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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1201 and 1210

Practices and Procedures; Appeal of Removal or Transfer of Senior Executive Service Employees of the Department of Veterans Affairs

AGENCY: Merit Systems Protection Board.

ACTION: Interim final rule.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) hereby amends its rules of practice and procedure to adapt the Board's regulations to legislative changes that have created new laws applicable to the removal or transfer of Senior Executive Service employees of the Department of Veterans Affairs.

DATES: This interim final rule is effective on August 19, 2014. Submit written comments concerning this interim final rule on or before September 18, 2014.

ADDRESSES: Submit your comments concerning this interim final rule by one of the following methods and in accordance with the relevant instructions:

Email: mspb@mspb.gov. Comments submitted by email can be contained in the body of the email or as an attachment in any common electronic format, including word processing applications, HTML and PDF. If possible, commenters are asked to use a text format and not an image format for attachments. An email should contain a subject line indicating that the submission contains comments concerning the MSPB's interim final rule. The MSPB asks that parties use email to submit comments if possible. Submission of comments by email will assist MSPB to process comments and speed publication of a final rule.

Fax: (202) 653–7130. Faxes should be addressed to William D. Spencer and contain a subject line indicating that the submission contains comments concerning the MSPB's interim final rule.

Mail or other commercial delivery: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington DC 20419.

Hand delivery or courier: Should be addressed to William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419, and delivered to the 5th floor reception window at this street address. Such deliveries are only accepted Monday through Friday, 9 a.m. to 4:30 p.m. Eastern Time, excluding Federal holidays.

Instructions: As noted above, MSPB requests that commenters use email to submit comments, if possible. All comments received will be included in the public docket without change and will be made available online at the Board's Web site, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information or other information whose disclosure is restricted by law. Those desiring to submit anonymous comments must submit them in a manner that does not reveal the commenter's identity, include a statement that the comment is being submitted anonymously, and include no personally-identifiable information. The email address of a commenter who chooses to submit comments using email will not be disclosed unless it appears in comments attached to an email or in the body of a comment.

FOR FURTHER INFORMATION CONTACT: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; or email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION:

This interim final rule is necessary to adapt the MSPB's regulations to recent amendments to Federal law contained in section 707 of the Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, Public Law 113–146 (the Act). The Act was signed by the President on August 7, 2014, and took effect on that same date.

Summary of Section 707 of the Act

The sole provision of the Act relevant to this interim final rule is section 707. Paragraph (a) of section 707 of the Act creates a new statute, 38 U.S.C. 713, which sets forth new rules for the removal or transfer of Senior Executive Service employees of the Department of Veterans Affairs (covered SES employees) for performance or misconduct and requires expedited review of such actions by the MSPB. Under 38 U.S.C. 713(a), the Secretary of the Department of Veterans Affairs may remove or transfer a covered SES employee if the Secretary determines that the covered employee's performance or misconduct warrants such action. Covered employees have a right to appeal a removal or transfer to the MSPB pursuant to 38 U.S.C. 713(d)(2)(A) and 5 U.S.C. 7701. Such an appeal must be filed with the MSPB within 7 days after the date of the removal or transfer. 38 U.S.C. 713(d)(2)(B). Review of the removal or transfer must be undertaken by an MSPB administrative judge, and a decision must be issued by the MSPB administrative judge within 21 days after the appeal is filed. 38 U.S.C. 713(e). If a decision is not issued within 21 days, the Secretary's decision is final. 38 U.S.C. 713(e)(3). An administrative judge's decision shall not be subject to further appeal. 38 U.S.C. 713(e)(2).

Paragraph (b) of section 707 of the Act requires the MSPB to develop and to put into effect expedited procedures for processing appeals filed pursuant to 38 U.S.C. 713 within 14 days of passage of the Act, specifies that 5 CFR 1201.22 is not applicable to appeals filed under 38 U.S.C. 713, and authorizes the MSPB to waive any other regulation to provide the expedited review required under 38 U.S.C. 713. Paragraph (b) also requires the MSPB to submit a report to Congress within 14 days that addresses the steps the Board is taking to conduct the expedited review required under the Act. The report must also identify any additional resources the Board determines to be necessary to complete expedited reviews.

The MSPB currently plays an important role in protecting the rights of our nation's veterans by adjudicating appeals filed under the Veterans Employment Opportunities Act and the Uniformed Services Employment and Reemployment Rights Act. In addition,

the Board Members and MSPB employees, including a significant number of veterans, support any comprehensive legislation that improves conditions for our nation's veterans. Nevertheless, the MSPB has concerns regarding the constitutionality of section 707 of the Act. Specifically, the MSPB questions the constitutionality of any provision of law that prohibits presidentially-appointed, Senate-confirmed Officers of the United States Government from carrying out the mission of the agency to which they were appointed and confirmed to lead.

Justification for Interim Final Rule Effective Immediately

Ordinarily, the Administrative Procedure Act (APA) requires an agency to provide notice of proposed rulemaking and a period of public comment before the promulgation of a new regulation. 5 U.S.C. 553(b) and (c). However, section 553(b) of the APA specifically provides that the notice and comment requirements do not apply:

(A) To interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. The APA also requires the publication of any substantive rule at least 30 days before its effective date, 5 U.S.C. 553(d), except where the rule is interpretive, where the rule grants an exception or relieves a restriction, or ''as otherwise provided by the agency for good cause found and published with the rule.'' *Id.*

A finding that notice and comment rulemaking is unnecessary must be ''confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.'' *Mack Trucks, Inc.* v. *Envtl. Prot. Agency,* 682 F.3d 87, 94 (D.C. Cir. 2012). The Board finds that publication of this interim final rule effective upon publication is warranted for several reasons. The procedures created in Part 1210 reflect changes that have already been enacted into law by the Act. *Komjathy* v. *National Transp. Safety Bd.,* 832 F.2d 1294, 1296–97 (D.C. Cir. 1987) (notice and comment unnecessary where regulation does no more than repeat, virtually verbatim, the statutory grant of authority); *Gray Panthers Advocacy Comm.* v. *Sullivan,* 936 F.2d 1284, 1291–92 (D.C. Cir. 1991) (no reason exists to require notice and comment procedures where regulations restate or paraphrase the detailed requirements of the statute).

The Act took effect upon signature by the President. Given the extremely limited time within which the Board was required to implement procedures to accommodate the expedited review required under the Act, the Board finds that good cause exists to publish these amendments to its regulations in an interim final rule that is effective immediately. The Board finds that this expedited rulemaking is necessary to reduce potential confusion among appellants and agency representatives caused by outdated regulations and ensure that procedures are in place to facilitate the expedited case processing required under the Act. *Philadelphia Citizens in Action* v. *Schweiker,* 669 F.2d 877, 882–84 (3d Cir. 1982) (finding good cause to dispense with notice and comment where Omnibus Budget Reconciliation Act amendments enacted by Congress became effective by statute on a specific date, shortly after enactment).

Summary of Amendments

Section 1201.3 is amended to add 38 U.S.C. 713 to the list of sources of MSPB appellate jurisdiction.

Section 1210.1 sets forth the MSPB's authority to issue decisions under 38 U.S.C. 713 and notes several relevant provisions of that statute.

Section 1210.2 defines several words and terms used in part 1210.

Section 1210.3 addresses the applicability of 5 CFR part 1201 to appeals filed under part 1210.

Section 1210.4 repeats the Act's provision allowing the Board to waive any MSPB regulation to provide the expedited review required by the Act.

Section 1210.5 sets forth certain items that must be included in an agency notice of removal or transfer issued pursuant to 38 U.S.C. 713.

Section 1210.6 requires parties to use the MSPB e-filing system (e-Appeal Online), observe filing procedures ordered by the administrative judge, and check frequently to see whether additional pleadings or orders have been added to the e-Appeal Online Repository.

Section 1210.7 addresses the appropriate place for filing appeals, time limits for filing an appeal and a response, and time limits for filing appeals not covered under part 1210.

Section 1210.8 repeats the Act's provision prohibiting an administrative judge from granting a stay request in an appeal covered under part 1210.

Section 1210.9 requires the appellant to include the agency's decision notice and response file with the initial appeal.

Section 1210.10 states that motions challenging the designation of a representative must be filed within 3 days of notification of the identity of the representative.

Section 1210.11 sets forth procedures for initial status conferences, including scheduling, issues likely to be addressed, and the possibility of scheduling additional conferences. This regulation also recognizes the administrative judge's discretion in addressing these matters.

Section 1210.12 requires initial disclosures, sets forth discovery procedures, and notes the administrative judge's authority to alter discovery procedures.

Section 1210.13 requires the filing of non-discovery motions within 5 days of the initial status conference and allows 2 days for filing an opposition. This regulation recognizes the administrative judge's authority to alter these deadlines.

Section 1210.14 advises the parties that administrative judges have the authority to impose sanctions for failure to meet deadlines or obey orders. The regulation also makes clear that deadlines will be strictly enforced due to the statutorily-required expedited nature of appeals under part 1210.

Section 1210.15 repeats the Act's provision requiring the agency to provide such information and assistance as are required to expedite the processing of appeals under part 1210. This regulation also requires the agency to advise the MSPB when it takes an action under 38 U.S.C. 713.

Section 1210.16 states that intervenors and amici curiae are permitted to participate in appeals under part 1210, that motions to intervene and requests to participate must be filed at the earliest possible time, and that intervenors and amici curiae must comply with the expedited procedures applicable to appeals under part 1210.

Section 1210.17 addresses an appellant's right to a hearing under 5 U.S.C. 7701, hearing procedures, and the responsibility of the MSPB to ensure the presence of a court reporter.

Section 1210.18 addresses burdens of proof, standards of review, and review of penalties.

Section 1210.19 contains procedures for the issuance of bench decisions.

Section 1210.20 states that decisions by an administrative judge under this part are effective upon issuance and may be cited as persuasive authority in other appeals under part 1210 (but may

not be cited in appeals not filed under part 1210). This regulation also states that the MSPB retains jurisdiction following the issuance of a decision under part 1210 for purposes of enforcement of decisions and orders and attorney fees, witness fees, litigation expenses and damages.

List of Subjects in 5 CFR Parts 1201 and 1210

Administrative practice and procedure.

Accordingly, for the reasons set forth in the preamble, the Board amends 5 CFR parts 1201 and 1210:

PART 1201—PRACTICES AND PROCEDURES

■ 1. The authority citation for 5 CFR part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

■ 2. Section 1201.3 is amended by revising paragraph (a)(10) to read as follows:

§ 1201.3 Appellate jurisdiction.

(a) * * *

(10) *Various actions involving the Senior Executive Service.* Removal or suspension for more than 14 days (5 U.S.C. 7543(d) and 5 CFR 752.605); Reduction-in-force action affecting a career appointee (5 U.S.C. 3595); Furlough of a career appointee (5 CFR 359.805); Removal or transfer of a Senior Executive Service employee of the Department of Veterans Affairs (38 U.S.C. 713 and 5 CFR part 1210); and

* * * * *

■ 3. Add a new part 1210 to read as follows:

PART 1210—PRACTICES AND PROCEDURES FOR AN APPEAL OF A REMOVAL OR TRANSFER OF A SENIOR EXECUTIVE SERVICE EMPLOYEE BY THE SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS

Sec.

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Authority: 5 U.S.C. 1204 and 7701, and 38 U.S.C. 713.

§ 1210.1 Authority to issue decisions under this part.

(a) Under 38 U.S.C. 713(d)(2)(A), as created by the Veterans Access, Choice and Accountability Act of 2014 (the Act), an employee covered by this part may appeal a removal from the civil service or a transfer to a General Schedule position based upon performance or misconduct to the MSPB.

(b) MSPB administrative judges have the authority to issue a decision in an appeal covered by this part. (38 U.S.C. 713(e)(1)).

(c) The administrative judge's authority under this part to issue a decision terminates following the passage of 21 days after the appeal is initially filed. (38 U.S.C. 713(e)(3)).

(d) An administrative judge's decision in an appeal filed under this part is not subject to any further appeal. (38 U.S.C. 713(e)(2)).

(e) This part applies only to the Secretary's authority to remove or transfer an employee covered under 38 U.S.C. 713 and the Board's authority to review such decisions. This authority is in addition to the authority already provided the agency in 5 U.S.C. 3592 and the authority provided the Board under 5 U.S.C. 7541, *et seq.* to take an adverse action against an employee. (38 U.S.C. 713(f)).

§ 1210.2 Definitions.

(a) The term *employee covered by this part* means an individual (a career appointee as that term is defined in 5 U.S.C. 3132(a)(4) or an individual who occupies an administrative or executive position and is appointed under 38 U.S.C. 7306(a) or 7501(1)) employed in a Senior Executive Service position at the Department of Veterans Affairs. (38 U.S.C. 713(a) and (g)).

(b) The term *administrative judge* means a person experienced in hearing appeals and assigned by the Board to hold a hearing and decide an appeal arising under this part. (38 U.S.C. 713(e)(1)).

(c) The term *response file* means all documents and evidence the Secretary of the Department of Veterans Affairs, or designee, used in making the decision to remove or transfer an employee covered by this part. It also may include any additional documents or evidence that the agency would present in support of the Secretary's determination in the event that an appeal is filed.

(d) The term *misconduct* includes neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function. (38 U.S.C. 713(g)(2)).

(e) The term *transfer* means the transfer of an employee covered by this part to a General Schedule position. (38 U.S.C. 713(a)(1)(B)).

§ 1210.3 Application of practices and procedures to appeals filed under this part.

(a) The following provisions of part 1201 of this chapter are inapplicable to appeals filed under this part:

(1) Section 1201.22 (inapplicable to appeals brought under this part pursuant to Public Law 113–146, section 707(b)(2));

(2) Section 1201.27 (class appeals are not allowed as such appeals cannot be adjudicated within 21 days);

(3) Section 1201.28 (case suspensions are not allowed because they are inconsistent with the requirement to adjudicate appeals under this part within 21 days);

(4) Section 1201.29 (dismissals without prejudice are not allowed because those procedures are inconsistent with the requirement to adjudicate appeals under this part within 21 days);

(5) Section 1201.56 (this regulation is not controlling; parties should refer to § 1210.18);

(6) Sections 1201.91 through 1201.93 (interlocutory appeals are not allowed because the Board lacks authority to review appeals filed under this part);

(7) Sections 1201.114 through 1201.20 (petitions for review are not allowed because the decisions in appeals filed under this part are not subject to further appeal) (38 U.S.C. 713(e)(2));

(8) Sections 1201.121 through 1201.145 (procedures for other original jurisdiction cases are not relevant to appeals filed under this part);

(9) Sections 1201.152, 1201.153(b), 1201.154, 1201.155, 1201.156, 1201.157, and 1201.161 (these provisions are inapplicable to appeals filed under 38 U.S.C. 713).

(b) Except as modified by this part, the remaining relevant provisions of part 1201 of this chapter are applicable to appeals filed under this part.

§ 1210.4 Waiver of MSPB regulations.

The Board may waive any MSPB regulation in order to provide for the expedited review of an appeal covered by this part. Public Law 113–146, section 707(b)(3).

§ 1210.5 Determination of the Secretary effecting a removal or transfer; required notice of expedited procedures; initial disclosures.

An agency notice of a removal or transfer pursuant to 38 U.S.C. 713 must include the following:

(a) A statement identifying the action taken based on the Secretary's determination, stating the factual reasons for the charge(s), and statement setting forth the basis for the Secretary's determination that the performance or misconduct warrants removal or transfer.

(b) Notice regarding the Board's expedited procedures applicable to an appeal. Such notice shall include a copy of this part and access to the remainder of the Board's adjudicatory regulations.

(c) A copy of the materials the Secretary relied upon to remove or transfer the appellant (normally referred to as the ''response file'').

(d) The name and contact information of the agency's representative for any appeal filed with the MSPB under this part.

(e) Notice that MSPB appeals must be filed with the appropriate Board regional or field office. See § 1201.4(d) of this chapter.

§ 1210.6 Electronic filing procedures; expedited filing procedures.

(a) *Required use of MSPB e-filing system.* All parties must electronically file all pleadings and documents listed in 5 CFR 1201.14(b) by using the MSPB's e-filing system (e-Appeal Online). An attempt to file an appeal using any other method will result in rejection of the appeal and will not constitute compliance with the 7-day filing deadline under the Act, except in the limited circumstances described in § 1210.7(c).

(b) *Expedited filing and service requirements.* All documents and pleadings not otherwise covered in paragraph (a) of this section must be filed in accordance with any expedited filing and service procedures ordered by the administrative judge.

(c) The parties should frequently check the Repository on e-Appeal Online to ensure that they are aware of new pleadings, orders and submissions in a timely fashion. A party's failure to check for updates on e-Appeal Online may lead to a denial of a request to extend a deadline and/or the imposition of sanctions.

§ 1210.7 Filing an appeal and a response to an appeal.

(a) *Place for filing an appeal and a response.* Appeals, and responses to those appeals, must be filed with the appropriate Board regional or field office. See § 1201.4(d) of this chapter.

(b) *Time for filing an appeal and agency response.* An appeal of an action taken pursuant to 38 U.S.C. 713 must be filed no later than 7 days after the effective date of the removal or transfer being appealed. (38 U.S.C. 713(d)(2)(B)). An agency response must be filed within 3 days of the filing of the appeal.

(c) *Timeliness of appeals.* If an appellant does not submit an appeal within 7 days of the effective date of the action it will be dismissed as untimely filed. This deadline cannot be extended for any reason. (38 U.S.C. 713(d)(2)(B)). However, if an appellant establishes that he or she attempted to file an appeal using e-Appeal Online within the 7-day deadline and that the filing was unsuccessful due to a problem with e-Appeal Online, the administrative judge may deem the filing to have been completed on the date it was attempted, provided the appellant took reasonable steps to immediately advise the MSPB of the failed attempt to file the appeal using e-Appeal Online. The 21-day deadline for issuance of a decision will commence on the day such an appeal was deemed to have been filed.

(d) *Time limits for other appeals not brought under 38 U.S.C. 713.* The time limit prescribed by paragraph (b) of this section for filing an appeal does not apply where a law or regulation establishes a different time limit or where there is no applicable time limit. No time limit applies to appeals under the Uniformed Services Employment and Reemployment Rights Act (Pub. L. 103–353), as amended; see part 1208 of this chapter for the statutory filing time limits applicable to appeals under the Veterans Employment Opportunities Act (Pub. L. 105–339); see part 1209 of this chapter for the statutory filing time limits applicable to whistleblower appeals and stay requests.

§ 1210.8 Stay requests.

An administrative judge may not grant a stay request in any appeal covered by this part. (38 U.S.C. 713(e)(4)).

§ 1210.9 Disclosures of information required with initial appeal.

An appellant must attach to his or her appeal a copy of the agency's decision notice and the response file that the agency is required to disclose to the appellant pursuant to § 1210.5(c).

§ 1210.10 Representatives.

Motions challenging the designation of a representative must be filed within 3 days of the submission of the designation of representative notice.

§ 1210.11 Initial status conference; scheduling the hearing.

This regulation contains guidance for the parties concerning when initial status conferences will occur and the issues that will be addressed. In any appeal under this part the administrative judge retains complete discretion in deciding when to schedule the initial status conference and in selecting the issues to be addressed.

(a) *Scheduling the conference.* The administrative judge will schedule the initial status conference. Generally, the parties should expect that the initial status conference will take place within a week after the appeal is filed.

(b) *Issues likely to be addressed at the initial status conference.* The parties should be prepared to discuss the following issues at the initial status conference:

(1) The hearing date and anticipated length of the hearing;

(2) Settlement;

(3) Discovery deadlines and disputes;

(4) Admission or rejection of exhibits;

(5) Witnesses to be called to testify at the hearing;

(6) Motions; and,

(7) Any other issues identified by, or that require the involvement of, the administrative judge.

(c) *Additional status conferences.* The administrative judge may schedule additional status conferences as necessary to fully develop the case for hearing.

§ 1210.12 Discovery.

Except as noted in paragraphs (a) through (d) of this section, 5 CFR 1201.71 through 1201.75 apply to appeals filed under this part.

(a) *Initial disclosures.* The parties must make the following initial disclosures prior to the initial status conference.

(1) *Agency.* The agency must provide:

(i) A copy of all documents in the possession, custody or control of the agency that the agency may use in support of its claims or defenses; and,

(ii) The name and, if known, address, telephone number and email address for

each individual likely to have discoverable information that the agency may use in support of its claims or defenses.

(2) *Appellant.* The appellant must provide:

(i) A copy of all documents in the possession, custody or control of the appellant that the appellant may use in support of his or her claims or defenses; and,

(ii) The name and, if known, address, telephone number and email address for each individual likely to have discoverable information that the appellant may use in support of his or her claims or defenses.

(b) *Time limits.* The time limits set forth in § 1201.73 of this chapter shall not apply to an appeal under this part. The following time limits apply to appeals under this part:

(1) Discovery requests must be served on the opposing party prior to the initial status conference.

(2) Responses to discovery requests must be served on the opposing party no later than 3 days after the initial status conference.

(3) Discovery motions, including motions to compel, must be filed no later than 5 days after the initial status conference.

(c) *Methods of discovery.* Parties may use one or more of the following methods of discovery provided under the Federal Rules of Civil Procedure:

(1) Written interrogatories;

(2) Requests for production of documents or things for inspection or copying;

(3) Requests for admissions.

(d) *Limits on discovery requests.* Absent approval by the administrative judge, discovery is limited as follows:

(1) Interrogatories may not exceed 10 in number, including all discrete subparts;

(2) The parties may not take depositions; and

(3) The parties may engage in only one round of discovery.

(e) *Administrative judge's discretion to alter discovery procedures.* An administrative judge may alter discovery procedures in order to provide for the expedited review of an appeal filed under this part.

§ 1210.13 Deadlines for filing motions.

(a) *Motions.* All non-discovery motions must be filed no later than 5 days after the initial status conference.

(b) *Objections.* Objections to motions must be filed no later than 2 days after the motion is filed.

(c) *Administrative judge's discretion to alter deadlines.* An administrative judge may exercise discretion to alter or waive these deadlines.

§ 1210.14 Sanctions for failure to meet deadlines.

Section 1201.43 of this chapter, which allows administrative judges to impose sanctions on parties that do not comply with orders or do not file pleadings in a timely fashion, shall apply to any appeal covered by this part. Strict enforcement of deadlines will be required to meet the 21-day deadline for issuance of a decision by the administrative judge.

§ 1210.15 Agency duty to assist in expedited review.

(a) As required by 38 U.S.C. 713(e)(6), the agency is required to provide the administrative judge such information and assistance as may be necessary to ensure that an appeal covered by this part is completed in an expedited manner.

(b) The agency must promptly notify the MSPB whenever it issues a Secretarial determination subject to appeal under this part. Such notification must include the location where the employee worked, the type of action taken, and the effective date of the action. Notification should be sent to *VASES@mspb.gov.*

§ 1210.16 Intervenors and amici curiae.

Intervenors and amici curiae are permitted to participate in proceedings under this part as allowed in § 1201.34 of this chapter. Motions to intervene and requests to participate as an amicus curiae must be filed at the earliest possible time, generally before the initial status conference. All intervenors and amici curiae must comply with the expedited procedures set forth in this part and all orders issued by the administrative judge. The deadlines applicable to the timely adjudication of cases under this part will not be extended to accommodate intervenors or amici curiae.

§ 1210.17 Hearings.

(a) *Right to a hearing.* An appellant has a right to a hearing as set forth in 5 U.S.C. 7701(a).

(b) *General.* Hearings may be held in-person, by video or by telephone at the discretion of the administrative judge.

(c) *Scheduling the hearing.* The administrative judge will set the hearing date during the initial status conference. A hearing generally will be scheduled to occur no later than 18 days after the appeal is filed.

(d) *Length of hearings.* Hearings generally will be limited to no more than 1 day. The administrative judge, at his or her discretion, may allow for a longer hearing.

(e) *Court reporters.* The MSPB will contract for a court reporter to be present at hearings.

§ 1210.18 Burden of proof, standard of review, and penalty.

