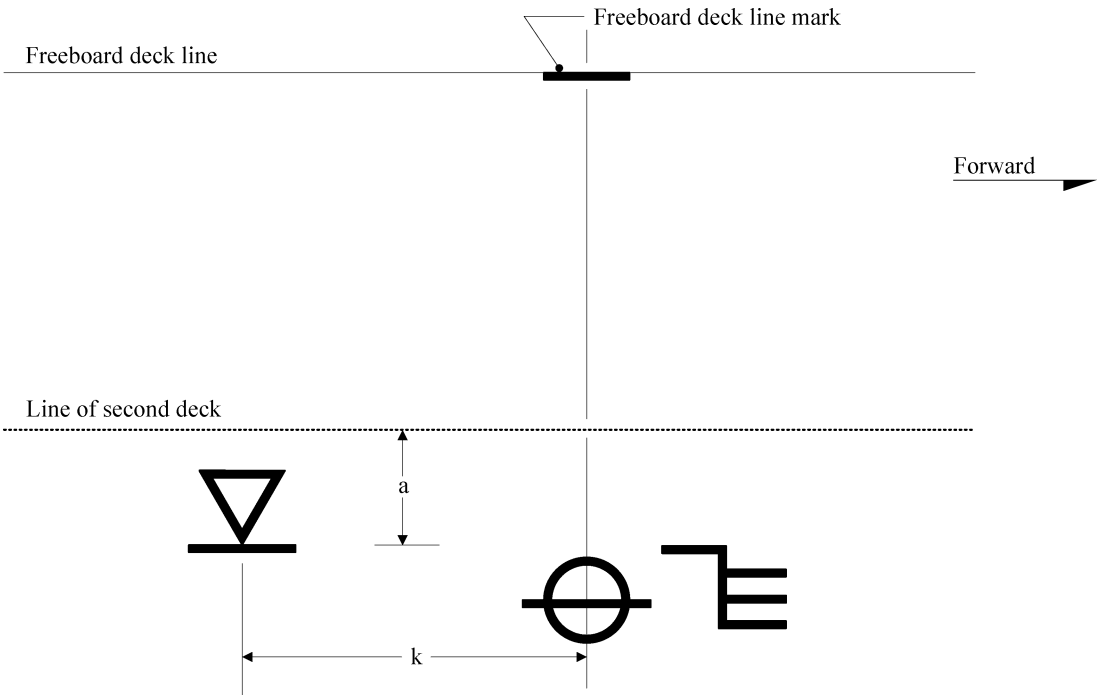
(c) * * *



* * * * *

■ 57. Revise the heading to subpart E to read as follows:

Subpart E—Simplified Regulatory Measurement System

§ 69.201 [Amended]

■ 58. In § 69.201, after the word ''Simplified'', add the word ''Regulatory''.

■ 59. Revise § 69.205 to read as follows:

§ 69.205 Application for measurement services.

(a) Except as noted under paragraph (c) of this section, to apply for measurement under this subpart, the vessel owner must complete an

Application for Simplified Measurement (form CG–5397). If the vessel is documented, or intended to be documented, as a vessel of the United States under part 67 of this chapter, the vessel owner must submit the application form to the National Vessel Documentation Center. Otherwise, the form is not further processed, but may be retained, at the vessel owner's option, as evidence of the tonnage measurement under this part.

(b) The Application for Simplified Measurement (form CG–5397) must include the following information:

(1) Vessel's name and number (*e.g.,* official number, International Maritime Organization (IMO) number, or Coast Guard number).

(2) Vessel hull identification number or other number assigned by builder.

(3) Hull material.

(4) Hull shape.

(5) Overall length, breadth, and depth of vessel and each of the vessel's individual hulls.

(6) Location of any propelling machinery (*e.g.,* inside or outside of the hull).

(7) Dimensions of the principal deck structure, if its volume exceeds the volume of the hull.

(c) At the vessel owner's option, a Builder's Certification and First Transfer of Title (form CG–1261), which includes the same information specified in paragraph (b) of this section may be submitted to the National Vessel Documentation Center instead of the Application for Simplified Measurement for a vessel that is documented, or intended to be documented, as a vessel of the United States under part 67 of this chapter.

§ 69.207 [Amended]

■ 60. In § 69.207(a):

■ a. Remove the word ''half''; and

■ b. Remove the text ''.05'' and add, in its place, the word ''tenth''.

■ 61. Amend § 69.209 as follows:

■ a. Revise the section heading;

■ b. In heading of paragraph (a), after the word ''Gross'', add the word ''register'';

■ c. In paragraph (a), after the word ''gross'', wherever it appears, add the word ''register'';

■ d. In the heading of paragraph (b), after the words ''Net'', add the word ''register'';

■ e. In paragraphs (b)(1) and (2), after the words ''net'' and ''gross'', wherever they appear, add the word ''register'';

■ f. Add paragraph (c).

The revision reads as follows:

§ 69.209 Gross and net register tonnages.

* * * * *

(c) *Certification of measurement.* For a vessel that is documented as a vessel of the United States under part 67 of this chapter, the vessel's Certificate of Documentation serves as evidence of measurement under this subpart. For all other vessels, a completed Application for Simplified Measurement (form CG–5397) serves as evidence of the tonnage measurement under this part.

■ 62. Add § 69.211 to read as follows:

§ 69.211 Treatment of novel type vessels.

Refer questions regarding the application of the tonnage measurement rules under this subpart to novel type vessels to the Commandant.

Dated: March 8, 2016.

J.G. Lantz,

Director, Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2016–05623 Filed 3–30–16; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL REGISTER

Vol. 81 Thursday,
No. 62 March 31, 2016

Part III

The President

Notice of March 29, 2016—Continuation of the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities

Federal Register
Vol. 81, No. 62
Thursday, March 31, 2016

Presidential Documents

Title 3—

The President

Notice of March 29, 2016

Continuation of the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities

On April 1, 2015, by Executive Order 13694, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the increasing prevalence and severity of malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States.

These significant malicious cyber-enabled activities continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared on April 1, 2015, and the measures adopted on that date to deal with that emergency, must continue in effect beyond April 1, 2016. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13694.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
March 29, 2016.

[FR Doc. 2016–07540
Filed 3–30–16; 11:15 am]
Billing code 3295–F6–P

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