(a) *Agency.* Under 5 U.S.C. 7701(c)(1), and subject to exceptions stated in paragraph (c) of this section, the agency (the Department of Veterans Affairs) bears the burden of proving that an appellant engaged in misconduct, as defined by 38 U.S.C. 713(g)(2), or poor performance, and the Secretary's determination as to such misconduct or poor performance shall be sustained only if the factual reasons for the charge(s) are supported by a preponderance of the evidence. Proof of misconduct or poor performance shall create a presumption that the Secretary's decision to remove or transfer the appellant was warranted. The appellant may rebut this presumption by establishing that the imposed penalty was unreasonable under the circumstances of the case. The following examples illustrate the application of this rule:

Example A. The Secretary determines that the appellant intentionally submitted false data on the agency's provision of medical care and that the misconduct warrants transfer to a General Schedule position. The appellant files an appeal with the Board. Following a hearing, the administrative judge finds that the agency proved its charge by preponderant evidence. The appellant's transfer is presumed to be warranted, absent a showing that such a penalty was unreasonable under the circumstances of the case.

Example B. The Secretary determines that the appellant's performance or misconduct warrants removal, but the notice of the decision and the agency's response file do not identify any factual reasons supporting the Secretary's determination. The appellant files an appeal with the Board. The administrative judge may not sustain the removal because the agency, in taking its action, provided no factual reasons in support of its charge(s).

Example C. The Secretary determines that the appellant's performance or misconduct warrants removal. The appellant files an appeal with the Board. During the processing of the appeal, the appellant contends that the agency unduly delayed or refused to engage in discovery. If the agency has obstructed the appeal from being adjudicated in a timely fashion, the administrative judge may impose sanctions, up to and including the drawing of adverse inferences or reversing the removal action. Because the administrative judge finds that the agency has not unduly delayed or refused to engage in discovery, he declines to impose sanctions and affirms the removal.

Example D. The Secretary decides to remove the appellant based on a charge that the appellant engaged in a minor infraction that occurred outside the workplace. The

appellant files an appeal with the Board. Following a hearing, the administrative judge finds that the agency proved its charge and further finds that the appellant established that the penalty of removal was unreasonable under the circumstances of the case. The presumption that the Secretary's decision to remove was warranted is rebutted and the action is reversed.

(b) *Appellant.* The appellant (a career member of the agency's Senior Executive Service corps) has the burden of proof, by a preponderance of the evidence, concerning:

(1) Issues of jurisdiction;

(2) The timeliness of the appeal; and

(3) Affirmative defenses.

(c) *Affirmative defenses.* Under 5 U.S.C. 7701(c)(2), the Secretary's determination may not be sustained, even where the agency met the evidentiary standard stated in paragraph (a) of this section, if the appellant shows that:

(1) The agency, in rendering its determination, committed harmful error in the application of its procedures;

(2) The decision was based on any prohibited personnel practice described in 5 U.S.C. 2302(b); or

(3) The determination is not otherwise in accordance with law.

(d) *Penalty review.* As set forth in paragraph (a) of this section, proof of the agency's charge(s) by preponderant evidence creates a presumption that the Secretary's decision to remove or transfer the appellant was warranted. An appellant may rebut this presumption by establishing that the imposed penalty was unreasonable under the circumstances of the case, in which case the action is reversed. However, the administrative judge may not mitigate the Secretary's decision to remove or transfer the appellant.

§ 1210.19 Bench decisions.

(a) *General.* The administrative judge may issue a bench decision at the close of the hearing. A bench decision is effective when issued.

(b) *Transcription of bench decision.* A transcribed copy of the decision will be prepared by the court reporter under the administrative judge's supervision to memorialize the oral decision. The official issuance of a bench decision is the date the administrative judge announces the decision and not the date the administrative judge signs the transcription.

§ 1210.20 Effective date of a decision issued by an administrative judge; continuing jurisdiction over certain ancillary matters.

(a) A decision by an administrative judge under this part will be effective upon issuance.

(b) Pursuant to 38 U.S.C. 713(e)(2), a decision by the administrative judge is not subject to further appeal.

(c) A decision by the administrative judge is nonprecedential. Such a decision may be cited as persuasive authority only in an appeal filed pursuant to 38 U.S.C. 713(e)(2). Such a decision may not be cited in any appeal not filed pursuant to 38 U.S.C. 713(e)(2).

(d) Following issuance of a decision by the administrative judge under this part, the MSPB retains jurisdiction over the appeal covered by this part for purposes of the following ancillary matters:

(1) *Enforcement of decisions and orders.* The procedures set forth in subpart F of 5 CFR part 1201 are applicable to petitions for enforcement filed after the administrative judge issues a decision in an appeal filed under this part; and,

(2) *Attorney fees, witness fees, litigation expenses, and damages.* The procedures set forth in subpart H of 5 CFR part 1201 (attorney fees, costs, expert witness fees, and litigation expenses, where applicable, and damages) are applicable to requests for fees and damages filed after the administrative judge issues a decision in an appeal filed under this part. (5 U.S.C. 7701(g)).

William D. Spencer,

Clerk of the Board.

[FR Doc. 2014–19589 Filed 8–15–14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 27

[Docket No. FAA–2014–0596; Special Conditions No. 27–035–SC]

Special Conditions: Robinson Model R66 Helicopter, § 27.1309, Installation of HeliSAS Autopilot and Stabilization Augmentation System (AP/SAS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the modification of the Robinson Helicopter Company Model R66 helicopter. This model helicopter will have a novel or unusual design feature after installation of the HeliSAS helicopter autopilot/stabilization augmentation system (AP/SAS) that has potential failure conditions with more severe adverse consequences than those envisioned by the existing applicable airworthiness regulations. These special conditions contain the added safety standards the Administrator considers necessary to ensure the failures and their effects are sufficiently analyzed and contained.

DATES: The effective date of these special conditions is August 7, 2014. We must receive your comments on or before October 3, 2014.

ADDRESSES: Send comments identified by docket number [FAA–2014–0596] using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Deliver comments to the Docket Operations, in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC between 9 a.m., and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov.* Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Wiley, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group (ASW–111), 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5134; facsimile (817) 222–5961; or email to *mark.wiley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Reason for No Prior Notice and Comment Before Adoption

The FAA has determined that notice and opportunity for public comment are unnecessary because the substance of these special conditions has been subjected to the notice and comment period previously and has been derived without substantive change from those previously issued. As it is unlikely that we will receive new comments, the FAA finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

While we did not precede this with a notice of proposed special conditions, we invite interested people to take part in this action by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your mailed comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On July 11, 2014, the Robinson Helicopter Company applied to amend type certificate (TC) Number R00015LA to install a HeliSAS AP/SAS on the Robinson Helicopter Company model R66 helicopter. The Robinson Helicopter Company model R66 helicopter is a 14 CFR part 27 normal category, single turbine engine, conventional helicopter designed for civil operation. This helicopter model is capable of carrying up to four passengers with one pilot, and has a maximum gross weight of up to 2,700 pounds, depending on the model configuration. The major design features include a 2-blade, fully articulated main rotor, an anti-torque tail rotor system, a skid landing gear, and a visual flight rule basic avionics configuration. Robinson Helicopter Company proposes to modify this model helicopter by installing a two-axis HeliSAS AP/SAS.

Type Certification Basis

Under 14 CFR 21.101, the Robinson Helicopter Company must show that the model R66 helicopter, as modified by the installed HeliSAS AP/SAS, continues to meet the applicable regulations in effect on the date of application for the change to the type certificate. The baseline of the certification basis for the unmodified Robinson Helicopter Company model R66 helicopter is listed in TC Number R00015LA. Additionally, compliance must be shown to any applicable equivalent level of safety findings, exemptions, and special conditions prescribed by the Administrator as part of the certification basis.

The Administrator has determined the applicable airworthiness regulations (that is, 14 CFR part 27), as they pertain to this amended TC, do not contain adequate or appropriate safety standards for the Robinson Helicopter Company model R66 helicopter because of a novel or unusual design feature. Therefore, special conditions are prescribed under § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Robinson Helicopter Company must show compliance of the HeliSAS AP/SAS amended TC altered model R66 helicopter with the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, in accordance with § 11.38 and they become part of the type certification basis under § 21.101(d).

Novel or Unusual Design Features

The HeliSAS AP/SAS incorporates novel or unusual design features for installation in a Robinson Helicopter Company model R66 helicopter, TC Number R00015LA. This HeliSAS AP/SAS performs non-critical control functions. However, the possible failure conditions for this system, and their effect on the continued safe flight and landing of the helicopter, are more severe than those envisioned by the present rules.

Discussion

The effect on safety is not adequately covered under § 27.1309 for the application of new technology and new application of standard technology. Specifically, the present provisions of § 27.1309(c) do not adequately address the safety requirements for systems whose failures could result in catastrophic or hazardous/severe-major failure conditions, or for complex systems whose failures could result in major failure conditions. The current regulations are inadequate because when § 27.1309(c) were promulgated, it was not envisioned that this type of rotorcraft would use systems that are complex or whose failure could result in ''catastrophic'' or ''hazardous/severe-major'' effects on the rotorcraft. This is particularly true with the application of new technology, new application of standard technology, or other applications not envisioned by the rule that affect safety.

To comply with the provisions of the special conditions, we require that Robinson Helicopter Company provide the FAA with a systems safety assessment (SSA) for the final HeliSAS AP/SAS installation configuration that will adequately address the safety objectives established by a functional hazard assessment (FHA) and a preliminary system safety assessment (PSSA), including the fault tree analysis (FTA). This will ensure that all failure conditions and their resulting effects are adequately addressed for the installed HeliSAS AP/SAS. The SSA process, FHA, PSSA, and FTA are all parts of the overall safety assessment process discussed in FAA Advisory Circular 27–1B (Certification of Normal Category Rotorcraft) and Society of Automotive Engineers document Aerospace Recommended Practice 4761 (Guidelines and Methods for Conducting the Safety Assessment Process on Civil Airborne Systems and Equipment).

These special conditions require that the HeliSAS AP/SAS installed on Robinson Helicopter Company model R66 helicopter meet the requirements to adequately address the failure effects identified by the FHA, and subsequently verified by the SSA, within the defined design integrity requirements.

Failure Condition Categories. Failure conditions are classified, according to the severity of their effects on the rotorcraft, into one of the following categories:

1. *No Effect.* Failure conditions that would have no effect on safety. For example, failure conditions that would not affect the operational capability of the rotorcraft or increase crew workload; however, could result in an inconvenience to the occupants, excluding the flight crew.

2. *Minor.* Failure conditions which would not significantly reduce rotorcraft safety, and which would involve crew actions that are well within their capabilities. Minor failure conditions would include, for example, a slight reduction in safety margins or functional capabilities, a slight increase in crew workload such as routine flight plan changes or result in some physical discomfort to occupants.

3. *Major.* Failure conditions which would reduce the capability of the rotorcraft or the ability of the crew to

cope with adverse operating conditions to the extent that there would be, for example, a significant reduction in safety margins or functional capabilities, a significant increase in crew workload or result in impairing crew efficiency, physical distress to occupants, including injuries, or physical discomfort to the flight crew.

4. *Hazardous/Severe-Major.*

a. Failure conditions which would reduce the capability of the rotorcraft or the ability of the crew to cope with adverse operating conditions to the extent that there would be:

(1) a large reduction in safety margins or functional capabilities;

(2) physical distress or excessive workload that would impair the flight crew's ability to the extent that they could not be relied on to perform their tasks accurately or completely; or

(3) possible serious or fatal injury to a passenger or a cabin crewmember, excluding the flight crew.

b. ''Hazardous/severe-major'' failure conditions can include events that are manageable by the crew by the use of proper procedures, which, if not implemented correctly or in a timely manner, may result in a catastrophic event.

5. *Catastrophic*—Failure conditions which would result in multiple fatalities to occupants, fatalities or incapacitation to the flight crew, or result in loss of the rotorcraft.

Radio Technical Commission for Aeronautics, Inc. (RTCA) Document DO–178C (Software Considerations in Airborne Systems And Equipment Certification) provides software design assurance levels most commonly used for the major, hazardous/severe-major, and catastrophic failure condition categories. The HeliSAS AP/SAS system equipment must be qualified for the expected installation environment. The test procedures prescribed in RTCA Document DO–160G (Environmental Conditions and Test Procedures for Airborne Equipment) are recognized by the FAA as acceptable methodologies for finding compliance with the environmental requirements. Equivalent environment test standards may also be acceptable. This is to show that the HeliSAS AP/SAS system performs its intended function under any foreseeable operating condition, which includes the expected environment in which the HeliSAS AP/SAS is intended to operate. Some of the main considerations for environmental concerns are installation locations and the resulting exposure to environmental conditions for the HeliSAS AP/SAS system equipment, including considerations for other equipment that may be affected environmentally by the HeliSAS AP/SAS equipment installation. The level of environmental qualification must be related to the severity of the considered failure conditions and effects on the rotorcraft.

Applicability

These special conditions are applicable to the HeliSAS AP/SAS installed as an amended TC approval in Robinson Helicopter Company model R66 helicopter, TC Number R00015LA.

Conclusion

This action affects only certain novel or unusual design features for a HeliSAS AP/SAS amended TC installed on one model helicopter. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features.

List of Subjects in 14 CFR Part 27

Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

Authority: 42 U.S.C. 7572, 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44704, 44709, 44711, 44713, 44715, 45303.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the Robinson Helicopter Company amended type certificate basis for the installation of a HeliSAS helicopter autopilot/stabilization augmentation system (AP/SAS) on the model R66 helicopter, Type Certificate Number R00015LA. In addition to the requirements of § 27.1309(c), HeliSAS AP/SAS installations on Robinson Helicopter company model R66 helicopter must be designed and installed so that the failure conditions identified in the functional hazard assessment (FHA) and verified by the system safety assessment (SSA), after design completion, are adequately addressed in accordance with the following requirements.

Requirements

The Robinson Helicopter Company must comply with the existing requirements of § 27.1309 for all applicable design and operational aspects of the HeliSAS AP/SAS with the failure condition categories of ''no effect,'' and ''minor,'' and for non-complex systems whose failure condition category is classified as ''major.'' The Robinson Helicopter Company must comply with the requirements of these special conditions for all applicable design and operational aspects of the HeliSAS AP/SAS with the failure condition categories of ''catastrophic'' and ''hazardous severe/major,'' and for complex systems whose failure condition category is classified as ''major.'' A complex system is a system whose operations, failure conditions, or failure effects are difficult to comprehend without the aid of analytical methods (for example, FTA, Failure Modes and Effect Analysis, FHA).

System Design Integrity Requirements

Each of the failure condition categories defined in these special conditions relate to the corresponding aircraft system integrity requirements. The system design integrity requirements for the HeliSAS AP/SAS, as they relate to the allowed probability of occurrence for each failure condition category and the proposed software design assurance level, are as follows:

1. ''Major''—For systems with ''major'' failure conditions, failures resulting in these major effects must be shown to be remote, a probability of occurrence on the order of between 1×10^{-5} to 1×10^{-7} failures/hour, and associated software must be developed, at a minimum, to the Level C software design assurance level.

2. ''Hazardous/Severe-Major''—For systems with ''hazardous/severe-major'' failure conditions, failures resulting in these hazardous/severe-major effects must be shown to be extremely remote, a probability of occurrence on the order of between 1×10^{-7} to 1×10^{-9} failures/hour, and associated software must be developed, at a minimum, to the Level B software design assurance level.

3. ''Catastrophic''—For systems with ''catastrophic'' failure conditions, failures resulting in these catastrophic effects must be shown to be extremely improbable, a probability of occurrence on the order of 1×10^{-9} failures/hour or less, and associated software must be developed, at a minimum, to the Level A design assurance level.

System Design Environmental Requirements

The HeliSAS AP/SAS system equipment must be qualified to the appropriate environmental level for all relevant aspects to show that it performs its intended function under any foreseeable operating condition, including the expected environment in which the HeliSAS AP/SAS is intended to operate. Some of the main considerations for environmental concerns are installation locations and the resulting exposure to environmental conditions for the HeliSAS AP/SAS system equipment, including

considerations for other equipment that may be affected environmentally by the HeliSAS AP/SAS equipment installation. The level of environmental qualification must be related to the severity of the considered failure conditions and effects on the rotorcraft.

Test and Analysis Requirements

Compliance with the requirements of these special conditions may be shown by a variety of methods, which typically consist of analysis, flight tests, ground tests, and simulation, as a minimum. Compliance methodology is related to the associated failure condition category. If the HeliSAS AP/SAS is a complex system, compliance with the requirements for failure conditions classified as ''major'' may be shown by analysis, in combination with appropriate testing to validate the analysis. Compliance with the requirements for failure conditions classified as ''hazardous/severe-major'' may be shown by flight-testing in combination with analysis and simulation, and the appropriate testing to validate the analysis. Flight tests may be limited for ''hazardous/severe-major'' failure conditions and effects due to safety considerations. Compliance with the requirements for failure conditions classified as ''catastrophic'' may be shown by analysis, and appropriate testing in combination with simulation to validate the analysis. Very limited flight tests in combination with simulation are used as a part of a showing of compliance for ''catastrophic'' failure conditions. Flight tests are performed only in circumstances that use operational variations, or extrapolations from other flight performance aspects to address flight safety.

These special conditions require that the HeliSAS AP/SAS system installed on a Robinson Helicopter Company model R66 helicopter, Type Certificate Number R00015LA, meet these requirements to adequately address the failure effects identified by the FHA, and subsequently verified by the SSA, within the defined design system integrity requirements.

Issued in Fort Worth, Texas on August 7, 2014.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–19539 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 27

[Docket No. FAA–2014–0595; Special Conditions No. 27–031–SC]

Special Conditions: Airbus Helicopters Deutschland GmbH Model EC135 Series Helicopters, Installation of HeliSAS Autopilot and Stabilization Augmentation System (AP/SAS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the modification of the Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model EC135 series helicopters. These model helicopters will have a novel or unusual design feature after installation of the S–TEC Corporation (S–TEC) HeliSAS helicopter autopilot/stabilization augmentation system (AP/SAS) that has potential failure conditions with more severe adverse consequences than those envisioned by the existing applicable airworthiness regulations. These special conditions contain the added safety standards the Administrator considers necessary to ensure the failures and their effects are sufficiently analyzed and contained.

DATES: The effective date of these special conditions is August 7, 2014. We must receive your comments on or before October 3, 2014.

ADDRESSES: Send comments identified by docket number [FAA–2014–0595] using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Deliver comments to the Docket Operations, in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC between 9 a.m., and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov.* Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Matt Wilbanks, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group (ASW–111), 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5051; facsimile (817) 222–5961; or email to *Matt.Wilbanks@faa.gov.*

SUPPLEMENTARY INFORMATION:

Reason for No Prior Notice and Comment Before Adoption

The FAA has determined that notice and opportunity for public comment are unnecessary because the substance of these special conditions has been subjected to the notice and comment period previously and has been derived without substantive change from those previously issued. As it is unlikely that we will receive new comments, the FAA finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

While we did not precede this with a notice of proposed special conditions, we invite interested people to take part in this action by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your mailed comments on these special conditions, send us a pre-addressed, stamped postcard on which

the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On June 18, 2013, S–TEC submitted an application to the FAA's Los Angeles Aircraft Certification Office for a supplemental type certificate (STC) to install a HeliSAS AP/SAS on the Airbus Helicopters model EC135 series (EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, and EC135T2+) helicopters. The Airbus Helicopters model EC135 series helicopters are 14 CFR part 27 normal category, twin turbine engine, conventional helicopters designed for civil operation. These helicopter models are capable of carrying up to seven passengers with one pilot, and have a maximum gross weight of up to 6,504 pounds, depending on the model configuration. The major design features include a 3-blade, fully articulated main rotor, an anti-torque tail rotor system, a skid landing gear, and a visual flight rule basic avionics configuration. S–TEC proposes to modify these model helicopters by installing a two-axis HeliSAS AP/SAS.

Type Certification Basis

Under 14 CFR 21.115, S–TEC must show that the Airbus Helicopters model EC135 series helicopters, as modified by the installed HeliSAS AP/SAS, continue to meet the requirements specified in 14 CFR 21.101. The baseline of the certification basis for the unmodified Airbus Helicopters model EC135 series helicopters is listed in Type Certificate Number H88EU. Additionally, compliance must be shown to any applicable equivalent level of safety findings, exemptions, and special conditions prescribed by the Administrator as part of the certification basis.

The Administrator has determined the applicable airworthiness regulations (that is, 14 CFR part 27), as they pertain to this STC, do not contain adequate or appropriate safety standards for the Airbus Helicopters model EC135 series helicopters because of a novel or unusual design feature. Therefore, special conditions are prescribed under § 21.16.

In addition to the applicable airworthiness regulations and special conditions, S–TEC must show compliance of the HeliSAS AP/SAS STC altered Airbus Helicopters model EC135 series helicopters with the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, in accordance with § 11.38 and they become part of the type certification basis under § 21.101(d).

Novel or Unusual Design Features

The HeliSAS AP/SAS incorporates novel or unusual design features for installation in an Airbus Helicopters model EC135 series helicopter, Type Certificate Number H88EU. This HeliSAS AP/SAS performs non-critical control functions. However, the possible failure conditions for this system, and their effect on the continued safe flight and landing of the helicopters, are more severe than those envisioned by the present rules.

Discussion

The effect on safety is not adequately covered under § 27.1309 for the application of new technology and new application of standard technology. Specifically, the present provisions of § 27.1309(c) do not adequately address the safety requirements for systems whose failures could result in catastrophic or hazardous/severe-major failure conditions, or for complex systems whose failures could result in major failure conditions. The current regulations are inadequate because when § 27.1309(c) were promulgated, it was not envisioned that this type of rotorcraft would use systems that are complex or whose failure could result in ''catastrophic'' or ''hazardous/severe-major'' effects on the rotorcraft. This is particularly true with the application of new technology, new application of standard technology, or other applications not envisioned by the rule that affect safety.

To comply with the provisions of the special conditions, we require that S–TEC provide the FAA with a systems safety assessment (SSA) for the final HeliSAS AP/SAS installation configuration that will adequately address the safety objectives established by a functional hazard assessment (FHA) and a preliminary system safety assessment (PSSA), including the fault tree analysis (FTA). This will ensure that all failure conditions and their resulting effects are adequately addressed for the installed HeliSAS AP/SAS. The SSA process, FHA, PSSA, and FTA are all parts of the overall safety assessment process discussed in FAA Advisory Circular 27–1B (Certification of Normal Category Rotorcraft) and Society of Automotive Engineers document Aerospace Recommended Practice 4761 (Guidelines and Methods for Conducting the Safety Assessment Process on Civil Airborne Systems and Equipment).

These special conditions require that the HeliSAS AP/SAS installed on an Airbus Helicopters model EC135 series helicopter meet the requirements to adequately address the failure effects identified by the FHA, and subsequently verified by the SSA, within the defined design integrity requirements.

Failure Condition Categories. Failure conditions are classified, according to the severity of their effects on the rotorcraft, into one of the following categories:

1. *No Effect*—Failure conditions that would have no effect on safety. For example, failure conditions that would not affect the operational capability of the rotorcraft or increase crew workload; however, could result in an inconvenience to the occupants, excluding the flight crew.

2. *Minor*—Failure conditions which would not significantly reduce rotorcraft safety, and which would involve crew actions that are well within their capabilities. Minor failure conditions would include, for example, a slight reduction in safety margins or functional capabilities, a slight increase in crew workload such as routine flight plan changes or result in some physical discomfort to occupants.

3. *Major*—Failure conditions which would reduce the capability of the rotorcraft or the ability of the crew to cope with adverse operating conditions to the extent that there would be, for example, a significant reduction in safety margins or functional capabilities, a significant increase in crew workload or result in impairing crew efficiency, physical distress to occupants, including injuries, or physical discomfort to the flight crew.

4. *Hazardous/Severe-Major.*

a. Failure conditions which would reduce the capability of the rotorcraft or the ability of the crew to cope with adverse operating conditions to the extent that there would be:

(1) A large reduction in safety margins or functional capabilities;

(2) physical distress or excessive workload that would impair the flight crew's ability to the extent that they could not be relied on to perform their tasks accurately or completely; or

(3) possible serious or fatal injury to a passenger or a cabin crewmember, excluding the flight crew.

b. ''Hazardous/severe-major'' failure conditions can include events that are manageable by the crew by the use of proper procedures, which, if not implemented correctly or in a timely manner, may result in a catastrophic event.

5. *Catastrophic*—Failure conditions which would result in multiple fatalities to occupants, fatalities or incapacitation

to the flight crew, or result in loss of the rotorcraft.

Radio Technical Commission for Aeronautics, Inc. (RTCA) Document DO–178C (Software Considerations in Airborne Systems And Equipment Certification) provides software design assurance levels most commonly used for the major, hazardous/severe-major, and catastrophic failure condition categories. The HeliSAS AP/SAS system equipment must be qualified for the expected installation environment. The test procedures prescribed in RTCA Document DO–160G (Environmental Conditions and Test Procedures for Airborne Equipment) are recognized by the FAA as acceptable methodologies for finding compliance with the environmental requirements. Equivalent environment test standards may also be acceptable. This is to show that the HeliSAS AP/SAS system performs its intended function under any foreseeable operating condition, which includes the expected environment in which the HeliSAS AP/SAS is intended to operate. Some of the main considerations for environmental concerns are installation locations and the resulting exposure to environmental conditions for the HeliSAS AP/SAS system equipment, including considerations for other equipment that may be affected environmentally by the HeliSAS AP/SAS equipment installation. The level of environmental qualification must be related to the severity of the considered failure conditions and effects on the rotorcraft.

Applicability

These special conditions are applicable to the HeliSAS AP/SAS installed as an STC approval in Airbus Helicopters model EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, and EC135T2+ helicopters, Type Certificate Number H88EU.

Conclusion

This action affects only certain novel or unusual design features for a HeliSAS AP/SAS STC installed on the specified model series of helicopters. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features.

List of Subjects in 14 CFR Part 27

Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

Authority: 42 U.S.C. 7572, 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44704, 44709, 44711, 44713, 44715, 45303.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the S–TEC Corporation (S–TEC) supplemental type certificate basis for the installation of a HeliSAS helicopter autopilot/stabilization augmentation system (AP/SAS) on Airbus Helicopters model EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, and EC135T2+ helicopters, Type Certificate Number H88EU. In addition to the requirement of § 27.1309(c), HeliSAS AP/SAS installations on Airbus Helicopters model EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, and EC135T2+ helicopters must be designed and installed so that the failure conditions identified in the functional hazard assessment (FHA) and verified by the system safety assessment (SSA), after design completion, are adequately addressed in accordance with the following requirements.

Requirements

S–TEC must comply with the existing requirements of § 27.1309 for all applicable design and operational aspects of the HeliSAS AP/SAS with the failure condition categories of ''no effect,'' and ''minor,'' and for non-complex systems whose failure condition category is classified as ''major.'' S–TEC must comply with the requirements of these special conditions for all applicable design and operational aspects of the HeliSAS AP/SAS with the failure condition categories of ''catastrophic'' and ''hazardous severe/major,'' and for complex systems whose failure condition category is classified as ''major.'' A complex system is a system whose operations, failure conditions, or failure effects are difficult to comprehend without the aid of analytical methods (for example, FTA, Failure Modes and Effect Analysis, FHA).

System Design Integrity Requirements

Each of the failure condition categories defined in these special conditions relate to the corresponding aircraft system integrity requirements. The system design integrity requirements, for the HeliSAS AP/SAS, as they relate to the allowed probability of occurrence for each failure condition category and the proposed software design assurance level, are as follows:

1. ''Major''—For systems with ''major'' failure conditions, failures resulting in these major effects must be shown to be remote, a probability of occurrence on the order of between 1×10^{-5} to 1×10^{-7} failures/hour, and associated software must be developed, at a minimum, to the Level C software design assurance level.

2. ''Hazardous/Severe-Major''—For systems with ''hazardous/severe-major'' failure conditions, failures resulting in these hazardous/severe-major effects must be shown to be extremely remote, a probability of occurrence on the order of between 1×10^{-7} to 1×10^{-9} failures/hour, and associated software must be developed, at a minimum, to the Level B software design assurance level.

3. ''Catastrophic''—For systems with ''catastrophic'' failure conditions, failures resulting in these catastrophic effects must be shown to be extremely improbable, a probability of occurrence on the order of 1×10^{-9} failures/hour or less, and associated software must be developed, at a minimum, to the Level A design assurance level.

System Design Environmental Requirements

The HeliSAS AP/SAS system equipment must be qualified to the appropriate environmental level for all relevant aspects to show that it performs its intended function under any foreseeable operating condition, including the expected environment in which the HeliSAS AP/SAS is intended to operate. Some of the main considerations for environmental concerns are installation locations and the resulting exposure to environmental conditions for the HeliSAS AP/SAS system equipment, including considerations for other equipment that may be affected environmentally by the HeliSAS AP/SAS equipment installation. The level of environmental qualification must be related to the severity of the considered failure conditions and effects on the rotorcraft.

Test and Analysis Requirements

Compliance with the requirements of these special conditions may be shown by a variety of methods, which typically consist of analysis, flight tests, ground tests, and simulation, as a minimum. Compliance methodology is related to the associated failure condition category. If the HeliSAS AP/SAS is a complex system, compliance with the requirements for failure conditions classified as ''major'' may be shown by analysis, in combination with appropriate testing to validate the analysis. Compliance with the requirements for failure conditions classified as ''hazardous/severe-major'' may be shown by flight-testing in combination with analysis and simulation, and the appropriate testing to validate the analysis. Flight tests may

be limited for ''hazardous/severe-major'' failure conditions and effects due to safety considerations. Compliance with the requirements for failure conditions classified as ''catastrophic'' may be shown by analysis, and appropriate testing in combination with simulation to validate the analysis. Very limited flight tests in combination with simulation are used as a part of a showing of compliance for ''catastrophic'' failure conditions. Flight tests are performed only in circumstances that use operational variations, or extrapolations from other flight performance aspects to address flight safety.

These special conditions require that the HeliSAS AP/SAS system installed on an Airbus Helicopters model EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, or EC135T2+ helicopter, Type Certificate Number H88EU, meet these requirements to adequately address the failure effects identified by the FHA, and subsequently verified by the SSA, within the defined design system integrity requirements.

Issued in Fort Worth, Texas, on August 7, 2014.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–19540 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0252; Directorate Identifier 2013–NM–213–AD; Amendment 39–17933; AD 2014–16–09]

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 707 airplanes, Model 720 and 720B series airplanes, Model 727 airplanes, and Model 737–100, –200, and –200C series airplanes. This AD was prompted by a report of a fire that originated near the first officer's area and caused extensive damage to the flight deck on a different airplane model. This AD requires replacing the low-pressure oxygen hoses with non-conductive low-pressure oxygen hoses in the flight compartment. We are issuing this AD to prevent electrical current from inadvertently passing through an internal, anti-collapse spring of the low-pressure oxygen hose, which can cause the low-pressure oxygen hose to melt or burn, leading to an oxygen-fed fire and/or smoke in the flight deck.

DATES: This AD is effective September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 23, 2014.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0252; 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: For Model 707 airplanes, Model 720 and 720B series airplanes, and Model 727 airplanes, contact Patrick Farina, Aerospace Engineer, Cabin Safety, Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5344; fax: 562–627–5210; email: *Patrick.Farina@faa.gov.*

For Model 737–100, –200, and –200C series airplanes, contact Tracy Ton, Aerospace Engineer, Cabin Safety, Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5352; fax: 562–627–5210; email: *Tracy.Ton@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 707 airplanes, Model 720 and 720B series airplanes, Model 727 airplanes, and Model 737–100, –200, and –200C series airplanes. The NPRM published in the **Federal Register** on April 23, 2014 (79 FR 22599). The NPRM was prompted by a report of a fire that originated near the first officer's area and caused extensive damage to the flight deck on a different airplane model. The NPRM proposed to require replacing the low-pressure oxygen hoses with non-conductive low-pressure oxygen hoses in the flight compartment. We are issuing this AD to prevent inadvertent electrical current from passing through an internal, anti-collapse spring of the low-pressure oxygen hose, which can cause the low-pressure oxygen hose to melt or burn, leading to an oxygen-fed fire and/or smoke in the flight deck.

Explanation of Changes Made to This Final Rule

We have changed the point-of-contact information for the various affected airplane models in paragraphs (i)(1) and (j) of this final rule.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 22599, April 23, 2014) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 22599, April 23, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 22599, April 23, 2014).

Costs of Compliance

We estimate that this AD affects 530 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
Replace oxygen hoses	Up to 17 work-hours × $85 per hour = $1,445	$297	Up to $1,742	Up to $923,260.

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):

2014–16–09 The Boeing Company: Amendment 39–17933; Docket No. FAA–2014–0252; Directorate Identifier 2013–NM–213–AD.

(a) Effective Date

This AD is effective September 23, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes identified in paragraphs (c)(1) through (c)(3) of this AD, certificated in any category.

(1) Model 707–100 long body, –200, –100B long body, and –100B short body airplanes; Model 707–300, –300B, –300C, and –400 series airplanes; and Model 720 and 720B series airplanes; as identified in Boeing 707 Alert Service Bulletin A3538, dated October 2, 2013.

(2) Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, as identified in Boeing Alert Service Bulletin 727–35A0031, dated July 18, 2013.

(3) Model 737–100, –200, and –200C series airplanes, as identified in Boeing Alert Service Bulletin 737–35A1140, dated August 28, 2013.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a fire which originated near the first officer's area and caused extensive damage to the flight deck on a different airplane model. We are issuing this AD to prevent inadvertent electrical current from passing through an internal, anti-collapse spring of the low-pressure oxygen hose, which can cause the low-pressure oxygen hose to melt or burn, leading to an oxygen-fed fire and/or smoke in the flight deck.

(f) Compliance

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

(g) Oxygen Hose Replacement

Within 36 months after the effective date of this AD: Replace the low-pressure oxygen hoses in the flight compartment with non-conductive low-pressure oxygen hoses, in accordance with the Accomplishment Instructions of the service bulletin specified in paragraphs (g)(1) through (g)(3) of this AD, as applicable.

(1) For Model 707–100 long body, –200, –100B long body, and –100B short body series airplanes; Model 707–300, –300B, –300C, and –400 series airplanes; and Model 720 and 720B series airplanes: Boeing 707 Alert Service Bulletin A3538, dated October 2, 2013.

(2) For Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes: Boeing Alert Service Bulletin 727–35A0031, dated July 18, 2013.

(3) For Model 737–100, –200, and –200C series airplanes: Boeing Alert Service Bulletin 737–35A1140, dated August 28, 2013.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a low-pressure oxygen hose specified in Table 1 to paragraph (h) of this AD, on any airplane.

TABLE 1 TO PARAGRAPH (h) OF THIS AD—LOW-PRESSURE OXYGEN HOSES (P/N)

Boeing specification No.	Hydroflow	B/E Aerospace	RE Darling (aka REDAR)
10–60174–24	37001–642	Not applicable (n/a)	(n/a)
10–60174–26	37001–640	(n/a)	(n/a)
10–60174–25	37001–641	(n/a)	(n/a)
10–60174–36	37001–36	(n/a)	(n/a)

TABLE 1 TO PARAGRAPH (h) OF THIS AD—LOW-PRESSURE OXYGEN HOSES (P/N)—Continued

Boeing specification No.	Hydroflow	B/E Aerospace	RE Darling (aka REDAR)
10–60174–35	37001–35 37001–36	173470–35 173470–36 ZH833–35 ZH833–36	40830–505–018

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for The Boeing Company Model 707 airplanes, Model 720 and 720B series airplanes, Model 727 airplanes, and Model 737–100, –200, and –200C series airplanes, covered by 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 (j)(1) or (j)(2) of this AD, as applicable. Information may be emailed to: *9-ANM-LAACO-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.

(j) Related Information

For more information about this AD, contact the applicable person identified in paragraph (j)(1) or (j)(2) of this AD.

(1) For Model 707 airplanes, Model 720 and 720B series airplanes, and Model 727 airplanes, contact Patrick Farina, Aerospace Engineer, Cabin Safety, Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5344; fax: 562–627–5210; email: *Patrick.Farina@faa.gov.*

(2) For Model 737–100, –200, and –200C series airplanes, contact Tracy Ton, Aerospace Engineer, Cabin Safety, Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5352; fax: 562–627–5210; email: *Tracy.Ton@faa.gov.*

(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 the AD specifies otherwise.

(i) Boeing 707 Alert Service Bulletin A3538, dated October 2, 2013.

(ii) Boeing Alert Service Bulletin 727–35A0031, dated July 18, 2013.

(iii) Boeing Alert Service Bulletin 737–35A1140, dated August 28, 2013.

(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 July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–18860 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0120; Directorate Identifier 2013–NM–056–AD; Amendment 39–17932; AD 2014–16–08]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) airplanes. This AD was prompted by several reports indicating that shorter nacelle strut bushings were inadvertently installed on certain airplanes. This AD requires a general visual inspection of the left and right nacelle upper strut bushings; installation of the bolts and preload indicating (PLI) washers, if necessary; and replacement of the bushing or repair of the bushing installation, if necessary. We are issuing this AD to detect and correct inadequate nacelle strut bushings, which provide insufficient engagement in the strut fork end, and could deform under the bearing load and lead to the failure of the joint.

DATES: This AD becomes effective September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 23, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0120;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Ricardo Garcia, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 516–228–7331; fax 516–794–5531.

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 Bombardier, Inc. Model CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) airplanes. The NPRM published in the **Federal Register** on February 27, 2014 (79 FR 11022).

Transport Canada Civil Aviation, which is the aviation authority for

Canada, has issued Canadian Airworthiness Directive CF–2013–06, dated February 27, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition certain Bombardier, Inc. Model CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) airplanes. The MCAI states:

> It was discovered in several cases that nacelle strut bushings with part number (P/N), 85410265–105, have been inadvertently installed in lieu of P/N 85410265–103. Bushing P/N 85410265–105 is shorter than bushing P/N 85410265–103 and provides for less engagement in the strut fork end, P/N 215T16534–12/–13, which may deform under the bearing load leading to the failure of the joint.

The actions for this AD include a general visual inspection of the left and right nacelle upper strut bushings; installation of the bolts and PLI washers, if necessary; and replacement of the bushing or repair of the bushing installation, if necessary. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0120-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 11022, February 27, 2014) or on the determination of the cost to the public.

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In the NPRM (79 FR 11022, February 27, 2014), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

No comments were provided to the NPRM (79 FR 11022, February 27, 2014) about these proposed changes. However, a comment was provided for another NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013). The commenter stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

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

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the FAA, TCCA, or Bombardier's TCCA Design Approval Organization (DAO).

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

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

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

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

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

Authority for the DAH in the Contacting the Manufacturer paragraph of this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 11022, February 27, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 11022, February 27, 2014).

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

Costs of Compliance

We estimate that this AD affects 5 airplanes of U.S. registry.

We also estimate that it will take about 4 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 about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,700, or $340 per product.

In addition, we estimate that any necessary follow-on actions will take about 4 work-hours and require parts costing $0, for a cost of $340 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0120;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–16–08 Bombardier, Inc.: Amendment 39–17932. Docket No. FAA–2014–0120; Directorate Identifier 2013–NM–056–AD.

(a) Effective Date

This AD becomes effective September 23, 2014.

(b) Affected ADs

None.

(c) Applicability

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

(1) Model CL–215–6B11 (CL–215T Variant) airplanes, serial numbers 1056, 1057, 1061, 1080, 1109, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, and 1125.

(2) Model CL–215–6B11 (CL–415 Variant) airplanes, serial numbers 2001 through 2067 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by several reports indicating that shorter nacelle strut bushings were inadvertently installed on certain airplanes. We are issuing this AD to detect and correct inadequate nacelle strut bushings, which provide insufficient engagement in the strut fork end, and could deform under the bearing load and lead to the failure of the joint.

(f) Compliance

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

(g) Inspection of the Bushing

Within 3 months after the effective date of this AD: Do a general visual inspection to determine the part number of the left and right nacelle upper strut bushings, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012 (for Model CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(1) If any bushing with part number (P/N) 85410265–103 is installed: Before further flight, install the bolts and preload indicating (PLI) washers, in accordance with paragraph 2.G. of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012 (for Model CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(2) If any bushing with P/N 85410265–105 is installed in either the left or right nacelle: Do the actions in paragraph (h) of this AD.

(h) Replacement or Repair of the Bushing

If any bushing with P/N 85410265–105 is found installed during the inspection required by paragraph (g) of this AD: Before further flight, do the actions specified in paragraph (h)(1) or (h)(2) of this AD.

(1) Replace the bushing in accordance with paragraph 2.E. of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012 (for Model CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012

(for Model CL–215–6B11 (CL–415 Variant) airplanes); and continue with the installation of the bolt and PLI washer, in accordance with paragraph 2.G. of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012 (for Model CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(2) Repair the bushing in accordance with paragraph 2.F. of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012 (for Model CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012 (for Model CL–215–6B11 (CL–415 Variant) airplanes); and continue with the installation of the bolt and PLI washer, in accordance with paragraph 2.G. of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012 (for Model CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(i) Replacement of Repaired Bushing

For any bushing that has been repaired as specified in paragraph (h)(2) of this AD: Within 5,000 flight hours after accomplishing the repair or at the next engine removal, whichever occurs first, replace the bushing with P/N 85410265–103, in accordance with paragraph 2.E. of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012 (for Model CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012 (for Model CL–215–6B11 (CL–415 Variant) airplanes); and continue with the installation of the bolt and PLI washer, in accordance with paragraph 2.G. of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012 (for Model CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(j) Airplanes for Which No Further Action Is Required

(1) For airplanes on which a general visual inspection specified in paragraph (g) of this AD is done and it is determined that nacelle strut bushings having P/N 85410265–103 are installed in the airplane: No further actions are required by this AD, provided the actions specified in paragraph (g)(1) of this AD have been done.

(2) For airplanes on which nacelle strut bushings having P/N 85410265–103 are installed as specified in paragraph (h)(1) or (i) of this AD: No further actions are required by this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–06, dated February 27, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0120-0002.*

(m) Material Incorporated by Reference

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

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

(i) Bombardier Alert Service Bulletin 215–A3173, dated April 11, 2012.

(ii) Bombardier Alert Service Bulletin 215–A4453, dated April 10, 2012.

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

(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 July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–18863 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1158; Directorate Identifier 2011–NM–232–AD; Amendment 39–17501; AD 2013–13–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called A300–600 series airplanes). This AD was prompted by the revision of certain airworthiness limitation items (ALI) documents, which require more restrictive maintenance requirements and airworthiness limitations. This AD requires revising the maintenance or inspection program to incorporate the limitations section. We are issuing this AD to prevent fatigue cracking, damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

DATES: This AD becomes effective September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 23, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2012-1158* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36

96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A300 and A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called A300–600 series airplanes). The NPRM was intended to supersede AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011). The NPRM published in the **Federal Register** on November 7, 2012 (77 FR 66772). The NPRM was prompted by the revision of certain airworthiness limitation items (ALI) documents, which require more restrictive maintenance requirements and airworthiness limitations. The NPRM proposed to require revising the maintenance program to incorporate the limitations section. We are issuing this AD to prevent fatigue cracking, damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, issued EASA Airworthiness Directive 2011–0198, dated October 19, 2011 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition all Airbus Model A300 and A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called A300–600 series airplanes). The MCAI states:

> The airworthiness limitations applicable to the Damage Tolerant Airworthiness Limitation Items (DT ALIs) are currently listed in Airbus ALI Documents, which are referenced in the A300, A310 and A300–600 Airworthiness Limitations Section (ALS) Part 2.
>
> Airbus have recently revised the A300–600 and A310 ALI Documents, and these issues have been approved by EASA. The Airbus A300–600 ALI Document issue 13 and temporary revision (TR) 13.1 and the A310 ALI document issue 08 introduce more restrictive maintenance requirements and airworthiness limitations, which have been identified as mandatory actions for continued airworthiness.
>
> EASA AD 2009–0155 [which corresponds to FAA AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011)] required compliance with the maintenance requirements and associated airworthiness limitations defined in the following documents:
>
> —AIRBUS A300 ALI Document issue 04,
> —AIRBUS A310 ALI Document issue 07, and
> —AIRBUS A300–600 ALI Document issue 12.
>
> For the reasons described, this EASA AD retains the requirements of EASA AD 2009–0155, which is superseded, and requires compliance with the airworthiness limitations defined in the Airbus A300–600 ALI Document issue 13 and TR13.1, and the A310 ALI document issue 08.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2012-1158-0002.*

Actions Since NPRM (77 FR 66772, November 7, 2012)

The NPRM (77 FR 66772, November 7, 2012) proposed to supersede AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011). However, the new actions introduced in the NPRM and required by this final rule apply only to Model A310 and A300–600 series airplanes. The actions required for Model A300 series airplanes that are required by AD 2011–10–17 are not affected by this AD. AD 2011–10–17 therefore remains in effect in its entirety for Model A300, A300–600, and A310 series airplanes. The requirements of this final rule include only the new actions, and apply only to Model A310 and A300–600 series airplanes.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received.

Request for Clarification of Compliance Times

UPS requested clarification of the compliance times for the maintenance program revision and the initial inspection. UPS noted that operators have 3 months to complete both the maintenance program revision and the initial inspections. UPS stated that the current wording indicates that the two tasks are to be accomplished concurrently, and cannot be accomplished until approved by the principal maintenance inspector. UPS added that concurrent accomplishment of the two actions is not feasible and requested that accomplishment of these two actions be consecutive rather than concurrent.

We agree to provide clarification. The commenter's statement that operators have 3 months to complete both the maintenance program revision and initial inspections is not accurate. As specified in paragraph (g) of this AD, operators have 3 months to revise the maintenance or inspection program, as applicable. However, the compliance time for the initial inspections is at the times in the applicable service information identified in paragraphs (g)(1), (g)(1)(i)(A), and (g)(2) of this AD, or within 3 months after the effective date of this AD, whichever occurs later.

For the service information identified in paragraphs (g)(1) and (g)(2) of this AD, there are also compliance times specified in paragraph 3., ''Special Compliance Times,'' in the ''Record of Revisions'' section of the service information, which provide compliance times relative to the approval date or publication date of the service information. We have determined that those compliance times should be relative to the effective date of this AD; therefore, we have added compliance time exceptions to paragraphs (g)(1)(i)(B) and (g)(2)(i) of this AD. We have determined that extending these compliance times will provide an acceptable level of safety.

Request To Extend Grace Period and Repetitive Intervals

UPS requested that the proposed grace period and repetitive intervals be extended to be equivalent to the requirements of AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011). UPS commented that the proposed compliance times are overly conservative and are not supported by industry data.

We do not agree with the commenter's request to extend the grace period and repetitive intervals. Airbus revised the ALIs based upon analysis and data. Under the provisions of paragraph (j) of this final rule, however, we will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that a different compliance time would provide an acceptable level of safety. We have not changed this final rule in this regard.

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the

FAA develops an AD based on a foreign authority's AD.

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

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

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

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

We also have decided not to include a generic reference to either the ''delegated agent'' or ''design approval holder (DAH) with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH throughout this AD.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the 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 (77 FR 66772, November 7, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 66772, November 7, 2012).

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

Costs of Compliance

We estimate that this AD affects 170 airplanes of U.S. registry.

We estimate that it will take about 1 work-hour per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $14,450, or $85 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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2012-1158;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–13–13 Airbus Airplanes: Amendment 39–17501. Docket No. FAA–2012–1158; Directorate Identifier 2011–NM–232–AD.

(a) Effective Date

This AD becomes effective September 23, 2014.

(b) Affected ADs

This AD affects AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011).

(c) Applicability

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

(1) Model A310–203, –204, –221, –222, 304, –322, –324, and –325 airplanes.

(2) Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by revisions of certain Airbus Airworthiness Limitation Items (ALI) documents, which require more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to prevent fatigue cracking, damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

(1) For Model A300–600 series airplanes: Within 3 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the structural inspections and inspection intervals defined in Airbus A300–600 Airworthiness Limitation Items Document AI/SE–M2/95A.1310/07, Issue 13, dated October 2010. The initial compliance time for accomplishing the inspections is at the later of the times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) At the applicable times specified in Airbus A300–600 Airworthiness Limitation Items Document AI/SE–M2/95A.1310/07, Issue 13, dated October 2010, except as specified in paragraphs (g)(1)(i)(A) and (g)(1)(i)(B) of this AD.

(A) For actions identified in Airbus A300–600 Airworthiness Limitation Items Document AI/SE–M2/95A.1310/07, Issue 13, dated October 2010; and Airbus TR 13.1, dated February 2011, to the Airbus A300–600 Airworthiness Limitation Items Document AI/SE–M2/95A.1310/07, Issue 13, dated October 2010: Use the applicable compliance time specified in Airbus Temporary Revision (TR) 13.1, dated February 2011, to the Airbus A300–600 Airworthiness Limitation Items Document AI/SE–M2/95A.1310/07, Issue 13, dated October 2010.

(B) Where compliance times in paragraph 3., ''Special Compliance Times,'' in the ''Record of Revisions'' section of Airbus A300–600 Airworthiness Limitation Items Document AI/SE–M2/95A.1310/07, specify ''from approval date of A300–600 ALI Document Issue 13,'' ''from date approval of A300–600 ALI Document Issue 13,'' or ''from A300–600 ALI Document Issue date of publication,'' for this AD use ''after the effective date of this AD'' for those compliance times.

(ii) Within 3 months after the effective date of this AD.

(2) For Model A310 series airplanes: Within 3 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the structural inspections and inspection intervals defined in Airbus A310 Airworthiness Limitation Items Document AI/SE–M2/95A.1309/07, Issue 8, dated October 2010. The initial compliance time for accomplishing the inspections is at the later of the times specified in paragraph (g)(2)(i) and (g)(2)(ii) of this AD.

(i) At the applicable times specified in Airbus A310 Airworthiness Limitation Items Document AI/SE–M2/95A.1309/07, Issue 8, dated October 2010; except where compliance times in paragraph 3., ''Special Compliance Times,'' in the ''Record of Revisions'' section of Airbus A310 Airworthiness Limitation Items Document AI/SE–M2/95A.1309/07, Issue 8, dated October 2010, specify ''from date of approval of ALI Document Issue 8,'' or ''from date approval of the ALI document Issue 8,'' for this AD use ''after the effective date of this AD'' for those compliance times.

(ii) Within 3 months after the effective date of this AD.

(h) Terminating Action for AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011)

Accomplishing the revision required by paragraph (g) of this AD terminates the actions required by paragraph (s) of AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011) for that airplane only.

(i) New Alternative Inspections and Inspection Intervals Limitation

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

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

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

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2011–0198, dated October 19, 2011, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2012-1158-0002.*

(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 this AD specifies otherwise.

(i) Airbus A300–600 Airworthiness Limitation Items Document AI/SE–M2/95A.1310/07, Issue 13, dated October 2010.

(ii) Airbus A310 Airworthiness Limitation Items Document AI/SE–M2/95A.1309/07, Issue 8, dated October 2010. Page APXD–362 (which contains Illustration 2 of 2 of Figure 575141) of this document does not contain an issue date or page number.

(iii) Airbus Temporary Revision 13.1, dated February 2011, to Airbus A300–600 Airworthiness Limitation Items Document AI/SE–M2/95A.1310/07, Issue 13, dated October 2010.

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

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

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

Issued in Renton, Washington, on July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–18906 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1327; Directorate Identifier 2012–NE–47–AD; Amendment 39–17934; AD 2014–16–10]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2013–12–01 for all Rolls-Royce plc (RR) model RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines. AD 2013–12–01 required a one-time ultrasonic inspection (UI) of low-pressure (LP) compressor blades with more than 2,500 flight cycles since new or last inspection. This AD requires initial and repetitive UIs of the affected LP compressor blades. This AD was prompted by LP compressor blade partial airfoil release events. We are issuing this AD to prevent LP compressor blade airfoil separations, damage to the engine, and damage to the airplane.

DATES: This AD is effective September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 23, 2014.

ADDRESSES: For service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby DE24 8BJ, UK; phone: 44 0 1332 242424; fax: 44 0 1332 249936. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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–2012–1327; 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 mandatory continuing airworthiness information, 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: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2013–12–01, Amendment 39–17478 (78 FR 37703, June 24, 2013), (''AD 2013–12–01''). AD 2013–12–01 applied to the specified products. The NPRM published in the **Federal Register** on May 23, 2014 (79 FR 29694). The NPRM proposed to require initial and repetitive UIs of the affected LP compressor blades.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 29694, May 23, 2014).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed.

Costs of Compliance

We estimate that this AD affects 56 engines installed on airplanes of U.S. registry. We also estimate that it will take about 44 hours per engine to comply with the initial inspection requirements in this AD. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $209,440.

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 part 39 of the Federal Aviation Regulations (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) 2013–12–01, Amendment 39–17478 (78 FR 37703, June 24, 2013), and adding the following new AD:

2014–16–10 Rolls-Royce plc: Amendment 39–17934; Docket No. FAA–2012–1327; Directorate Identifier 2012–NE–47–AD.

(a) Effective Date

This AD is effective September 23, 2014.

(b) Affected ADs

This AD supersedes AD 2013–12–01, Amendment 39–17478 (78 FR 37703, June 24, 2013).

(c) Applicability

This AD applies to Rolls-Royce plc (RR) model RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines, with low-pressure (LP) compressor blade, part numbers (P/Ns) FK23411, FK25441, FK25968, FW11901, FW15393, FW23643, FW23741, FW23744, KH23403, or KH23404, installed.

(d) Unsafe Condition

This AD was prompted by LP compressor blade partial airfoil release events. We are issuing this AD to prevent LP compressor blade airfoil separations, engine damage, and damage to the airplane.

(e) Actions and Compliance

Unless already done, do the following actions.

(1) Ultrasonic Inspection (UI) of LP Compressor Blade

(i) After the effective date of this AD, ultrasonically inspect each LP compressor blade before the blade exceeds 3,600 cycles since new (CSN) or before further flight, whichever occurs later. Repeat the UI of the blade every 2,400 cycles since last inspection (CSLI).

(ii) For any LP compressor blade that exceeds 2,200 CSLI on the effective date of this AD, inspect the blade before exceeding 3,000 CSLI or before further flight, whichever occurs later. Thereafter, perform the repetitive inspections required by this AD.

(iii) Use paragraph 3, excluding subparagraphs 3.A.(9), 3.B.(5), 3.C.(4), 3.D.(3), 3.E.(5), 3.F.(10), and 3.G.(7), of RR Alert Non-Modification Service Bulletin (NMSB) RB.211–72–AH465, dated July 15, 2013, to perform the inspections required by this AD.

(2) Use of Replacement Blades

LP compressor blades, P/Ns FK23411, FK25441, FK25968, FW11901, FW15393, FW23643, FW23741, FW23744, KH23403, or KH23404, that have accumulated at least 3,600 CSN or 2,400 CSLI are eligible for installation if the blade has passed the UI required by this AD.

(f) Credit for Previous Actions

If you performed a UI of an affected LP compressor blade before the effective date of this AD using RR NMSB No. RB.211–72–G702, dated May 23, 2011; or RR NMSB No. RB.211–72–G872, Revision 2, dated March 8, 2013, or earlier revisions; or RR NMSB No. RB.211–72–H311, dated March 8, 2013; or Engine Manual E-Trent-1RR, Task 72–31–11–200–806, you have met the initial inspection requirements of this AD. However, you must still comply with the repetitive 2,400 CSLI requirement of this AD.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) Related Information

(1) For more information about this AD, contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *Robert.Green@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2014–0031, dated February 4, 2014, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2012-1327-0007.*

(i) 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) Rolls-Royce plc Alert Non-Modification Service Bulletin No. RB.211–72–AH465, dated July 15, 2013.

(ii) Reserved.

(3) For RR service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby DE24 8BJ, UK; phone: 44 0 1332 242424; fax: 44 0 1332 249936.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information 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 August 1, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–19017 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0122; Directorate Identifier 2014–NM–002–AD; Amendment 39–17938; AD 2014–16–14]

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 737–600, –700, –700C, –800, and –900 series airplanes. This AD was prompted by reports in which a single, undetected, erroneous radio altimeter output caused the autothrottle to enter landing flare retard mode prematurely on approach. This AD requires removing certain autothrottle computers and installing a new or reworked autothrottle computer. We are issuing this AD to prevent a single, undetected, erroneous radio altimeter output from causing premature autothrottle landing flare retard and subsequent loss of automatic speed control, which could result in loss of control of the airplane.

DATES: This AD is effective September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 23, 2014.

ADDRESSES: 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.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057. For information on the availability of this material at the FAA, call 425–227–2112.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0122; 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: Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@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 737–600, –700, –700C, –800, and –900 series airplanes. The NPRM published in the **Federal Register** on March 3, 2014 (79 FR 11728). The NPRM was prompted by reports in which a single, undetected, erroneous radio altimeter output caused the autothrottle to enter landing flare retard mode prematurely on approach. The NPRM proposed to require removing certain autothrottle computers and installing a new or reworked autothrottle computer. We are issuing this AD to prevent a single, undetected, erroneous radio altimeter output from causing premature autothrottle landing flare retard and subsequent loss of automatic speed control, which could result in loss of control 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 (79 FR 11728, March 3, 2014) and the FAA's response to each comment.

Support for the NPRM (79 FR 11728, March 3, 2014)

Boeing and the National Transportation Safety Board (NTSB) concurred with the NPRM (79 FR 11728, March 3, 2014).

Clarification of Effect of Winglet Installation

Aviation Partners Boeing stated that installation of winglets per Supplemental Type Certificate (STC) ST00830SE does not affect the accomplishment of the manufacturer's service instructions specified in the NPRM (79 FR 11728, March 3, 2014).

Request To Change Cost Estimate

Kevin Lee, a private citizen, requested that we increase the cost estimate of the NPRM (79 FR 11728, March 3, 2014). The commenter stated that the cost will be significantly higher due to General Electric not providing a free-of-charge upgrade to the autothrottle computer despite this being a safety and reliability issue.

We disagree with increasing the cost estimate. The cost estimate does not include parts cost for the autothrottle computer because it is considered ''Parts and Materials Supplied by the Operator'' in Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013. The autothrottle computer software can be updated using a data loader on a bench with specific equipment that is unique to the GE autothrottle computer. However, since this autothrottle computer has been out of production for over ten years, it is unlikely that operators will have the capability to do the update themselves using a disc supplied by GE. Therefore, GE anticipates that the majority of operators will return their autothrottle computer to a GE service center for modification. As an alternative, operators may purchase the autothrottle computer from Boeing. Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013, does not give the cost and it is therefore not included in our estimate. Since there are multiple ways for operators to get an updated autothrottle computer, we have not included the cost of the autothrottle computer in our estimate. We also do not control warranty coverage. No change has been made to this final rule in this regard.

Request To Delay Issuance or Extend Compliance Time of Final Rule

Kevin Lee requested that we delay issuance of the final rule, or extend the proposed 36-month compliance time specified in the NPRM (79 FR 11728, March 3, 2014). The commenter stated that Boeing has not incorporated the new GE autothrottle computer having part number (P/N) 760SUE2–5 into their Boeing 737 Illustrated Parts Catalog (IPC) or the Instructions for Continued Airworthiness documents.

We disagree with delaying issuance of this final rule. Paragraph 1.K. of Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013, identifies the Boeing 737 IPC as the only document affected by replacement of the autothrottle computer. The new autothrottle computer has been added to the IPC, therefore there is no need to delay issuance of the final rule.

We also disagree with extending the 36-month compliance time. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. According to the manufacturer, an ample number of required parts will be available to modify the U.S. fleet within the proposed compliance time. However, under the provisions of paragraph (i) of this final rule, we will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety.

We have not changed the AD in regard to either delaying the final rule or extending the 36-month compliance time.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 11728, March 3, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 11728, March 3, 2014).

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

Costs of Compliance

We estimate that this AD affects 497 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
Autothrottle computer replacement	1 work-hour × $85 per hour = $85	$0	$85	$42,245

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):

2014–16–14 The Boeing Company: Amendment 39–17938; Docket No. FAA–2014–0122; Directorate Identifier 2014–NM–002–AD.

(a) Effective Date

This AD is effective September 23, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto Flight.

(e) Unsafe Condition

This AD was prompted by reports in which a single, undetected, erroneous radio altimeter output caused the autothrottle to enter landing flare retard mode prematurely on approach. We are issuing this AD to prevent a single, undetected, erroneous radio altimeter output from causing premature autothrottle landing flare retard and subsequent loss of automatic speed control, which could result in loss of control of the airplane.

(f) Compliance

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

(g) Replacement

Within 36 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013.

(1) Remove any autothrottle computer, part number (P/N) 760SUE1–1 (Boeing P/N 10–62017–51), 760SUE2–2 (Boeing P/N 10–62017–52), 760SUE2–3 (Boeing P/N 10–62017–53), or 760SUE2–4 (Boeing P/N 10–62017–54), from the E1–1 electronics shelf.

(2) Install a new or reworked autothrottle computer, P/N 760SUE2–5 (Boeing P/N 10–62017–55) at the E1–1 electronics shelf.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install an autothrottle computer, P/N 760SUE1–1 (Boeing P/N 10–62017–51), 760SUE2–2 (Boeing P/N 10–62017–52), 760SUE2–3 (Boeing P/N 10–62017–53), or 760SUE2–4 (Boeing P/N 10–62017–54), on any airplane.

(i) 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 (j) 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.

(j) Related Information

For more information about this AD, contact Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov.*

(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 the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013.

(ii) Reserved.

(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 the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057. 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 August 1, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19014 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0544; Directorate Identifier 2012–NM–057–AD; Amendment 39–17935; AD 2014–16–11]

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 777–200 series airplanes. This AD was prompted by reports of smoke or flames in the passenger cabin of various transport category airplanes related to the wiring for the passenger cabin in-flight entertainment (IFE) system, cabin lighting, and passenger seats. This AD requires, for certain airplanes, doing an inspection of the electrical power control panel for a certain part number, and corrective action if necessary; and, for certain other airplanes, installing a new electrical power control panel, and making changes to the wiring and certain electrical load management system (ELMS) panels. We are issuing this AD to ensure that the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through one or two switches in the flight deck in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation, and consequent loss of control of the airplane.

DATES: This AD is effective September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 23, 2014.

ADDRESSES: 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.* For BAE Systems service information identified in this AD, contact BAE Systems, Attention: Commercial Product Support, 600 Main Street, Room S18C, Johnson City, NY 13790–1806; phone: 607–770–3084; fax: 607–770–3015; email: *CS-Customer.Service@baesystems.com;* Internet: *http://www.baesystems-ps.com/customersupport.* For GE service information identified in this AD, contact GE Aviation, Customer Support Center, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *cs.techpubs@ge.com;* Internet: *http://www.geaviation.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 425–227–2112.

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–2013–0544; 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: Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@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 777–200 series airplanes. The NPRM published in the **Federal Register** on July 17, 2013 (78 FR 42727). The NPRM was prompted by reports of smoke or flames in the passenger cabin of various transport category airplanes, related to the wiring for the passenger cabin IFE system, cabin lighting, and passenger seats. The NPRM proposed to require, for certain airplanes, doing an inspection of the electrical power control panel for a certain part number, and corrective action if necessary; and, for certain other airplanes, installing a new electrical power control panel, and making changes to the wiring and certain ELMS panels. We are issuing this AD to ensure that the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through one or two switches in the flight deck in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation, and consequent loss of control of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 42727, July 17, 2013) and the FAA's response to each comment.

Support for the NPRM (78 FR 42727, July 17, 2013)

United Airlines (UA) supported the NPRM (78 FR 42727, July 17, 2013).

Request To Accept Modification Deviations Proposed by Japan Airlines (JAL)

Japan Airlines (JAL) requested that we accept modification deviations proposed by JAL. JAL stated that there were problems with the repair kits including short electrical wire and missing wires. JAL proposed various deviations from the service bulletin instructions in order to address these problems.

We disagree with the request to accept modification deviations. The issues that JAL experienced with the Boeing kit may not be applicable to other operators; therefore, we are not changing this final rule in this regard. Operators may, however, request approval of an alternative method of compliance (AMOC) for deviations for the Boeing repair kit in accordance with paragraph (k) of this AD.

Request To Use Alternative Service Information

JAL requested that we allow the use of Boeing Service Bulletin 777–23–0254 to load an alternative version of cabin management system (CMS) software. JAL stated that the NPRM (78 FR 42727, July 17, 2013), would require loading the CMS software in accordance with Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006, as a concurrent requirement to Boeing Service Bulletin 777–23–0254. JAL stated that it has loaded this required software, but also loaded another version of the software for a cabin configuration change using Boeing Service Bulletin 777–23–0254. JAL stated that Boeing Service Bulletin 777–23–0254 identifies Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006, as a concurrent requirement; JAL therefore requested that we include Boeing Service Bulletin 777–23–0254 in the NPRM.

We disagree with the request to use Boeing Service Bulletin 777–23–0254 to load an alternative version of CMS software. Although Boeing Service Bulletin 777–23–0254 identifies Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006, as a concurrent requirement, we have not evaluated the alternative software to ensure it provides an acceptable level of safety to the AD requirements. Operators may request approval of an AMOC for installation of this alternative CMS software in accordance with paragraph (k) of this AD.

Request To Add New Optional Action

Boeing and JAL requested that we revise the Costs of Compliance section and paragraph (i)(2) of the NPRM (78 FR 42727, July 17, 2013) to add Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010, as an option to Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012, for installation of additional ELMS software.

The commenters stated that the new ELMS software is required for compliance to another AD (AD 2011–09–15, Amendment 39–16677 (76 FR 24345, May 2, 2011)). The commenters stated that AD 2011–09–15 requires installing new panels in the main equipment center and installing new ELMS software in accordance with Boeing Service Bulletin 777–28A0037, Revision 2, dated September 20, 2010, in order to prevent potential ignition sources inside fuel tanks. The commenters also stated that AD 2011–09–15 identifies Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010, as an additional source of guidance for installing ELMS software.

Boeing and JAL stated that requiring ELMS software to be installed according to Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007, as proposed in the NPRM (78 FR 42727, July 17, 2013), will create a conflict with the requirements of AD 2011–09–15, Amendment 39–16677 (76 FR 24345, May 2, 2011). Boeing stated that it intends to revise Service Bulletin 777–24–0077 to Revision 5 to include Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010, as concurrent service information.

We agree to add an option to use Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010, for installation of additional ELMS software. We have added this reference to the Costs of Compliance section and to paragraph (i)(2) of this final rule, as requested.

Change to Final Rule

For editorial purposes, we have moved the credit service bulletin references from paragraph (j)(3) of the NPRM (78 FR 42727, July 17, 2013) to new paragraphs (j)(3)(i) through (j)(3)(v) of this final rule.

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 (78 FR 42727, July 17, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 42727, July 17, 2013).

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

Costs of Compliance

We estimate that this AD affects 49 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/installation and changes	Up to 28 work-hours × $85 per hour = $2,380.	$1,436	Up to $3,816	Up to $186,984.
Concurrent installation (Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006).	2 work-hours × $85 per hour = $170	0	$170	$8,330.
Concurrent installation (Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012; Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007; or Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010).	3 work-hours × $85 per hour = $255	0	$255	$12,495.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Change part number	1 work-hour × $85 per hour = $85	$0	$85

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):

2014–16–11 The Boeing Company: Amendment 39–17935; Docket No. FAA–2013–0544; Directorate Identifier 2012–NM–057–AD.

(a) Effective Date

This AD is effective September 23, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200 series airplanes, certificated in any category, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Unsafe Condition

This AD was prompted by reports of smoke or flames in the passenger cabin of various transport category airplanes related to the wiring for the passenger cabin in-flight entertainment (IFE) system, cabin lighting, and passenger seats. We are issuing this AD to ensure that the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through one or two switches in the flight deck in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation, and consequent loss of control of the airplane.

(f) Compliance

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

(g) Installation

For Group 1, Configuration 1, airplanes, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012: Within 60 months after the effective date of this AD, install a new electrical power control panel and make changes to the wiring and certain electrical load management system (ELMS) panels, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012.

(h) Inspection

For Group 1, Configuration 2, airplanes, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012: Within 60 months after the effective date of this AD, inspect the electrical power control panel to determine the part number, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012. Do all applicable corrective actions before further flight.

(i) Concurrent Actions

(1) For Group 1, Configuration 1, airplanes, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012: Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, install new operational software (OPS) in the cabin management system to change the operation of the cabin lighting system when the CABIN/UTILITY switch is installed, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006.

(2) For Group 1, Configuration 1, airplanes, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012: Concurrently with accomplishing the requirements of paragraph (g) of this AD, change the ELMS OPS and configuration database software to decrease the number of ELMS P110, ELMS P210, and ELMS P310 panel engine indication and crew alerting system status messages, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007; or Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010.

(j) Provisional Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraphs (g) and (h) this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraph (k) of this AD, provided that, within 60 months after the effective date of this AD, the actions specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD are done, and wire kit 280W5110–105W is used.

(i) Identify the electrical power control panels 233W3202–12 and 233W3202–13, in accordance with the Accomplishment Instructions of BAE Systems Service Bulletin 233W3202–24–04, Revision 2, dated October 2, 2006. The correct part number for the

changed 233W3202–12 panel is 233W3202–18, and the correct part number for the changed 233W3202–13 panel is 233W3202–19.

(ii) Put back the P210 power panel to the correct standard, in accordance with the Accomplishment Instructions of GE Aviation Service Bulletin 6000ELM–24–614, Revision 1, dated November 9, 2009; or GE Aviation Service Bulletin 6200ELM–24–616, Revision 1, dated March 5, 2010.

(2) This paragraph provides credit for the actions specified in paragraph (i)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–23–0176, dated January 9, 2003; or Boeing Service Bulletin 777–23–0176, Revision 1, dated March 11, 2004; which are not incorporated by reference in this AD; provided that the actions specified in Boeing Service Bulletin 777–23–0141, dated June 14, 2001, were done prior to or concurrently with the actions specified in Boeing Service Bulletin 777–23–0176, dated January 9, 2003; or Boeing Service Bulletin 777–23–0176, Revision 1, dated March 11, 2004.

(3) This paragraph provides credit for the actions specified in paragraph (i)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–24–0087, dated July 24, 2003; or Boeing Service Bulletin 777–24–0087, Revision 1, dated December 18, 2003; which are not incorporated by reference in this AD; provided that the actions specified in Boeing Service Bulletin 777–24–0087, dated July 24, 2003; or Boeing Service Bulletin 777–24–0087, Revision 1, dated December 18, 2003; were done concurrently with the actions specified in the service information identified in paragraphs (j)(3)(i) through (j)(3)(v) of this AD.

(i) Boeing Service Bulletin 777–24–0077, dated August 21, 2003, which is not incorporated by reference in this AD.

(ii) Boeing Service Bulletin 777–24–0077, Revision 1, dated May 24, 2007, which is not incorporated by reference in this AD.

(iii) Boeing Service Bulletin 777–24–0077, Revision 2, dated December 17, 2009, 2007, which is not incorporated by reference in this AD.

(iv) Boeing Service Bulletin 777–24–0077, Revision 3, dated December 6, 2011, 2007, which is not incorporated by reference in this AD.

(v) Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012.

(k) 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 (l) 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 required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(l) Related Information

(1) For more information about this AD, contact Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3), (m)(4), (m)(5), and (m)(6) of this AD, as applicable.

(m) Material Incorporated by Reference

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

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

(i) BAE Systems Service Bulletin 233W3202–24–04, Revision 2, dated October 2, 2006.

(ii) Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006.

(iii) Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012.

(iv) Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007.

(v) Boeing Service Bulletin 777–28A0039, Revision 2, dated September 20, 2010.

(vi) GE Aviation Service Bulletin 6000ELM–24–614, Revision 1, dated November 9, 2009.

(vii) GE Aviation Service Bulletin 6200ELM–24–616, Revision 1, dated March 5, 2010.

(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) For BAE Systems service information identified in this AD, contact BAE Systems, Attention: Commercial Product Support, 600 Main Street, Room S18C, Johnson City, NY 13790–1806; phone: 607–770–3084; fax: 607–770–3015; email: *CS-Customer.Service@baesystems.com;* Internet: *http://www.baesystems-ps.com/customersupport.*

(5) For GE service information identified in this AD, contact GE Aviation, Customer Support Center, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *cs.techpubs@ge.com;* Internet: *http://www.geaviation.com.*

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

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

Issued in Renton, Washington, on August 1, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–18905 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0129; Directorate Identifier 2013–NM–105–AD; Amendment 39–17931; AD 2014–16–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2011–15–09 for certain Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes. AD 2011–15–09 required repetitive inspections for proper operation of the main landing gear (MLG) alternate extension system (AES), and corrective actions if necessary. This new AD requires, for certain airplanes, new repetitive inspections for proper operation of the MLG AES, and corrective actions if necessary. This new AD also requires eventually replacing the MLG AES cam mechanism assembly with a new assembly, which terminates the repetitive inspections for those airplanes. This AD was prompted by a determination that, for certain airplanes not affected by AD 2011–15–09, a different MLG AES cam mechanism assembly was installed, resulting in input lever fractures and inability to open the MLG door; those assemblies could be subject to the same unsafe condition in AD 2011–15–09. We are issuing this AD to prevent improper operation of the cam mechanism or rupture of the door release cable, which

could result in loss of control of the airplane during landing.

DATES: This AD becomes effective September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of August 2, 2011 (76 FR 42033, July 18, 2011).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0129;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–15–09, Amendment 39–16756 (76 FR 42033, July 18, 2011). AD 2011–15–09 applied to certain Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes. The NPRM published in the **Federal Register** on March 5, 2014 (79 FR 12428).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2011–01R2, dated May 21, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes. The MCAI states:

> Two cases of the main landing gear (MLG) alternate extension system (AES) cam mechanism failure were found during line checks. The cam mechanism operates the cable to open the MLG door and releases the MLG uplock in sequence. In the case where it is necessary to deploy the MLG using the AES, the failure of the MLG AES cam mechanism on one side will lead to an unsafe asymmetrical landing configuration.
>
> Preliminary investigation indicates that the cam mechanism failure may have occurred and remained dormant after a previous AES operation. The cam mechanism may not have fully returned to the normal rested position. With the cam mechanism out of normal rested position, normal powered landing gear door operation could introduce sufficient loads to fracture the cam mechanism or rupture the door release cable.
>
> This [Canadian] AD mandates the initial and subsequent [detailed] inspections for proper operation of the MLG AES cam mechanism, and rectify [repair or replace cam assembly with new or serviceable cam assembly] as necessary.
>
> Since the original issue of this [Canadian] AD, Bombardier Inc. has determined that the existing inspection procedure is insufficient for verification of proper MLG AES cam mechanism operation, and has superseded this inspection procedure. Revision 1 of this [Canadian] AD mandates the use of the revised inspection [and rectification] procedure.
>
> Prior to the introduction of MLG AES cam mechanism assembly part number (P/N) 48510–5 as terminating action, an interim MLG AES cam mechanism assembly P/N 48510–3 was introduced.
>
> Revision 2 of this [Canadian] AD updates the applicability paragraph, updates the MLG AES cam mechanism inspection criteria and mandates the terminating action.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0129.*

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. The commenter supported the NPRM (79 FR 12428, March 5, 2014).

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In the NPRM (79 FR 12428, March 5, 2014), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

No comments were provided to the NPRM (79 FR 12428, March 5, 2014) about these proposed changes. However, a comment was provided for an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013). The commenter stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

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

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the

paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, TCCA, or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

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

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

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

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

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

Change to Paragraph (g)(3) of This AD

For clarity purposes, we have revised paragraph (g)(3) of this AD by adding new paragraphs (g)(3)(i) and (g)(3)(ii) to this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 12428, March 5, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 12428, March 5, 2014).

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

Costs of Compliance

We estimate that this AD affects 75 airplanes of U.S. registry.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection in AD 2011–15–09, Amendment 39–16756 (76 FR 42033, July 18, 2011).	Up to 24 work-hours × $85 per hour = up to $2,040 per inspection cycle.	$2,609	Up to $4,649 per inspection cycle.	Up to $348,675 per inspection cycle.
Inspection [new action]	1 work-hour × $85 per hour = $85 per inspection cycle.	$0	$85 per inspection cycle.	$6,375 per inspection cycle.
Replacement of both cam assemblies [new terminating action].	4 work-hours × $85 per hour = $680 [$340 per cam assembly].	$7,676 (2 cam assemblies).	$80,167	$601,200.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0129;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–15–09, Amendment 39–16756 (76 FR 42033, July 18, 2011), and adding the following new AD:

2014–16–07 Bombardier, Inc.: Amendment 39–17931. Docket No. FAA–2014–0129; Directorate Identifier 2013–NM–105–AD.

(a) Effective Date

This AD becomes effective September 23, 2014.

(b) Affected ADs

This AD replaces AD 2011–15–09, Amendment 39–16756 (76 FR 42033, July 18, 2011).

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001, 4003 through 4418 inclusive, 4422 and 4423.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a determination that a different main landing gear (MLG) alternate extension system (AES) cam mechanism assembly was installed resulting in input lever fractures and inability to open the MLG door; those assemblies could be subject to the same unsafe condition in the existing AD. We are issuing this AD to prevent improper operation of the cam mechanism or rupture of the door release cable, which could result in loss of control of the airplane during landing.

(f) Compliance

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

(g) Retained Detailed Inspection for Proper Operation of the MLG

This paragraph restates the requirement in paragraph (i) of AD 2011–15–09, Amendment 39–16756 (76 FR 42033, July 18, 2011), with revised service information. For airplanes with a MLG AES cam mechanism assembly having part number (P/N) 48510–1: Within 50 flight hours or 10 days after August 2, 2011 (the effective date of AD 2011–15–09, Amendment 39–16756 (76 FR 42033, July 18, 2011)), whichever occurs first, do a detailed inspection for proper operation of the MLG AES cam mechanism, in accordance with paragraph A) of Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011; or Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012. As of the effective date of this AD, use only Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012. Repeat the inspection thereafter at intervals not to exceed 50 flight hours or 10 days, whichever occurs first.

(1) If the cam mechanism is found to reset to the normal rested position without any sticking or binding, it is operating properly.

(2) If the cam mechanism has not reset to its normal rested position, or if any sticking or binding is observed, before further flight, remove the cam assembly, in accordance with paragraph A) of Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011; or Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012, and do the actions in paragraph (g)(2)(i) or (g)(2)(ii) of this AD. As of the effective date of this AD, use only Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012.

(i) Repair the cam mechanism assembly, including doing detailed inspections for discrepancies (an inspection to determine proper operation, an inspection for damage, an inspection for corrosion and cadmium coating degradation, and inspections to determine dimensions are within the limits specified in paragraph B) of Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011; or Bombardier Repair Drawing 8/4–32–0160 Issue 6, dated June 27, 2012, in accordance with paragraph B) of Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011; and install the repaired cam assembly in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011; or Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012. As of the effective date of this AD, use only Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012.

(ii) Install a new or serviceable cam assembly, in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011; or Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012. As of the effective date of this AD, use only Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012.

(3) If the cam mechanism is found damaged or inoperative during the repair specified in paragraph (g)(2)(i) of this AD; or if any discrepancies are found and Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011, or Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012, does not specify repairs for those discrepancies; or repairs specified in paragraph (g)(2)(i) of this AD cannot be accomplished: Before further flight, accomplish paragraph (g)(3)(i) or (g)(3)(ii) of this AD.

(i) Repair and reinstall using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(ii) Install a new or serviceable cam assembly, in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011; or Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012. As of the effective date of this AD, use only Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012, to install the cam assembly.

(h) New Inspection for Proper Operation of the MLG Replacement Part

For airplanes with a MLG AES cam mechanism assembly having P/N 48510–3: Within 1,800 flight hours or 9 months after installation of the assembly, whichever occurs first after the effective date of this AD, do a detailed inspection for proper operation of the MLG AES cam mechanism, in accordance with paragraph A) of Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012. Repeat the inspection thereafter at intervals not to exceed 600 flight hours or 3 months, whichever occurs first.

(1) If the cam mechanism is found to reset to the normal rested position without any sticking or binding, it is operating properly.

(2) If the cam mechanism has not reset to its normal rested position, or if any sticking or binding is observed, before further flight, remove the cam assembly, in accordance with paragraph A) of Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012, and do the actions required by paragraphs (h)(2)(i) or (h)(2)(ii) of this AD.

(i) Repair the cam mechanism assembly, including doing detailed inspections for discrepancies (an inspection to determine proper operation, an inspection for damage, an inspection for corrosion and cadmium coating degradation, and inspections to determine dimensions are within the limits specified in paragraph B) of Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012), in accordance with paragraph

B) of Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012; and install the repaired cam assembly in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012.

(ii) Install a new or serviceable cam assembly, in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012.

(3) If the cam mechanism is found damaged or inoperative during the repair specified in paragraph (h)(2)(i) of this AD; or if any discrepancies are found and Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012, does not specify repairs for those discrepancies; or repairs specified in paragraph (h)(2)(i) of this AD cannot be accomplished: Before further flight, do the applicable actions required by paragraph (h)(3)(i) or (h)(3)(ii) of this AD.

(i) Repair and reinstall using a method approved by the Manager, ANE–170, New York ACO, FAA, or TCCA; or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(ii) Install a new or serviceable cam assembly, in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012.

(i) New Credit for Previous Actions for Paragraphs (g) and (h) of This AD

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Repair Drawing 8/4–32–0160, Issue 5, dated June 6, 2012, which is not incorporated by reference in this AD.

(j) New Terminating Action

Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first, replace any MLG AES cam mechanism assembly having P/N 48510–1 or P/N 48510–3 with a new MLG AES cam mechanism assembly having P/N 48510–5, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–100, Revision A, dated August 30, 2012. Accomplishing this replacement terminates the repetitive inspections required by this AD.

(k) New Credit for Previous Actions for Paragraph (j) of This AD

This paragraph provides credit for actions required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–32–100, dated August 15, 2012, which is not incorporated by reference in this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or TCCA; or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2011–01R2, dated May 21, 2013, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0129.*

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

(n) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on September 23, 2014.

(i) Bombardier Repair Drawing 8/4–32–0160, Issue 6, dated June 27, 2012. The issue dates for this document are identified only on sheets 1 and 1A of this document.

(ii) Bombardier Service Bulletin 84–32–100, Revision A, dated August 30, 2012.

(4) The following service information was approved for IBR on August 2, 2011 (76 FR 42033, July 18, 2011).

(i) Bombardier Repair Drawing 8/4–32–0160, Issue 3, dated February 15, 2011. The issue dates for this document are identified only on the first page of this document.

(ii) Reserved.

(5) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

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

Issued in Renton, Washington, on July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19150 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0250; Directorate Identifier 2013–NM–165–AD; Amendment 39–17930; AD 2014–16–06]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes. This AD was prompted by reports of in-flight uncommanded rudder movements. This AD requires revising the airplane flight manual (AFM) to incorporate an uncommanded yaw motion procedure. We are issuing this AD to prevent in-flight uncommanded rudder movements, which could lead to structural failure and subsequent loss of the airplane.

DATES: This AD becomes effective September 23, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 23, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0250* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

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

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes. The NPRM published in the **Federal Register** on April 21, 2014 (79 FR 22069). The NPRM was prompted by reports of in-flight uncommanded rudder movements. The NPRM proposed to require revising the AFM to incorporate an uncommanded yaw motion procedure. We are issuing this AD to prevent in-flight uncommanded rudder movements, which could lead to structural failure and subsequent loss of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–22, dated August 12, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes. The MCAI states:

> There have been several reported incidents where Bombardier Regional Jet aeroplanes experienced in-flight uncommanded rudder movements. Investigation revealed that a failure of the voltage regulator inside the yaw damper actuator could lead to uncommanded yaw movement. If not corrected, this condition could lead to structural failure and the subsequent loss of the aeroplane.
>
> Since the Challenger 604 aeroplanes have the same system, and can also experience a similar problem of uncommanded yaw movement, Transport Canada is issuing this [Canadian] AD that mandates the introduction of an emergency procedure to the Aeroplane Flight Manual (AFM) to address the above-mentioned unsafe condition.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0250-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 22069, April 21, 2014) or on the determination of the cost to the public.

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

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

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, TCCA, or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

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

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

We also have decided not to include a generic reference to either the ''delegated agent'' or ''design approval holder (DAH) with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH throughout this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 22069, April 21, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 22069, April 21, 2014).

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

Costs of Compliance

We estimate that this AD affects 116 airplanes of U.S. registry.

We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $9,860, or $85 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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0250*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–16–06 Bombardier, Inc.: Amendment 39–17930. Docket No. FAA–2014–0250; Directorate Identifier 2013–NM–165–AD.

(a) Effective Date

This AD becomes effective September 23, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes, certificated in any category, serial numbers (S/Ns) 5301 through 5665 inclusive, and 5701 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 22, Autopilot System; and Code 27, Rudder Actuator.

(e) Reason

This AD was prompted by reports of in-flight uncommanded rudder movements. We are issuing this AD to prevent in-flight uncommanded rudder movements, which could lead to structural failure and subsequent loss of the airplane.

(f) Compliance

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

(g) Airplane Flight Manual (AFM) Revision

Within 30 days after the effective date of this AD, revise the Emergency Procedures Section of the applicable Bombardier AFM to incorporate the uncommanded yaw motion procedure specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For Model CL–600–2B16 (CL–604 Variant) airplanes having S/Ns 5301 through 5665 inclusive: Procedure 1.C., Uncommanded Yaw Motion, of Section 03–06, Automatic Flight Control System, of Chapter 3—Emergency Procedures, of the Bombardier Challenger CL–604 AFM, PSP 604–1, Revision 89, dated July 8, 2013.

(2) For Model CL–600–2B16 (CL–604 Variant) airplanes having S/Ns 5701 and subsequent: Procedure 1.C., Uncommanded Yaw Motion, of Section 03–06, Automatic Flight Control System, of Chapter 3—Emergency Procedures, of the Bombardier Challenger CL–605 AFM, PSP 605–1, Revision 25, dated July 8, 2013.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, FAA, New York Aircraft Certification Office (ACO), ANE–170, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the New York ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–22, dated August 12, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail; D=FAA-2014-0250-0002.*

(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 this AD specifies otherwise.

(i) Procedure 1.C., Uncommanded Yaw Motion, of Section 03–06, Automatic Flight Control System, of Chapter 3—Emergency Procedures, of the Bombardier Challenger CL–604 Airplane Flight Manual, PSP 604–1, Revision 89, dated July 8, 2013.

(ii) Procedure 1.C., Uncommanded Yaw Motion, of Section 03–06, Automatic Flight Control System, of Chapter 3—Emergency Procedures, of the Bombardier Challenger CL–605 Airplane Flight Manual, PSP 605–1, Revision 25, dated July 8, 2013.

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

(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 July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19152 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240, 241, and 250

[Release No. 34–72472; File No. S7–02–13]

RIN 3235–AL25

Application of ''Security-Based Swap Dealer'' and ''Major Security-Based Swap Participant'' Definitions to Cross-Border Security-Based Swap Activities; Republication

Correction

In rule document R1–2014–15337 beginning on page 47278 in the issue of Tuesday, August 12, 2014, make the following correction:

On page 47278, in the first column, in the eleventh through seventeenth lines, and on page 47372, in the third column, in the eighth through fourteenth lines, the editorial notes should read as follows:

Editorial Note: Rule document 2014–15337 was originally published on pages 39067 through 39162 in the issue of Wednesday, July 9, 2014. In that publication the footnotes contained erroneous entries. The corrected document is republished in its entirety.

[FR Doc. C1–2014–15337 Filed 8–18–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0705]

RIN 1625–AA08

Special Local Regulations for Marine Events, Atlantic Ocean; Ocean City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement date of the special local regulation for the recurring air show event known as the Ocean City Air Show, held over the waters of the Atlantic Ocean, adjacent to Ocean City, New Jersey. The change of enforcement date for the special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in the waters of the Atlantic Ocean adjacent to Ocean City, New Jersey, during the event.

DATES: This rule is effective August 19, 2014 until 2:30 p.m. on September 14, 2014, and will be enforced from 11:00 a.m. to 2:30 p.m. on September 14, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0705]. To view 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 temporary rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The regulation for this marine event may be found at 33 CFR 100.501, Table to § 100.501, section (a), line ''13''.

The Coast Guard is issuing this final rule pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b) and (d)(3)), which authorizes an agency to issue a rule without prior notice and opportunity to comment, and to take effect in less than 30 days, when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to minimize potential danger to the public during the event. The potential dangers posed by air shows make this change to the special local regulation necessary to provide for the safety of participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have this regulation in effect during the event. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners. For the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, because immediate action is needed to ensure the safety of the event. However, notifications will be made to users of the affected area near Ocean City, NJ, via marine information broadcasts and a local notice to mariners.

B. Basis and Purpose

The legal basis and authorities for this rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish and define special local regulations. The Captain of the Port Delaware Bay is establishing a special local regulation for the waters of the Atlantic Ocean, near Ocean City, NJ, to protect event participants, spectators and transiting vessels. Entry into this area is prohibited unless specifically authorized by the Captain of the Port Delaware Bay or designated representative.

C. Discussion of the Final Rule

The City of Ocean City sponsors an annual Air Show usually held on the third Sunday in September over the waters of the Atlantic Ocean adjacent to Ocean City, New Jersey.

The regulation listing annual marine events within the Fifth Coast Guard District and special local regulation locations is 33 CFR 100.501. The Table to § 100.501 identifies special local regulations by COTP zone, with the COTP Delaware Bay zone listed in section ''(a.)'' of the Table. The Table to § 100.501, at section (a.) event Number ''13'', describes the enforcement date and regulated location for this marine event.

The date listed in the Table has the marine event on the third Sunday of September. However, this temporary rule changes the marine event date to September 14, 2014, to reflect the actual date of the event.

A fleet of spectator vessels is anticipated to gather nearby to view the marine event. Due to the need for vessel control during the marine event vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels. Under provisions of 33 CFR 100.501, during the enforcement period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

The Coast Guard will temporarily suspend the regulation listed in Table to § 100.501, section (a) event Number ''13'', and insert this temporary regulation at Table to § 100.501, at section (a.) as event Number ''16'', in order to reflect that the safety zone will be effective and enforced from 12:00 p.m. until 3:30 p.m. on September 14, 2014. This change is needed to accommodate the sponsor's event plan. No other portion of the Table to § 100.501 or other provisions in § 100.501 shall be affected by this regulation.

The regulated area of this special local regulation includes All waters of the New Jersey Intracoastal Waterway (ICW) bounded by a line connecting the following points; latitude 39°15′57″ N, longitude 074°35′09″ W thence northeast to latitude 39°16″34″ N, longitude 074°33′54″ W thence southeast to latitude 39°16′17″ N, longitude 074°33′29″ W thence southwest to latitude 39°15′40″ N, longitude 074°34′46″ W thence northwest to point of origin, near Ocean City, NJ.

During the period of the safety zone, all persons and vessels will be prohibited from entering, transiting, mooring, or remaining within the zone, unless specifically authorized by the Captain of the Port Delaware Bay, or her designated representative. Those persons authorized to transit through the safety zone shall abide by and follow all directions provided by the Captain of the Port Delaware Bay, or her designated representative, in order to ensure they are not disrupting this marine event. U.S. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the air show.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to anchor or transit along a portion of the Atlantic Ocean adjacent to Ocean City, New Jersey from 12:00 p.m. to 3:30 p.m. on September 14, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port Delaware Bay or her designated representative and zone is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to users of the Delaware Bay and River.

3. Assistance for Small Entities

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

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

4. 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).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. 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.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. 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 (NEPA) (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 implementation of regulations within 33 CFR Part 100, applicable to special local regulations on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the waters of the Atlantic Ocean adjacent to Ocean City, NJ, in order to protect the safety of life and property on the waters for the duration of the air show. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. In § 100.501, in the Table to § 100.501, suspend lines No. (a.)13 and add temporary line No. (a.)16 to read as follows:

§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

* * * * *

TABLE TO § 100.501

[All coordinates listed in the Table to § 100.501 reference Datum NAD 1983]

No.	Date	Event	Sponsor	Location
*	*	*	*	* * *
(a.) Coast Guard Sector Delaware Bay—COTP Zone				
16 ...	September 14, 2014	Ocean City Air Show	Ocean City, NJ	All waters of the New Jersey Intracoastal Waterway (ICW) bounded by a line connecting the following points; Latitude 39°15′57″ N, longitude 074°35′09″ W thence northeast to latitude 39°16′34″ N, longitude 074°33′54″ W thence southeast to latitude 39°16′17″ N, longitude 074°33′29″ W thence southwest to latitude 39°15′40″ N, longitude 074°34′46″ W thence northwest to point of origin, near Ocean City, NJ.
*	*	*	*	* * *

Dated: August 1, 2014.

B.A. Cooper,

Captain, U.S. Coast Guard, Acting Captain of the Port Delaware Bay.

[FR Doc. 2014–19570 Filed 8–18–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0721]

RIN 1625–AA00

Safety Zone; TAKE MARU 55 Vessel Salvage; Cocos Island, Merizo, Guam

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in support of vessel salvage operations for the grounded commercial fishing vessel, TAKE MARU 55, in the waters west of Cocos Island. This safety zone will encompass a 400 yard area centered around the TAKE MARU 55, located at approximately 13 degrees 14 minutes 7 seconds North Latitude, 144 degrees 38 minutes 27 seconds East Longitude, the waters west of Cocos Island (North American Datum (NAD) 1983).

DATES: This rule is effective without actual notice from August 19, 2014 until October 30, 2014. For the purposes of enforcement, actual notice will be used from August 2, 2014, until August 19, 2014.

ADDRESSES: Documents indicated in this preamble are part of docket USCG–2014–0721. To view 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. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Chief Kristina Gauthier, U.S. Coast Guard Sector Guam at (671) 355–4866. If you have any questions on viewing or submitting material to the docket, call Cheryl Collins Program Manager, Docket Operations, at (202) 366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
COTP Captain of the Port

A. Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard received notice of the vessel grounding on July 30, 2014. Due to the emergent nature of this incident, the Coast Guard did not have time to issue a notice of proposed rulemaking.

Under 5 U.S.C. 553(d)(3), for the same reason mentioned above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the late notice and inherent danger in the salvage of a grounded vessel, delaying the effective period of this safety zone would be contrary to the public interest.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 33 CFR 1.05–1, 6.04–6, 160.5; and Department of Homeland Security Delegation No. 0170.1.

A safety zone is a water area, shore area, or water and shore area, for which access is limited to authorized person, vehicles, or vessels for safety purposes. The purpose of this rulemaking is to protect mariners from the potential hazards associated with salvage operations. Approaching too close to such operations could potentially expose the mariner to hazardous conditions.

C. Discussion of Rule

In order to protect the public from the hazards associated with the grounded vessel and subsequent salvage operations, the Coast Guard is establishing a temporary safety zone, effective August 2, 2014 to October 30, 2014. The enforcement period for this rule is from August 2, 2014 to October 30, 2014.

The safety zone is located within the Guam COTP Zone (See 33 CFR 3.70–15), and will cover all waters bounded by a circle with a 400-yard radius centered around the TAKE MARU 55, located at approximately 13 degrees 14 minutes 7 seconds North Latitude, 144 degrees 38 minutes 27 seconds East Longitude, from the surface of the water to the ocean floor.

The general regulations governing safety zones contained in 33 CFR 165.23 apply. Entry into, transit through or anchoring within this zone is prohibited unless authorized by the COTP or a designated representative thereof. Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce the zone. The COTP may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime safety. Vessels or persons violating this rule may be subject to the penalties set forth in 33 U.S.C. 1232 and/or 50 U.S.C. 192.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard expects the economic impact of this rule to be extremely minimal based on the limited geographic area affected by it.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations

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

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would affect the following entities, some of which might be small entities: The owners or operators of Cocos Island Resort restricting visitors from this portion of the zone from August 2, 2014 to October 30, 2014. This rule will be in effect until all salvage and clean up operations are completed and vessel traffic can pass safely around the safety zone. The safety zone does not encompass the entirety of Cocos Island and safe transit is still allowed to Cocos Island. Further, traffic will be allowed to pass through the zone with the permission of the Coast Guard Patrol Commander who can be reached by phone at 671–355–4821. During the effective period, we will issue maritime advisories widely available to users of Cocos Island and surrounding waters.

3. Assistance for Small Entities

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

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

4. 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).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

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

7. 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 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. 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 (NEPA) (42 U.S.C. 4321–4370f), and have determined this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a closed area of Cocos Island, to vessel traffic and water sports above and below the water, until further notice. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction.

List of Subjects 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T14–0721 to read as follows:

§ 165.T14–0721 Safety Zone; TAKE MARU NO. 55 Vessel Salvage, Cocos Island, Merizo, Guam.

(a) *Location.* The following area, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15), from the surface of the water to the ocean floor, is a safety zone: All waters bounded by a circle with a 400-yard radius, centered around the TAKE MARU 55, located at approximately 13 degrees 14 minutes 7 seconds North Latitude, 144 degrees 38 minutes 27 seconds East Longitude (NAD 1983).

(b) *Enforcement period.* This rule is effective without actual notice from August 19, 2014 until October 30, 2014. For the purposes of enforcement, actual notice will be used from August 2, 2014, until August 19, 2014.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply. Entry into, transit through or within this zone is prohibited unless authorized by the COTP or a designated representative thereof.

(d) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce this temporary safety zone.

(e) *Waiver.* The COTP may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security.

(f) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: August 2, 2014.

J.B. Pruett,

Captain, U.S. Coast Guard, Captain of the Port Guam.

[FR Doc. 2014–19572 Filed 8–18–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0704]

RIN 1625–AA00

Safety Zone, Aquarium Wedding, Delaware River; Camden, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Delaware River in Camden, NJ. The safety zone will restrict vessel traffic on a portion of the Delaware River from operating while a fireworks event is taking place. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with a fireworks display.

DATES: This rule is effective on September 6, 2014 from 8:30 p.m. to 10:00 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0704]. To view 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 temporary rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule as publishing an NPRM is impracticable given that the final details for this event were not received by the Coast Guard until July 12, 2014, and this event is scheduled for September 6, 2014. Further, allowing this event to go forward without a safety zone in place would expose mariners and the public to unnecessary dangers associated with fireworks displays contrary to the public interest. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

On the evening of September 6, 2014, fireworks will be launched from a barge with a fall out zone that covers part of the Delaware River. The Captain of the Port, Sector Delaware Bay, has determined that the Aquarium Wedding Fireworks Display will pose significant risks to the public. The purpose of the rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from the potential hazards associated with a fireworks display, such as accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

C. Discussion of the Final Rule

To mitigate the risks associated with the Aquarium Wedding Fireworks Display, the Captain of the Port, Sector Delaware Bay will enforce a temporary safety zone in the vicinity of the launch site. The safety zone will encompass all waters of the Delaware River within a 130 Yard radius of the fireworks launch platform in approximate position 39°56′44″ N, 075°08′00″ W in Camden, NJ. The safety zone will be effective and enforced from 8:30 p.m. until 10:00 p.m. on September 6, 2014. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Delaware Bay, or her on-scene representative. The Captain of the Port, Sector Delaware Bay, or her on-scene representative may be contacted via VHF channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the fireworks display.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor or transit along a portion of Delaware River in Camden, NJ, from 8:30 p.m. until 10:00 p.m. on September 6, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port Delaware Bay or her designated representative and the zone is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to users of the Indian River Bay.

3. Assistance for Small Entities

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

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

4. 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).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. 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.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. 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 (NEPA) (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 implementation of regulations within 33 CFR Part 165, applicable to safety zones on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the Indian River Bay along the shoreline of Camden, New Jersey, in order to protect the safety of life and property on the waters for the duration of the fireworks display. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–0704 to read as follows:

§ 165.T05–0704 Safety Zone, Aquarium Wedding, Delaware River; Camden, NJ.

(a) *Regulated area.* The following area is a safety zone: All waters of Indian River Bay within a 130 yard radius of the fireworks launch platform in approximate position 39°56′44″ N, 075°08′00″ W in Camden, NJ.

(b) *Enforcement period.* This rule will be enforced from 8:30 p.m. to 10:00 p.m. on September 6, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

(c) *Regulations.* All persons are required to comply with the general regulations governing safety zones in § 165.23.

(1) All persons or vessels wishing to transit through the Safety Zone must request authorization to do so from the Captain of the Port or her designated representative one hour prior to the intended time of transit.

(2) Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or her designated representative to the vessel.

(3) To seek permission to transit the Safety Zone, the Captain of the Port's representative can be contacted via marine radio VHF Channel 16.

(4) This section applies to all vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation; and

(iii) Emergency response vessels.

(5) No person or vessel may enter or remain in a safety zone without the permission of the Captain of the Port;

(6) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(7) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port; and

(8) No person may take or place any article or thing upon any waterfront facility in a safety zone without the permission of the Captain of the Port.

(d) *Definitions.* The *Captain of the Port* means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the Safety Zone by Federal, State, and local agencies.

Dated: August 1, 2014.

B.A. Cooper,

Captain, U.S. Coast Guard, Acting Captain of the Port Delaware Bay.

[FR Doc. 2014–19548 Filed 8–18–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0680]

RIN 1625–AA00

Eighth Coast Guard District Annual Safety Zones; Bob O'Connor Foundation Fireworks; Ohio River Mile 0.0 to 0.1; Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Bob O'Connor Foundation Fireworks on the Ohio River from mile 0.0 to 0.1. This zone will be in effect on August 20, 2014 from 8:30 p.m. until 9:40 p.m. This zone is needed to protect vessels transiting the area and event spectators from the hazards associated with the Bob O'Connor Foundation Fireworks. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801 will be enforced with actual notice on August 20, 2014 from 8:30 p.m. until 9:40 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone (412) 644–5808, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone for the annual Bob O'Connor Foundation Fireworks listed in 33 CFR 165.801, Table 1, Entry No. 29; Sector Ohio Valley on August 20, 2014 from 8:30 p.m. until 9:40 p.m.

Under the provisions of 33 CFR 165.801, entry into the safety zone listed in Table 1, Entry No. 29; Sector Ohio Valley, is prohibited unless authorized by the COTP or a designated representative. Persons or vessels desiring to enter into or passage through the safety zone must request permission from the COTP Pittsburgh or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP Pittsburgh or designated representative.

This notice is issued under authority of 5 U.S.C. 552 (a); 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1. In addition to this notification in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

If the COTP Pittsburgh or designated representative determines that the safety zone need not be enforced for the full duration stated in this notice of

enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: August 1, 2014.

L.N. Weaver,

Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh.

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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.264A.]

Final priority. Rehabilitation Training: Job-Driven Vocational Rehabilitation Technical Assistance Center

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Rehabilitation Training program to establish a Job-Driven Vocational Rehabilitation Technical Assistance Center (JDVRTAC). The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years. We take this action to focus on training in an area of national need. Specifically, this priority responds to the Presidential Memorandum to Federal agencies directing them to take action to address job-driven training for the Nation's workers. The JDVRTAC will provide technical assistance (TA) to State vocational rehabilitation (VR) agencies to help them develop for individuals with disabilities training and employment opportunities that meet the needs of today's employers.

DATES: This priority is effective September 18, 2014.

FOR FURTHER INFORMATION CONTACT: Jerry Elliott, U.S. Department of Education, 400 Maryland Avenue SW., Room 5042, Potomac Center Plaza (PCP), Washington, DC 20202–2800. Telephone: (202) 245–7335 or by email: *jerry.elliott@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: Under the Rehabilitation Act of 1973, as amended (the Rehabilitation Act), the Rehabilitation Services Administration (RSA) makes grants to States and public or nonprofit agencies and organizations (including institutions of higher education) to support projects that provide training, traineeships, and TA designed to increase the numbers and improve the skills of qualified personnel (especially rehabilitation counselors) who are trained to: Provide vocational, medical, social, and psychological rehabilitation services to individuals with disabilities; assist individuals with communication and related disorders; and provide other services authorized under the Rehabilitation Act.

Program Authority: 29 U.S.C. 772(a)(1).

Applicable Program Regulations: 34 CFR part 385.

We published a notice of proposed priority for this competition in the **Federal Register** on June 19, 2014 (79 FR 35121). That notice contained background information and our reasons for proposing the particular priority. There are differences between the proposed priority and the final priority, and we explain those differences in the *Analysis of Comments and Changes* section of this notice.

Public Comment: In response to our invitation in the notice of proposed priority, 83 parties submitted comments on the proposed priority.

Generally, we do not address technical and other minor changes.

Analysis of the Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Comment: The majority of commenters expressed concern that the proposed priority for the JDVRTAC would specifically replace the ten Technical Assistance and Continuing Education (TACE) Centers that provide TA and continuing education (CE) in designated geographical areas and that the JDVRTAC would not meet all of the needs of State VR agencies.

Discussion: We recognize the commenters' concerns. However, the JDVRTAC is not meant to replace or replicate the services provided by the TACE Centers and will not be the Department's sole TA investment focused on supporting State VR agencies. It is a single, short-term vehicle for providing a range of TA activities specifically related to the issues outlined in the Presidential Memorandum issued on January 30, 2014 [1] (Presidential Memorandum), which directed the Secretaries of the Departments of Labor, Commerce, and Education to take action to address job-driven training for the Nation's workers. The JDVRTAC is intended to be a topical center focused on assisting State VR agencies to incorporate job-driven techniques into agency operations.

Although we have decided not to continue the TACE program beyond September 30, 2014, that decision and the decision to support the establishment of the JDVRTAC were not linked. To capitalize on the initiative of the Presidential Memorandum and the ensuing multi-agency effort to improve employment outcomes for all Americans, including individuals with disabilities, RSA determined that an expedited effort to develop the JDVRTAC proposal was warranted. RSA continues to work to develop additional TA priorities to address other areas of TA needed by State VR agencies.

Changes: None.

Comment: Many commenters were concerned that there had not been a formal consultation process with State VR agencies and stakeholders regarding the elimination of the current TACE Center program and that RSA had not publicly outlined its long-term plan for the provision of TA to those agencies.

Some of these commenters believed that RSA should conduct a national needs assessment to solicit from State VR agencies and other stakeholders about their views on the most important TA needs. Many of these commenters stated that the current TACE Centers should be continued or, at a minimum, funded for one additional year to allow for a more orderly transition and time for public consultation about the development of a new TA system.

Discussion: Although the discussion of an overall plan for TA activity and specific solutions for meeting multiple TA needs is beyond the scope of this notice, we feel it is important to take this opportunity to provide some additional background about the Department's plans regarding the provision of TA to State VR agencies. Approximately 16 months ago, the Department decided to extend the current system of ten TACE Centers, with additional funding, through September 30, 2014. The Department plans to allow those TACE Centers that have funds remaining to continue to operate for another year using funds that have been previously obligated in order to ensure timely completion of the projects. In the coming months, we will begin the process of finalizing our long-

[1] Obama, B.H. (2014). Presidential Memorandum on Job-Driven Training for Workers. January 30, 2014. Available at: *www.whitehouse.gov/the-press-office/2014/01/30/presidential-memorandum-job-driven-training-workers.*

term TA strategy and plan. At that time, we will invite stakeholder comment to ensure that our plan is structured to meet the needs of State VR agencies and VR consumers while also ensuring the most effective and efficient use of limited Federal resources.

Changes: None.

Comment: While some commenters said that the focus on employer-driven activities and the content of the JDVRTAC was important, other commenters said that the JDVRTAC priority is not needed because their State VR agency is already involved with employer engagement activities and using labor market and occupational information. Many of these commenters also suggested that the JDVRTAC would duplicate efforts conducted by the Council of State Administrators of Vocational Rehabilitation (CSAVR) through the National Employment Team (NET) and the related Talent Acquisition Portal (TAP).

However, other commenters said that the focus on job-driven, employer-related topics in the JDVRTAC is needed and that such information would be of interest to them.

Discussion: We recognize that State VR agency practices vary with respect to the use of job-driven strategies. From RSA monitoring visits, we know that some agencies have already implemented comprehensive job-driven systems, including the use of labor market and occupational information, outreach to employers, and the provision of services to employers related to employees with disabilities. We expect that these States will have less need to seek out intensive TA from the JDVRTAC, allowing the JDVRTAC to primarily focus resources on those States that have not implemented such comprehensive systems.

Changes: None.

Comment: Several commenters expressed concern that a national center staff would not be knowledgeable about regional issues and needs, such as the needs of rural areas and States with small populations.

Discussion: It is the Department's expectation that the JDVRTAC will provide intensive TA to, and develop a range of TA products appropriate for, a wide array of States and populations, including rural areas. During the course of the national needs assessment in the first year, we expect the JDVRTAC to identify any special TA needs unique to rural areas and small States, as well as those unique to other potential TA recipients. Additionally, the priority requires the JDVRTAC to conduct various activities designed to ensure contact and interaction with State VR agencies, including development of a plan for outreach and communication with State VR agencies and for establishing communities of practice. The priority also requires applicants to demonstrate that key project personnel have the qualifications and experience to provide TA to States in the job-driven topic areas identified in the priority.

Changes: None.

Comment: Several commenters were concerned that the JDVRTAC priority does not support CE and, instead, funds TA only.

Discussion: The JDVRTAC priority is focused on job-driven approaches. It does not eliminate support for CE, but does limit the topic areas on which such activities are conducted. Specifically, the proposed priority allows for training, Webinars, and presentations related to the job-driven topic areas included in the center. However, it does not support the provision of CE on other, unrelated topics. If State VR agencies believe it is necessary to support additional CE activities outside of those provided by the JDVRTAC or the TACE Centers (or any future TA investment supported by the Department), State VR agencies may use Title I VR program funds to support those activities.

Changes: None.

Comment: Several commenters were concerned that the JDVRTAC priority signaled a shift in emphasis for the VR program, from a program that is intended to meet the employment needs of individuals with disabilities to one in which the employer is the predominant customer.

Discussion: We agree that employers are not the sole customer of the VR program. However, the Department does not agree that a JDVRTAC addressing job-driven activities represents a fundamental reorganization of priorities. Employer-related activities have long been functions of State VR agencies (e.g., the employer-related activities of CSAVR in support of the NET and the TAP).

Moreover, the topic areas within the priority are focused not just on the needs of employers, but on the needs of individuals with disabilities, specifically the improvement of their employment outcomes. For example, one focus of the priority is the use of labor market and occupational information, which is designed to help individuals with disabilities make informed choices about vocational goals. Further, we expect the focus on employer engagement strategies will open up new employment options and create new opportunities for individuals with disabilities. Finally, we expect that an increase in the availability of employer-driven training options will lead to jobs with good pay and in occupations not historically available to individuals with disabilities, thereby increasing employment options for these individuals.

We also note that nothing in the priority requires State VR agencies to engage only in job-driven strategies or to develop individual vocational objectives based only on job-driven information and activities.

Changes: None.

Comment: Several commenters were concerned that only 16 agencies would receive intensive TA from the JDVRTAC over the three-year grant period.

Discussion: The JDVRTAC priority requires the JDVRTAC to conduct a minimum of 16 intensive TA activities during the three-year grant period. This number is a minimum requirement, not an upper limit, taking into account time, estimates of available resources, and the intensive nature of the interventions.

As noted above, not all State VR agencies may need intensive TA activities related to job-driven strategies. General and targeted TA, including communities of practice, would still be available to all State VR agencies.

Changes: None.

Comment: Four commenters asked about how the 16 State VR agencies mentioned in the priority will be chosen to receive intensive TA. One commenter was concerned that RSA might make these decisions, and another was concerned that there were no criteria to assist the successful applicant to make these decisions.

Discussion: We envision that the 16 State VR agencies will be self-selected based on their interest and commitment in implementing job-driven activities. Ideally, the JDVRTAC would develop knowledge, skills, and intervention strategies that State VR agencies would desire to implement, or the State VR agencies would suggest job-driven strategies that they wish to implement with the assistance of the JDVRTAC. In the event that the number of requests exceeds available resources, RSA may be involved with the prioritization of requests in its role in implementing the cooperative agreement. We would base prioritization decisions on each State VR agency's commitment to making change, and the level of change and resource utilization that best fits a State VR agency's situation, as reflected in the terms of its cooperative agreement with the JDVRTAC.

Changes: None.

Comment: One commenter asked what would happen after the three-year

grant period and whether additional assistance with job-driven activities would continue to be available so that more agencies might receive assistance.

Discussion: We have not decided if or how the activities of the JDVRTAC will be continued beyond the proposed three-year funding period. Future funding of this priority is beyond the scope of this notice.

Changes: None.

Comment: Four commenters stated that the priority is too prescriptive and is a ''one size fits all'' approach that will not meet the needs of many State VR agencies.

Discussion: The priority is intended to support a topical center with a focus on job-driven activities. The JDVRTAC is not intended to be a comprehensive solution for all TA needs. The JDVRTAC will collect and develop multiple strategies to implement effective job-driven approaches. Additionally, we expect that all intensive TA engagements will be specifically tailored to the needs of the particular State VR agency receiving those services. As such, the actual services provided and TA topics covered in any intensive TA engagement will likely vary from State to State. This is the purpose of requiring intensive TA in addition to universal or targeted TA.

Changes: None.

Comment: One commenter suggested replacing the term ''employer'' with the term ''business'' as it is the term preferred by most in the business community.

Discussion: ''Employer'' and ''employer associations'' are the terms used in the Presidential Memorandum. Accordingly, we use the term ''employer'' for purposes of this competition, but the JDVRTAC may use another term in its work.

Change: None.

Comment: One commenter suggested that the requirement in paragraph (b)(4)(iii)(B) of the Application Requirements for the JDVRTAC to assess the State VR agencies' ability to effectively respond to TA is inappropriate and condescending. Rather, the commenter suggested that the JDVRTAC instead evaluate an agency's infrastructure, available resources, and commitment.

Discussion: We agree that these factors are important for the JDVRTAC to consider when identifying recipients of intensive TA, which is why we included similar language in subparagraph (b)(4)(iv)(B) of the Application Requirements. However, we do not believe these extra points of analysis are necessary when determining recipients of targeted, specialized TA, which are not usually specifically individualized for particular State VR agencies.

Change: None.

Comment: One commenter recommended that the priority require information technology (IT) platforms to be fully accessible to individuals with disabilities.

Discussion: We agree that IT platforms supported under this priority should be fully accessible to individuals with disabilities. However, the Rehabilitation Act, the Americans with Disabilities Act, and Department policies already require full accessibility of the Web sites and electronic content of Department grantees. As such, additional language in this priority will not create any additional accessibility requirements. However, we have reiterated that all TA efforts through IT platforms must meet government and industry-recognized standards for accessibility.

Changes: We have added a note following paragraph (b)(1) of the Technical Assistance and Dissemination Activities section of the priority to clarify that IT platforms must meet government and industry-recognized standards for accessibility.

Comment: Two commenters suggested that, rather than building an entirely new IT platform, a more cost-effective approach to making information accessible would be for the JDVRTAC to build upon existing platforms, or enter into a partnership with organizations with national scope that have suitable platforms.

Discussion: The Department agrees that, to the extent that compliant platforms exist or can be modified to fully meet the IT requirements of this priority, this approach may be more efficient.

Changes: We have added a note following paragraph (b)(2) of the Technical Assistance and Dissemination Activities section of this priority clarifying that a grantee can meet the requirements of paragraphs (b)(1) and (b)(2) by either developing new platforms or modifying existing platforms, so long as the IT requirements of this priority are met.

Comment: One commenter suggested that we include the following topics as part of the JDVRTAC activities: Marketing/branding for hiring individuals with disabilities; developing a common language between VR and business; and developing an inventory of promising employer engagement practices.

Discussion: We agree that these are all strategies that relate to the purpose and activities of the JDVRTAC. Nothing in the priority prohibits the JDVRTAC from providing TA in any of these topic areas.

Changes: None.

Comment: Two commenters suggested including additional areas of emphasis in the JDVRTAC priority. One commenter suggested that we add a focus on transportation, as transportation is often a significant barrier to employment. The other commenter suggested that assistive technology (AT) needs should be a major focus of the priority.

Discussion: There is no language in the priority that prohibits the JDVRTAC from providing TA on AT and transportation as part of its job-driven activities. However, because these topics are not the primary focus of the JDVRTAC, we do not believe additional emphasis on these areas is necessary.

Changes: None.

Comment: One commenter suggested that the JDVRTAC and its job-driven activities cannot address all of the factors that are necessary to improve employment outcomes. The commenter suggested that a better outcome measure for this priority would be an increase in the number of employment outcomes in competitive integrated setting resulting specifically from job-driven strategies.

Discussion: The Department agrees. Although it is important to track the impact of job-driven strategies on the total outcomes of the State VR agency, the primary intended outcome of this priority is to increase competitive, integrated employment outcomes through job-driven activities.

Changes: We added language in the purpose of the priority clarifying that one goal of the JDVRTAC is to increase employment outcomes as a result of job-driven activities.

Comment: One commenter was concerned that employment outcomes cannot be achieved in the time period of the grant. The commenter noted that the average length of time in a consumer's individualized plan of VR services is 24 months, and the duration of the project is only 36 months. Accordingly, the commenter suggested that RSA modify the JDVRTAC's stated purpose to focus not on employment outcomes, but instead on increasing the capacity to provide job-driven employment solutions as a purpose of the center.

Discussion: The commenter is correct about the average length of time a new consumer spends in the VR program, compared to the duration of the JDVRTAC. However, the comment assumes that only new consumers referred to the VR system would benefit from the TA provided by the JDVRTAC. Existing VR consumers who have

completed their plans could benefit from interventions related to employer engagement that result in greater availability of jobs. However, we recognize that some outcomes for the JDVRTAC may be long-term. As such, intermediate outcomes and measures will be negotiated as part of the development of the cooperative agreement as discussed in the Performance Measures section of the notice inviting applications (published elsewhere in this issue of the **Federal Register**).

Change: None.

Comment: One commenter suggested that we revise outcome (c)—Increase the number of VR-eligible individuals with disabilities in employer-driven job training programs—to also include VR-eligible individuals with disabilities in other job-training programs that are responsive to employer needs and job market trends.

Discussion: As written, the priority already allows for customized training and other types of training that are directly responsive to employer needs and hiring requirements.

Changes: None.

Comment: Several commenters suggested that we require the JDVRTAC to collaborate and coordinate with the NET and the TAP, projects developed by CSAVR, which provide a process for employer engagement and the provision of some job-driven services at the national level.

Discussion: We agree that collaboration and coordination with relevant projects developed by CSAVR, including the NET and the TAP, are essential to avoid duplication of services. We included language in paragraph (b)(1)(iii) of the Application Requirements requiring applicants to describe their plan for communicating and coordinating with various entities, including CSAVR and the NET.

Changes: None.

Comment: Several commenters suggested that we require the JDVRTAC to collaborate and coordinate the Department of Labor's Science, Technology, Engineering and Math (STEM) grantees and its National Employment Policy Research and Technical Assistance Center.

Discussion: We agree that it is important for the JDVRTAC to consult with relevant programs and TA centers sponsored by other agencies, including the Department of Labor. As such, we included in section (b)(1)(iii) of the Application Requirements a requirement for applicants to describe their plans for communicating and coordinating with such entities. While we believe that consulting with these entities is beneficial, we also believe that specifically naming each relevant program or TA center is unnecessary.

Changes: None.

Comment: A few commenters asked whether the American Indian Vocational Rehabilitation Services (AIVRS) projects are eligible to receive TA from the JDVRTAC.

Discussion: Any service provider will have access to targeted and universal TA products generated by the JDVRTAC. With regard to intensive TA services, AIVRS projects may receive such services where they are a result of collaborative arrangements between State VR agencies and AIVRS projects to include AIVRS projects in the State VR Agency business outreach plan, and where such services are included in the intensive TA agreement between the State VR agency and the JDVRTAC. However, we do not believe that they should be primary recipients of JDVRTAC services.

Changes: None.

Comment: One commenter asked whether the JDVRTAC can provide TA services to Community Rehabilitation Programs (CRPs) that are part of the State VR agency business outreach plan.

Discussion: We do not believe that CRPs should be a primary recipient of JDVRTAC services. However, as with the AIVRS projects, if CRPs are an integral part of the State VR agency business outreach plan, the JDVRTAC can provide intensive TA services to improve CRP services as part of that plan as negotiated in the intensive TA agreement between the State VR agency and the JDVRTAC. Additionally, CRPs can access and use universal and targeted TA products made publicly available by the JDVRTAC.

Changes: None.

Comment: One commenter suggested that we require the JDVRTAC to use and expand existing employer-offered ''train and place'' models, such as REDI-Walgreens and Project Search, and expand existing efforts to customize employer-driven, community based training opportunities for permanent employment, and skill- and resume-building paid work activity. This commenter also recommended the use of community conversations to engage employers and community partners in the discussion on how they can assist in the employment of individuals with disabilities.

Discussion: We believe these are all good suggestions. However, we believe that these activities should not be requirements but rather options to investigate during the first year of the project. Any inclusion of these suggestions should develop out of the JDVRTAC's initial exploration and need.

Changes: We have added language in paragraph (a) of the Knowledge Development Activities section of the priority to clarify that the JDVRTAC should also, in its first year, survey employer-sponsored and public-private partnership programs.

Comment: One commenter submitted a list of proposed application requirements for applicants to address in their application. Specifically, the commenter proposed that applicants must: Demonstrate an understanding of the VR program nationally, the needs of business, and demand-driven approaches; include a robust research and evaluation component; and demonstrate experience delivering training and TA, and experience with and current involvement in national and regional partnerships that would support national dissemination efforts.

Discussion: We agree that many of these factors are important for applicants to address. Although we believe that the priority already addresses many of these elements, we agree that we should emphasize the importance of understanding the needs of businesses that employ individuals with disabilities.

Changes: We have added language regarding knowledge of the needs of business in relation to the employment of individuals with disabilities in paragraph (a)(1)(i) of the Application Requirements section of the priority to expand the knowledge requirement beyond employer engagement only.

Final Priority

The purpose of this priority is to fund a cooperative agreement to establish a Job-Driven Vocational Rehabilitation Technical Assistance Center (JDVRTAC) to achieve, at a minimum, the following outcomes: (a) Improve the ability of State vocational rehabilitation (VR) agencies to work with employers and providers of training to ensure equal access to and greater opportunities for individuals with disabilities to engage in competitive employment or training; (b) Increase the number and quality of employment outcomes in competitive, integrated settings for VR-eligible individuals with disabilities, including broadening the range of occupations for such individuals in such settings, that result from job-driven strategies; and (c) Increase the number of VR-eligible individuals with disabilities in employer-driven job training programs.

The JDVRTAC will develop and provide training and technical assistance (TA) to State VR agency staff and related rehabilitation professionals

and service providers in the following four job-driven topic areas:

(a) Use of labor market data and occupational information to provide individuals with disabilities with the best information regarding job demand, skills matching, supports, and education, training, and career options;

(b) Disability-related consultation and services to employers related to competitive employment of individuals with disabilities (including individuals with the most significant disabilities) and strategies to recruit, train and serve employees with disabilities for the purposes of hiring, job retention, or return to work;

(c) Building and maintaining relationships with employers; and

(d) Services to providers of customized training and other types of training that are directly responsive to employer needs and hiring requirements.

Project Activities

To meet the requirements of this priority, the JDVRTAC must, at a minimum, conduct the following activities:

Knowledge Development Activities

(a) In the first year, collect information from the literature and from existing Federal, State, and other programs, including employer-sponsored and public-private partnership programs, regarding evidence-based and promising practices relevant to the work of the JDVRTAC and make this information publicly available in a searchable, accessible, and useful format. The JDVRTAC should review, at a minimum:

(1) The results of State VR agency monitoring conducted by RSA; and

(2) State VR agency program and performance data.

(b) In the first year, conduct a survey of relevant stakeholders and VR service providers to identify job-driven TA needs and a process by which TA solutions can be offered to State VR agencies and their partners. The JDVRTAC should survey, at a minimum:

(1) State VR agency staff; and

(2) Relevant RSA staff.

(c) Develop and refine four curriculum guides for VR staff training in:

(1) The use of labor market and occupational information for purposes of planning and job-matching with individuals with disabilities;

(2) Building programs of employer engagement, employer services, and program participation support services for institutions providing employer-driven training programs;

(3) Delivery of support services to providers of customized training and other job training directly responsive to employer needs and hiring requirements to promote and support the inclusion of individuals with disabilities in such training programs; and

(4) Delivery of support services to employers who hire individuals with disabilities from employer-driven training programs.

Technical Assistance and Dissemination Activities

(a) Provide intensive TA to a minimum of 16 State VR agencies and their associated rehabilitation professionals and service providers in the four job-driven topic areas set out in this priority. The JDVRTAC must provide intensive TA to a minimum of two agencies in the first year of the project, a minimum of ten agencies in the second year of the project, and a minimum of four agencies in the third year of the project. Such TA must include:

(1) For topic area (a), how to research, understand, and use up-to-date labor market information to assist individuals with disabilities in making informed career decisions and develop vocational goals;

(2) For topic area (b)—

(i) How to research, understand, and use up-to-date labor market information to effectively communicate with and address the needs of—

(A) Employers;

(B) Job seekers with disabilities; and

(C) Employees with disabilities.

(ii) How to balance job-seeker skills and informed choice with the needs and demands of employers;

(iii) Informational resources for employers on accommodations, including assistive technology;

(iv) Effective marketing and outreach to employers, such as how best to present information about job-ready applicants to employers, including what VR counselors and placement staff need to know about a specific employer and its business; and

(v) How to use occupational information resources to ensure optimal vocational guidance and counseling that result in the best fit for applicants and workers with disabilities and employers.

(3) For topic area (c), how to build and maintain partnerships with employers, looking at new or existing research about the relationship between employer practices and employment outcomes among individuals with disabilities, and promising practices for employer engagement.

(4) For topic area (d)—

(i) How to identify and access employer-driven training programs;

(ii) How to incorporate individuals with disabilities into training programs in which individuals with disabilities have been historically underrepresented; and

(iii) How to assist VR-eligible individuals with disabilities in accessing customized training or other job training that is directly responsive to employer needs and hiring requirements, including, but not limited to, training offered by providers under the Carl D. Perkins Career and Technical Education Improvement Act, H–1B Ready to Work Partnership Grants, and Trade Adjustment Assistance Community College and Career Training Grants.

(b) Provide a range of targeted and general TA products and services on the four job-driven topic areas in this priority. Such TA should include, at a minimum, the following activities:

(1) Developing and maintaining a state-of-the-art information technology (IT) platform sufficient to support Webinars, teleconferences, video conferences, and other virtual methods of dissemination of information and TA;

Note: All products produced by the JDVRTAC must meet government and industry-recognized standards for accessibility.

(2) Developing and maintaining a state-of-the-art archiving and dissemination system that provides a central location for later use of TA products, including course curricula, audiovisual materials, Webinars, examples of emerging and best practices related to the four job-driven topic areas in this notice, and any other TA products, that is open and available to the public; and

Note: In meeting the requirements of (b)(1) and (b)(2) above, the JDVRTAC may either develop new platforms or systems, or modify existing platforms or systems, so long as the requirements of this priority are met.

(3) Providing a minimum of two Webinars or video conferences on each of the four job-driven topic areas in this notice to describe and disseminate information about emerging and best practices in each area.

Coordination Activities

(a) Establish a community of practice that will act as a vehicle for communication, exchange of information among State VR agencies and partners, and a forum for sharing the results of TA projects that are in progress or have been completed. Such community of practice must be focused on the use of labor market and

occupational information for individual planning, employer services and communication, and support of employer-driven training services;

(b) Communicate and coordinate, on an ongoing basis, with other Department-funded projects and those supported by the Departments of Labor and Commerce; and

(c) Maintain ongoing communication with the RSA project officer.

Application Requirements

To be funded under this priority, applicants must meet the application and administrative requirements in this priority. RSA encourages innovative approaches to meet these requirements, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address State VR agencies' capacity to work with employers and providers of training to ensure equal access to and greater opportunities for individuals with disabilities to engage in, competitive employment or training. To meet this requirement, the applicant must:

(i) Demonstrate knowledge of emerging and best practices in employer engagement, including alignment with the needs of business related to employment of individuals with disabilities;

(ii) Demonstrate knowledge of current RSA guidance and State and Federal initiatives designed to improve employer engagement and alignment of workforce training programs with employer needs; and

(iii) Present information about the difficulties that State VR agencies and service providers have encountered in developing effective employer engagement plans.

(2) Result in increases in both the number of VR-eligible individuals with disabilities in employer-driven job-training programs, and the number and quality of employment outcomes in competitive, integrated settings for VR-eligible individuals with disabilities, including broadening the range of occupations for such individuals in such settings.

(b) Demonstrate, in the narrative section of the application under ''Quality of Project Services,'' how the proposed project will—

(1) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes;

(ii) A plan for how the proposed project will achieve its intended outcomes; and

(iii) A plan for communicating and coordinating with key staff in State VR agencies, State and local partner programs, providers of customized training programs and other training programs that are directly responsive to employer needs and hiring requirements, RSA partners such as the Council of State Administrators of Vocational Rehabilitation (CSAVR), the National Council of State Agencies for the Blind, CSAVR's National Employment Team, and other TA centers and relevant programs within the Departments of Education, Labor, and Commerce.

(2) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework.

(3) Be based on current research and make use of evidence-based practices. To meet this requirement, the applicant must describe—

(i) The current research on the emerging and promising practices in the four job-driven topic areas in this priority;

(ii) How the current research about adult learning principles and implementation science will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and evidence-based practices in the development and delivery of its products and services.

(4) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed activities to identify or develop the knowledge base on emerging and promising practices in the four job-driven topic areas in this priority;

(ii) Its proposed approach to universal, general TA; [2]

(iii) Its proposed approach to targeted, specialized TA,[3] which must identify—

(A) The intended recipients of the products and services under this approach; and

(B) Its proposed approach to measure the readiness of State VR agencies to work with the proposed project, assessing, at a minimum, their current infrastructure, available resources, and ability to effectively respond to the TA, as appropriate.

(iv) Its proposed approach to intensive, sustained TA,[4] which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of the State VR agencies to work with the proposed project including the State VR agencies' commitment to the initiative, fit of the initiatives, current infrastructure, available resources, and ability to respond effectively to the TA, as appropriate;

(C) Its proposed plan for assisting State VR agencies to build training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for developing intensive TA agreements with State VR agencies to provide intensive, sustained TA. The plan must describe how the intensive TA agreements will outline the purposes of the TA, the intended outcomes of the TA, and the measurable objectives of the TA that will be evaluated.

(5) Develop products and implement services to maximize the project's efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes; and

[2] For the purposes of this priority, ''universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[3] For the purposes of this priority, ''targeted, specialized TA'' means TA service based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[4] For the purposes of this priority, ''intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration.

(c) Demonstrate, in the narrative section of the application under ''Quality of the Evaluation Plan,'' how the proposed project will—

(1) Measure and track the effectiveness of the TA provided. To meet this requirement, the applicant must describe its proposed approach to—

(i) Collecting data on the effectiveness of each TA activity from State VR agencies, partners, or other sources, as appropriate; and

(ii) Analyzing data and determining the effectiveness of each TA activity, including any proposed standards or targets for determining effectiveness.

(2) Collect and analyze data on specific and measurable goals, objectives, and intended outcomes of the project, including measuring and tracking the effectiveness of the TA provided. To address this requirement, the applicant must describe—

(i) Its proposed evaluation methodologies, including instruments, data collection methods, and analyses;

(ii) Its proposed standards or targets for determining effectiveness;

(iii) How it will use the evaluation results to examine the effectiveness of its implementation and its progress toward achieving the intended outcomes; and

(iv) How the methods of evaluation will produce quantitative and qualitative data that demonstrate whether the project and individual TA activities achieved their intended outcomes.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to provide TA to State VR agencies and their partners in each of the four job-driven topic areas in this priority and to achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks.

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes, including an assurance that such personnel will have adequate availability to ensure timely communications with stakeholders and RSA;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including those of State and local personnel, TA providers, researchers, and policy makers, among others, in its development and operation.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety,

and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. The benefits of the Rehabilitation Training program have been well established over the years through the successful completion of similar projects, particularly those grants that provided TA to State VR agencies. Specifically, this priority would establish a JDVRTAC that would assist State VR agencies to develop employment opportunities that would be responsive to employer-driven needs for employees who have the skills to work in today's labor market. This priority is directly responsive to the Presidential Memorandum to Federal agencies directing them to take action to address job-driven training for the Nation's workers.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 13, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–19588 Filed 8–18–14; 8:45 am]

BILLING CODE 4000–01–P

PRESIDIO TRUST

36 CFR Part 1002

Public Use Limit on Commercial Dog Walking

AGENCY: The Presidio Trust.

ACTION: Final rule.

SUMMARY: The Presidio Trust (Trust) is adopting an interim rule imposing a public use limit on persons who are walking four or more dogs at one time in Area B of the Presidio of San Francisco (Presidio) for consideration (Commercial Dog Walkers). The limit will require any such Commercial Dog Walker in Area B to possess a valid commercial dog walking permit issued by the National Park Service (NPS), Golden Gate National Recreation Area (GGNRA). Commercial Dog Walkers will be allowed a maximum of six dogs at any one time. Commercial Dog Walkers will be required to comply with the terms and conditions of the GGNRA permit as well as those rules and regulations otherwise applicable to Area B of the Presidio, and to visibly display their badges when engaging in commercial dog walking activities within Area B. To obtain a GGNRA permit, applicants must submit a business license, proof of liability insurance, and proof of dog-handling training from an existing training course provider (such as the San Francisco SPCA). The GGNRA commercial dog walking permit requirement is a compendium amendment for all GGNRA sites in San Francisco and Marin Counties that allow dog walking, and is being implemented concurrently with the Trust's rule. Both are interim actions and will remain in effect until the final special regulation for dog walking in the GGNRA is adopted as anticipated in late 2015, at which time the Trust expects that it will adopt a final rule following public input and comment. The Trust is no longer pursuing its proposed rule on Commercial Dog Walkers published in the **Federal Register** on November 21, 2012.

DATES: This rule will become effective October 1, 2014.

FOR FURTHER INFORMATION CONTACT: John Pelka, Compliance Manager, Presidio Trust, 415.561.5300 or *commercialdogwalking@presidiotrust.gov*.

SUPPLEMENTARY INFORMATION: Effective July 1, 2013, the City and County of San Francisco (City) passed legislation requiring Commercial Dog Walkers to carry a valid annually renewed dog walking permit issued by the San Francisco Department of Animal Care & Control. Under 36 CFR 1001.5, the Trust may impose reasonable public use limits in Area B, given a determination that such action is necessary to maintain public health and safety, to protect environmental or scenic values, to protect natural or cultural resources, or to avoid conflict among visitor use activities. On November 21, 2012, in direct response to the City's commercial dog walking regulations, the Trust requested public comment on a

proposed rule and use limit on Commercial Dog Walkers (77 FR 69785). The limit would have required Commercial Dog Walkers in Area B to possess a valid dog walking permit from the City. By the close of the comment period roughly one-half of the comments received expressed support of the public use limit, and roughly one-half were opposed. Opposition included the recommendation that the Trust should not adopt the proposed use limit until such time as the GGNRA published its own policies and requirements on Commercial Dog Walkers. They further requested the Trust to work with the GGNRA and ''come out together with one system clearly defined.'' They urged that ''a single, clear rule for federal park properties that can be widely broadcast to dog walkers in the area will allow for more efficient administration, greater compliance, and reduced impacts to Trust resources.''

In a February 25, 2013 letter to the Trust, the GGNRA stated its support for the Trust's public use limit. The GGNRA disagreed, however, with the number of dogs allowed under the City permit (up to eight), and argued that a limit of six dogs is more reasonable, and is consistent with the NPS's understanding of the standard practice for the majority of local land management agencies that regulate commercial dog walking. In reaction to the City's program and the Trust's proposal, the GGNRA stated it would consider enacting an interim commercial dog walking permit system, before completing its dog management planning process and rulemaking. Given the Trust's and the GGNRA's shared management responsibilities within the Presidio, the GGNRA asked the Trust to consider adopting its interim permit system rather than that being implemented by the City.

On May 30, 2013, the Trust announced on its Web site that it supported the GGNRA's proposed intention to move forward at this time to create and implement an interim permit system to regulate commercial dog walking within the park. After having examined all public comments and considered the new information provided by the GGNRA, the Trust agreed to suspend its own decisions regarding the regulation of commercial dog walking. Before taking any action, the Trust also offered to provide the public with an additional opportunity to comment. Accordingly, the Trust will no longer consider going final with its proposed rule published in the **Federal Register** on November 21, 2012 (77 FR 69785) requiring Commercial Dog Walkers in Area B to possess a valid permit from the City.

On March 14, 2014, the GGNRA provided 30-day public notice (*http://www.parkplanning.nps.gov/projectHome.cfm?projectID=46523*) of its intent to establish an interim permit requirement for Commercial Dog Walkers, with a limit of six dogs, on GGNRA lands in San Francisco and Marin Counties. The GGNRA's permit system for GGNRA lands became effective June 2, 2014, and the Trust will honor GGNRA permits in Area B. The annual permit cost consists of a $75 application fee and a $300 per person fee for a non-transferrable badge. Permit holders will be able to use any GGNRA and Trust lands where dog walking is allowed. The interim permit requirement will remain in effect until a final special regulation addressing dog walking and commercial dog walking in the GGNRA is finalized, which is expected in late 2015. The GGNRA permit requirement is being implemented through an amendment to the GGNRA Compendium. Public notification of the decision will occur through outreach to Commercial Dog Walkers, signage, and the GGNRA's Web site.

On March 19, 2014, the Trust published in the **Federal Register** its proposed interim rule (79 FR 15278) to limit Commercial Dog Walkers in Area B, intended to be enacted in concert with the GGNRA interim restriction. The public use limit was also announced on the Trust's Web site (*http://www.presidio.gov/about/Pages/commercial-dog-walking.aspx*) and in its e-newsletters. The notice indicated the Trust's shared concern with the GGNRA about the possible effects of the City's action on Presidio users and resources, and the Trust's intent to adopt the GGNRA's interim permit system. A unified approach will provide consistency within unmarked Trust-GGNRA boundaries within the Presidio, and fulfill the joint visitor experience and resource protection mandates of the two Federal land management agencies. Prior to implementation, the Trust will coordinate with the GGNRA on its education campaign to alert Commercial Dog Walkers and others about the public use limit. The Trust will also post signs and provide the U.S. Park Police with handouts in Area B to notify Commercial Dog Walkers of the public use limit in areas where dog walking is a particularly high-use activity.

The Trust accepted public comment on the proposed interim rule through May 5, 2014. During the comment period, the Trust received 31 individual comments on the proposal from four organizations and 24 individuals. Twelve commenters (43 percent) expressed support for the proposed interim rule, and 16 (57 percent) were opposed. Comment letters are available for review at the headquarters of the Trust, and constitute part of the administrative record for the rulemaking.

Summary of Comments

Number of Dogs

Comment: Comments were received requesting that more than six dogs be allowed. Other comments asked to require fewer than six dogs, citing concerns with a Commercial Dog Walker's ability to control up to six dogs, or more. There were concerns with impacts to commercial dog walking businesses and with impacts to adjacent parks from limiting the number of dogs to six. Comments also requested greater consistency with dog limits set by the City.

Response: The rationale as to why the limit of eight dogs as adopted by the City is inappropriate for the GGNRA is provided in the GGNRA's Categorical Exclusion and attachments. The GGNRA's limit of six dogs is based on public comment, feedback from the GGNRA Negotiated Rulemaking Committee for dog management, park staff observations, research on national and international best practices and law enforcement experience. The Trust feels that adopting the City's eight-dog limit would engender public confusion given the shared jurisdictions of the GGNRA and the Trust with an unmarked boundary within the Presidio.

Regarding impacts to commercial dog walking businesses, the proposed action does not restrict access to any sites, does not restrict the area available within a site, does not impose time of use requirements, and imposes relatively minor permitting, insurance and numerical requirements on Commercial Dog Walkers. Commercial Dog Walkers retain the flexibility to avoid the proposed restriction and permit fees by opting to use one or more of the available open space lands maintained by the San Francisco Park and Recreation Department, the Port of San Francisco, and the San Francisco Public Utilities Commission. Among these lands are 28 specifically designated off-leash park areas for dogs throughout the City, including the Mountain Lake Park Dog Play Area that is immediately adjacent to Area B (see *http://sfrecpark.org/parks-open-spaces/dog-play-areas-program/* for a location map for specified areas and for information on the process for establishment of

additional off-leash areas within the City's park system). Should Commercial Dog Walkers choose to use Trust lands, the permit cost will only average just over $1.00 per day, per year. It is expected that Commercial Dog Walkers could pass this expense to their clients, and thus there could be a negligible effect on their income. To walk the same number of dogs walked prior to the proposed six-dog limit, Commercial Dog Walkers may have to increase the number of trips, which could increase their transportation costs. However, the overall net change in Commercial Dog Walker trips, and thus transportation costs, is expected to be relatively minor, and will not have a significant impact.

Finally, the City's restriction on commercial dog walking will minimize the possible re-distributional effects of this interim action. Some Commercial Dog Walkers may prefer to use City lands, in that they are allowed an additional two dogs per walker under the City's permit. However, the difference is not expected to result in a significant amount of displacement from Trust lands to San Francisco-managed sites. And, while the City's Department of Animal Care and Control enforces a limit of eight dogs, their commercial dog walking informational pamphlet recommends not more than six. The City's ordinance prohibiting dogs in all sensitive habitat areas, athletic fields, tennis/basketball/volleyball courts, children's play areas, and other key areas prohibited by Park Code Section 5.02 will further minimize impacts to park users and park resources.

Training and Certification Requirements

Comment: Concerns were expressed regarding training and certification in order to obtain the commercial dog walking permit. Some commenters noted that experienced Commercial Dog Walkers do not need required training and certification, and expressed a desire for the GGNRA to honor the City's training and certificate requirements to relieve any financial burden and promote efficiency. Other commenters noted that training and certification promotes responsibility, safety and education.

Response: Training and certification are important components of any permit program. The GGNRA has, however, sought to streamline training and certification where possible. If a commercial dog walking applicant wishes to engage in commercial dog walking activities in the Presidio, the Commercial Dog Walker must either complete one of the courses accepted by San Francisco Animal Care and Control or show proof of three consecutive years as a Commercial Dog Walker in good standing. If the Commercial Dog Walker has completed one of the courses in the past, s/he will not need to re-take it, but rather must provide documentation of completion to the GGNRA as part of their application process.

Permit Costs and Financial Burden

Comment: Some commenters expressed concerns regarding the permit fee, which they believed was too high and unfair, and as public land, should be reduced or removed. Some commenters noted that the required fee would create a financial burden for their businesses.

Response: The GGNRA is expressly authorized by statute to recover costs related to special park uses. Under the authority of 16 U.S.C. 3a, the GGNRA may recover from a permittee the agency's costs incurred in processing a Special Use Permit application and monitoring the permitted activity. The GGNRA informs applicants early in the process that they will be responsible for reimbursing the park for all costs incurred by the park in processing the application and monitoring the permitted activity. The annual commercial dog walking (CDW) permit fees are based on cost recovery estimates relating to the management and administration of CDW permits. For the 2014 permit, which will be valid through January 31, 2015, the $300 Company Badge fee, however, will be prorated according to the date of issue. Because the permit fee to be assessed by the GGNRA is based on the actual costs of administering the program, the fee is fair for a special use authorized in a national park setting.

Timing of the Proposal

Comment: Some commenters expressed concerns that there would not be enough time for commercial dog walking businesses to prepare for implementation, complete the application process and obtain a permit.

Response: Application forms were released on May 27, 2014. The GGNRA began processing permit applications on June 2, 2014. The GGNRA is issuing permits no longer than 30 days after receipt of completed qualifying applications. Applicants who have submitted completed application packages were given a ''reference number'' as proof they have begun the process while they waited to receive the permit and badge. A transition period was implemented until July 15, 2014, for enforcement to allow submission of permit application packages and receipt of the GGNRA permit. The Trust is also providing a transition period until October 1, 2014 to allow Commercial Dog Walkers in Area B to gather the supporting documentation and file the permit application package with the GGNRA.

Inappropriate Use of National Environmental Policy Act (NEPA) Categorical Exclusion

Comment: Several commenters expressed concerns that the use of a Categorical Exclusion (CE) is inappropriate because the impacts of this proposed action would be significant, and therefore a thorough environmental review under the NEPA is required. Two of these commenters requested that the action be compared against a fictional baseline in which there is no commercial or private dog walking.

Response: This action is short-term in nature, limited in both duration and scope, and will only remain in effect until the final special regulation for dog walking in the GGNRA is adopted. The action simply seeks to manage and minimize the impacts of an existing use. The proposed action will only affect Commercial Dog Walkers, a subset of the dog walking that occurs on Trust lands. The proposed action does not ban commercial dog walking; it allows the use to continue, with the requirement of a permit for those with more than three dogs, and a limit of six dogs, in Area B. Because this interim action limits the number of dogs per Commercial Dog Walker, it potentially allows greater control of dogs. More effective dog management through this interim action will result in primarily beneficial effects to park visitors and public health and safety, and to wildlife, including sensitive species. Without this interim action, it is reasonably expected that Trust lands could see an increase in the amount of Commercial Dog Walkers with large groups of dogs, which in turn would affect the use and enjoyment of park lands by other visitors, including non-commercial dog walkers.

Forecasting impacts against a fictional baseline would artificially inflate impacts, as such a no commercial dog walking baseline does not reflect the well-established reality on the ground in the GGNRA. Instead, in determining level of impact, the GGNRA's environmental review, which the Trust relied on in categorically excluding the action, compared its proposal to the existing condition, in which commercial dog walking inside the GGNRA is unregulated, with no numerical caps, permitting, training, or insurance requirements, and where commercial dog walking external to the GGNRA is regulated. When comparing this interim

action to the existing condition of unregulated use, this interim action is beneficial to park resources, with minimal impacts to adjacent areas as described above, and in the GGNRA's administrative record for the project.

Consistency With the Presidio Trust Management Plan and Other Policies

Comment: Some commenters expressed concerns that the interim action is inconsistent with the Presidio Trust Management Plan (PTMP), noting that the PTMP is aimed at preserving the natural and historic resources of the Presidio and protecting the park experience for future users.

Response: The 2002 PTMP did not address commercial dog walking, thus this interim action is not inconsistent with the plan. The PTMP requires the Trust to consider the type and level of visitor use that can be accommodated while sustaining desired resource and visitor experience conditions, which is the intent of this proposed interim rule. The PTMP urges the Trust to work cooperatively with the NPS in areas of joint concern and interest for the overall management of the Presidio. The interim action is a joint collaboration with the NPS for commercial dog management within the Presidio.

This interim action, which reduces the number of dogs that any one Commercial Dog Walker can handle at one time, will not adversely affect, and is likely to have a beneficial effect on natural, aesthetic and cultural values of Trust lands. Accordingly, this interim action furthers the policies contained within the PTMP which direct the Trust to preserve the natural, historic, scenic, cultural and recreational resources of the Presidio and to maintain an atmosphere that is open, inviting and accessible to visitors.

Regulatory and Environmental Compliance

Regulatory Impact: The interim rule will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local or tribal governments or communities. The interim rule will not interfere with an action taken or planned by another agency or raise new legal or policy issues. In short, little or no effect on the national economy will result from adoption of the interim rule. Because the rule is not ''economically significant,'' it is not subject to review by the Office of Management and Budget under Executive Order 12866 or Executive Order 13536. The interim rule is not a ''major rule'' under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 et seq.

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., that the interim rule will not have a significant economic effect on a substantial number of small entities. The economic effect of the rule is local in nature and negligible in scope, restricting only a single use (commercial dog walking) in a limited geographic area (Area B of the Presidio occupies less than four percent of the City's total acreage) for purposes of protecting public health and safety and the natural environment. There will be no loss of significant numbers of jobs, as Commercial Dog Walkers will retain the flexibility to avoid the public use limit and permit fees by opting to use one or more of the available open space lands maintained by the San Francisco Park and Recreation Department, the Port of San Francisco, and the San Francisco Public Utilities Commission (see *http://sfrecpark.org/parks-open-spaces/dog-play-areas-program/*).

The Trust has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 et seq., that the interim rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities.

Environmental Impact: The NEPA and the Trust's NEPA regulations (36 CFR 1010.16) encourage cooperation with other governmental agencies in the preparation of environmental analyses and documentation. Furthermore, the adoption of one Federal agency's environmental document by another Federal agency is an efficiency that the Council on Environmental Quality (CEQ) regulations provide (40 CFR 1506.4, 1500.4(k) & (n). The Trust is a cooperating agency with special expertise for the GGNRA interim commercial dog walking permit requirement (as well as the special regulation for dog walking) under the NEPA and the CEQ regulations (an agency is considered to have special expertise when it has a related ''statutory responsibility, agency mission, or . . . program experience'' (40 CFR 1508.26)). At the request of the GGNRA, the Trust participated in the development of the interim permit requirement from the outset. For the NEPA process, the Trust assisted the GGNRA in the preparation of a Project Description and Environmental Screening Form and assumed co-responsibility for its scope and content to ensure that the form met the standards for an adequate analysis under its NEPA regulations. The form disclosed that no measurable adverse environmental effects will result from the actions, and no extraordinary circumstances are involved that may have a significant environmental effect (*http://www.parkplanning.nps.gov/documentsList.cfm?projectID=46523*).

The Trust's NEPA regulations contain categories of actions that do not require an environmental assessment or environmental impact statement. 36 CFR 1010.7(a)(31) provides that ''minor changes in programs and regulations pertaining to visitor activities'' may be categorically excluded under the NEPA. The regulatory actions by the GGNRA and the Trust regarding interim commercial dog management for Areas A and B are substantially the same. Having independently reviewed the GGNRA's Project Description and Environmental Screening Form for adequacy under its NEPA regulations and having considered the public comments, the Trust has adopted the form as the environmental document prepared for this action, has made it part of the administrative record of the rulemaking, and has categorically excluded the action from further NEPA analysis.

Other Authorities: The Trust has drafted and reviewed the interim rule in light of Executive Order 12988 and has determined that it meets the applicable standards provided in secs. 3(a) and (b) of that Order.

List of Subjects in 36 CFR Part 1002

National parks, Natural resources, Public lands, Recreation and recreation areas.

For the reasons set forth in the preamble, part 1002 of Title 36 of the Code of Federal Regulations is amended as set forth below:

PART 1002—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 16 U.S.C. 460bb note.

■ 2. Add § 1002.6 to read as follows:

§ 1002.6 Commercial dog walking.

(a) The walking of more than six dogs at one time by any one person for consideration (commercial dog walking) is prohibited within the area administered by the Presidio Trust.

(b) The walking of more than three dogs, with a limit of six dogs, at one time by any one person for consideration (commercial dog walking) within the area administered by the

Presidio Trust, where dog walking is otherwise allowed, is hereby authorized provided that:

(1) That person has a valid commercial dog walking permit issued by the Golden Gate National Recreation Area (GGNRA);

(2) The walking of more than three dogs, with a limit of six dogs, is done pursuant to the conditions of that permit; and

(3) The commercial dog walker badge issued to the permittee by the GGNRA shall be visibly displayed at all times as directed in the permit while the permittee is engaging in commercial dog walking activities, and shall be provided upon request to any person authorized to enforce this provision.

Dated: August 11, 2014.

Karen A. Cook,

General Counsel.

[FR Doc. 2014–19514 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–4R–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2014–0290; FRL–9915–28-Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri; Infrastructure SIP Requirements for the 2008 Lead National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Lead (Pb). Section 110 requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: This final rule is effective on September 18, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2014–0290. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7147, or by email at *bhesania.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. On June 4, 2014 (79 FR 32200), EPA published a notice of proposed rulemaking (NPR) for the State of Missouri. The NPR proposed approval of Missouri's submittal that provides the basic elements specified in section 110(a)(2) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 2008 Pb NAAQS.

II. Summary of SIP Revision

On December 20, 2011, EPA received a SIP revision from the Missouri Department of Natural Resources that addresses the infrastructure elements specified in section 110(a)(2) of the CAA, necessary to implement, maintain and enforce the 2008 Pb NAAQS. This submittal addressed the following infrastructure elements of section 110(a)(2): (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). Specific requirements of section 110(a)(2) of the CAA and the rationale for EPA's proposed action to approve the SIP submittal are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving Missouri's submittal which provides the basic program elements specified in section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 2008 Pb NAAQS, as a revision to the Missouri SIP. This action is being taken under section 110 of the CAA. As discussed in each applicable section of NPR, EPA is not acting on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D and on the visibility protection portion of section 110(a)(2)(J).

IV. Statutory and Executive Order Reviews

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

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

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 20, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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: August 7, 2014.

Karl Brooks,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency is amending 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320(e) the table is amended by adding new entry (61) in numerical order at the end of the table to read as follows:

§ 52.1320 Identification of Plan.

* * * * *

(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
* *	*	*	* *	* *
(61) Section 110(a)(2) Infrastructure Requirements for the 2008 Pb NAAQS.	Statewide	12/20/2011	08/19/2014 *[insert* **Federal Register** *citation].*	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2014–19536 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0439; FRL–9914–75-Region–9]

Revisions to the California State Implementation Plan, Placer County Air Pollution Control District, Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Placer County Air Pollution Control District (PCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern negative declarations for volatile organic compound (VOC) source categories for the PCAPCD. We are approving these negative declarations under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on October 20, 2014 without further notice, unless EPA receives adverse comments by September 18, 2014. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0439, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact

you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What negative declarations did the State submit?

On February 13, 2014 PCAPCD adopted 16 negative declarations and stated that it did not have sources subject to the Control Techniques Guidelines (CTG) documents listed in Table 1. On April 14, 2014, the California Air Resources Board (CARB) submitted these negative declarations to EPA as a SIP revision.

TABLE 1—SUBMITTED NEGATIVE DECLARATIONS

CTG source category	Negative declaration—CTG reference document
Aerospace	EPA–453/R–97–004—Control of VOC Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.
Automobile and Light-duty Truck Assembly Coatings.	EPA–450/2–77–008—Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
	EPA 450/R–08–006—Control Techniques Guidelines for Automobile and Light-duty Truck Assembly Coatings.
Dry Cleaning (Petroleum)	EPA–450/3–82–009—Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.
Fiberglass Boat Manufacturing	EPA 453/R–08–004—Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.
Flexible Package Printing	EPA–453/R–06–003—Control Techniques Guidelines for Flexible Package Printing.
Large Appliances Surface Coatings	EPA–450/2–77–034—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume V: Surface Coating of Large Appliances.
	EPA 453/R–07–004—Control Techniques Guidelines for Large Appliance Coatings.
Magnetic Wire	EPA–450/2–77–033—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume IV: Surface Coating of Insulation of Magnetic Wire.
Metal Furniture Coatings	EPA–450/2–77–032—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Surface Coating of Metal Furniture.
	EPA 453/R–07–005—Control Techniques Guidelines for Metal Furniture Coatings.
Natural Gas/Gasoline	EPA–450/2–83–007—Control of VOC Equipment Leaks from Natural Gas/Gasoline Processing Plants.
Paper and Fabric	EPA–450/2–77–008—Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
Paper, Film, and Foil Coatings	EPA 453/R–07–003—Control Techniques Guidelines for Paper, Film, and Foil Coatings.
Pharmaceutical Products	EPA–450/2–78–029—Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
Refineries	EPA–450/2–77–025—Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.
	EPA–450/2–78–036—Control of VOC Leaks from Petroleum Refinery Equipment.
Rubber Tires	EPA–450/2–78–030—Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.
Ships/Marine Coating	EPA–453/R–94–032 Alternative Control Technology Document—Surface Coating Operations at Shipbuilding and Ship Repair Facilities and Ships 61 FR 44050 Shipbuilding and Ship Repair Operations (Surface Coating).
Synthetic Organic Chemical	EPA–450/3–84–015—Control of VOC Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.
	EPA–450/4–91–031—Control of VOC Emissions from Reactor Processes and Distillation Operations in SOCMI.

On June 24, 2014, EPA determined that the PCAPCD negative declarations submitted on April 14, 2014, met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these negative declarations?

There are no previous versions of PCAPCD's 2014 negative declarations in the SIP.[1]

C. What is the purpose of the submitted negative declarations?

The negative declarations were submitted to meet the requirements of CAA section 182(b)(2). Ozone nonattainment areas classified at moderate and above are required to adopt VOC regulations for the published CTG categories and for major non-CTG sources of VOC or NO_X. If an ozone nonattainment area does not have stationary sources covered by an EPA published CTG, then the area is required to submit a negative declaration. The negative declarations were submitted because there are no stationary sources exceeding the CTG's applicability threshold within the PCAPCD jurisdiction. EPA's technical support document (TSD) has more information about these negative declarations.

II. EPA's Evaluation and Action

A. How is EPA evaluating the negative declarations?

The negative declarations are submitted as SIP revisions and must be consistent with CAA requirements for Reasonably Available Control Technology (RACT) (see section 182(b)(2)) and SIP relaxation (see sections 110(l) and 193.) To do so, the submittal should provide reasonable assurance that no sources subject to the CTG requirements currently exist or are planned for the PCAPCD.

B. Do the negative declarations meet the evaluation criteria?

We believe these negative declarations are consistent with the relevant policy and guidance regarding RACT and SIP relaxations. The TSD has more information on our evaluation.

C. EPA's Recommendations

We note that in 2006, PCAPCD adopted a negative declaration for the Polyester Resin category, but that this category did not appear in the current submittal. The District should submit a negative declaration for the following CTGs if there are no sources in the District subject to the CTGs. EPA–450/3–83–008—Control of VOC Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins; and

EPA–450/3–83–006—Control of VOC Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted negative declarations as additional information to the SIP because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of these negative declarations. If we receive adverse comments by September 18, 2014, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on October 20, 2014.

III. Statutory and Executive Order Reviews

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

[1] PCAPCD adopted other negative declarations in the past. On October 7, 1997, PCAPCD adopted negative declarations to comply with the 1990 Clean Air Act Amendments. We approved these into the SIP on September 23, 1998 (63 FR 50766). On December 14, 2006, PCAPCD adopted additional negative declarations to comply with the 1997 8-hour ozone National Ambient Air Quality Standards and CARB submitted them to us on July 11, 2007. While we have not acted on this earlier submittal, we have reviewed materials provided with it.

appropriate circuit by October 20, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: July 21, 2014.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.222, is amended by adding paragraph (a)(4)(ii)and (iii) to read as follows:

§ 52.222 Negative declarations.

* * * * *

(a) * * *

(4) * * *

(ii)

CTG source category	Negative declaration—CTG reference document
Aerospace	EPA–453/R–97–004—Control of VOC Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.
Automobile and Light-duty Truck Assembly Coatings.	EPA–450/2–77–008—Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks. EPA 450/R–08–006—Control Techniques Guidelines for Automobile and Light-duty Truck Assembly Coatings.
Dry Cleaning (Petroleum)	EPA–450/3–82–009—Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.
Fiberglass Boat Manufacturing	EPA 453/R–08–004—Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.
Flexible Package Printing	EPA–453/R–06–003—Control Techniques Guidelines for Flexible Package Printing.
Large Appliances Surface Coatings	EPA–450/2–77–034—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume V: Surface Coating of Large Appliances. EPA 453/R–07–004—Control Techniques Guidelines for Large Appliance Coatings.
Magnetic Wire	EPA–450/2–77–033—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume IV: Surface Coating of Insulation of Magnetic Wire.
Metal Furniture Coatings	EPA–450/2–77–032—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Surface Coating of Metal Furniture. EPA 453/R–07–005—Control Techniques Guidelines for Metal Furniture Coatings.
Natural Gas/Gasoline	EPA–450/2–83–007—Control of VOC Equipment Leaks from Natural Gas/Gasoline Processing Plants.
Paper and Fabric	EPA–450/2–77–008—Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks .
Paper, Film, and Foil Coatings	EPA 453/R–07–003—Control Techniques Guidelines for Paper, Film, and Foil Coatings.
Pharmaceutical Products	EPA–450/2–78–029—Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
Refineries	EPA–450/2–77–025—Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds. EPA–450/2–78–036—Control of VOC Leaks from Petroleum Refinery Equipment.
Rubber Tires	EPA–450/2–78–030—Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.
Ships/Marine Coating	EPA–453/R–94–032 Alternative Control Technology Document—Surface Coating Operations at Shipbuilding and Ship Repair Facilities and Ships 61 FR 44050 Shipbuilding and Ship Repair Operations (Surface Coating).
Synthetic Organic Chemical	EPA–450/3–84–015—Control of VOC Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry. EPA–450/4–91–031—Control of VOC Emissions from Reactor Processes and Distillation Operations in SOCMI.

(iii) Submitted on April 14, 2014 and adopted on February 13, 2014.

* * * * *

[FR Doc. 2014–19425 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2014–0582; FRL–9915–30–Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri, Certain Coals To Be Washed

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri on May 8, 2012, related to a Missouri rule titled ''Certain Coals to be Washed.'' This rule requires specified coals to be washed prior to sale in the St. Louis metropolitan area. This action amends the SIP to update an outdated reference in the rule.

DATES: This direct final rule will be effective October 20, 2014, without further notice, unless EPA receives adverse comment by September 18, 2014. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0582, by one of the following methods:

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

2. *Email: bhesania.amy@epa.gov.*

3. *Mail or Hand Delivery:* Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2014–0582. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7147, or by email at *bhesania.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?

I. What is being addressed in this document?

EPA is taking direct final action to approve a revision to the SIP submitted by the State of Missouri on May 8, 2012, related to Missouri rule 10 CSR 10–5.130, ''Certain Coals to be Washed.'' This rule requires specified coals to be washed prior to sale in the St. Louis metropolitan area. This action amends the SIP to update an outdated reference in the rule. Specifically, the reference in 10 CSR 10–5.130(3) relating to Missouri rule 10 CSR 10–5.030, ''Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating'' was removed and replaced with a reference to 10 CSR 10–6.405, ''Restriction of Particulate Matter Emissions From Fuel Burning Equipment Used For Indirect Heating.'' On September 13, 2012, EPA took action to amend the Missouri SIP which rescinded area specific indirect heating rules, 10 CSR 10–2.040, 10–3.060, 10–4.040, and 10–5.030 and added a new rule, 10 CSR 10–6.405 which consolidated the area rules into a single rule. 76 FR 56555. Today's action approves the amendment which updates the reference to the current SIP approved rule.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is taking direct final action to approve this SIP revision. We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve this SIP revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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

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

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 20, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 7, 2014.

Karl Brooks,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency is amending 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry under ''Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area'' for ''10–5.130'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.130 ..	Certain Coals To Be Washed	05/30/2012	08/19/2014 *[Insert* **Federal Register** *citation]*	
*	*	*	*	*

* * * * *

[FR Doc. 2014–19557 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 136

[EPA–HQ–OW–2009–1019; FRL–9915–18–OW]

RIN 2040–AC84

National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing minor amendments to its Clean Water Act (CWA) regulations to codify that under the National Pollutant Discharge Elimination System (NPDES) program, permit applicants must use ''sufficiently sensitive'' analytical test methods when completing an NPDES permit application and the Director must prescribe that only ''sufficiently sensitive'' methods be used for analyses of pollutants or pollutant parameters under an NPDES permit.

The final rule is based on requirements in the CWA and clarifies existing EPA regulations. It also codifies existing EPA guidance on the use of ''sufficiently sensitive'' analytical methods with respect to measurement of mercury and extends the approach outlined in that guidance to the NPDES program more generally. Specifically, EPA is modifying existing NPDES application, compliance monitoring, and analytical methods regulations. The amendments in this rulemaking affect only chemical-specific methods; they do not apply to the Whole Effluent Toxicity (WET) methods or their use.

DATES: These final regulations are effective September 18, 2014. For judicial review purposes, this final rule is promulgated as of 1:00 p.m. Eastern Time, on September 2, 2014, as provided in 40 CFR 23.2.

ADDRESSES: The record for this rulemaking is available for inspection and copying at the Water Docket, located at the EPA Docket Center (EPA/DC), EPA West 1301 Constitution Ave. NW., Washington, DC 20004. The record is also available via EPA Dockets at *http://www.regulations.gov* under docket number EPA–HQ–OW–2009–1019. The rule and key supporting documents are also available electronically on the Internet at *http://cfpub.epa.gov/npdes/ssmethods.cfm*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Some information, however, is not publicly available, e.g., confidential business information (''CBI'') or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is publicly available only in hard copy. Publicly available docket materials are available electronically in *www.regulations.gov* or in hard copy at the Water Docket, EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Kathryn Kelley, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–7004, email address: *kelley.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information
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IV. The Final Rule

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- C. Regulatory Flexibility Act
- D. Unfunded Mandates Reform Act
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
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I. General Information

A. Potentially Affected Parties

In the NPDES program, point source dischargers obtain permits that are issued by EPA regions and authorized NPDES States, Territories, and Indian tribes (collectively referred to as ''permitting authorities''). These point source dischargers include publicly owned treatment works (POTWs) and various industrial and commercial facilities (collectively referred to as ''NPDES applicants or permittees''). Permitting authorities issue NPDES individual permits after analyzing the information contained in the application and making a determination that the application is ''complete'' under 40 CFR 122.21(e). In the case of a general permit, authorization to be covered by the permit is given if the information submitted demonstrates eligibility for coverage under 40 CFR 122.28. The NPDES permit prescribes the conditions under which the facility is allowed to discharge pollutants into waters of the United States and the conditions that will ensure the facility's compliance with the CWA's technology-based and water quality-based requirements. NPDES permits typically include restrictions on the mass and/or concentration of pollutants [1] that a permittee may discharge as well as requirements that the permittee conduct routine sampling and reporting of various parameters measured in the permitted discharge. In general, NPDES applicants and permittees are required to use EPA-approved methods [2] when measuring the pollutants in their discharges.

The purpose of today's final rule is to codify that where EPA-approved methods exist, NPDES applicants must use sufficiently sensitive EPA-approved analytical methods when quantifying the presence of pollutants in a

[1] Where the term ''pollutant'' is used, it refers to both pollutants and pollutant parameters.

[2] For purposes of this rule, the term ''EPA-approved methods'' refers to methods that have been approved under 40 CFR part 136 or are required under 40 CFR chapter I, subchapter N or O. This includes analytical methods for CWA pollutants developed by EPA, voluntary consensus standards bodies (VCSBs), and other government agencies (such as the U.S. Geological Survey), as well as Alternate Test Procedures (ATPs) developed by commercial method developers for nation-wide use. These methods have been reviewed by EPA and approved for use in compliance monitoring under the CWA. EPA publishes lists of the EPA, VCSB, and other agency methods as well as ATPs that it has found to be acceptable for such use at 40 CFR Part 136, and at 40 CFR Chapter I, subchapters N and O. As a point of clarification, this includes approved ATPs as described in 40 CFR 136.4 and 136.5.

discharge, and the Director [3] must prescribe that only sufficiently sensitive EPA-approved methods be used for analyses of pollutants or pollutant parameters under the permit. The broad universe of entities [4] that would be affected by this final action includes NPDES permitting authorities and municipal and industrial applicants and permittees (Table I–1). This rule does not apply to *indirect dischargers* as defined in 40 CFR 122.2. The impact of this action, however, would only affect those entities that use or allow the use of any EPA-approved analytical methods (for one or more parameters) that are not ''sufficiently sensitive'' to detect pollutants being measured in the discharge.

TABLE I–1—ENTITIES POTENTIALLY REGULATED BY THIS RULE

Category	Examples of potentially affected entities
State, Territorial, and Indian Tribal Governments.	States, Territories, and Indian tribes authorized to administer the NPDES permitting program; States, Territories, and Indian tribes that provide certification under section 401 of the CWA.
Municipalities	POTWs required to apply for or seek coverage under an NPDES individual or general permit and to perform routine monitoring as a condition of any issued NPDES permit.
Industry	Facilities required to apply for or seek coverage under an NPDES individual or general permit and to perform routine monitoring as a condition of any issued NPDES permit.

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. Legal Authority

EPA is issuing today's final rule pursuant to the authority of sections 301, 304(h), 308, 402(a), and 501(a) of the CWA [33 U.S.C. 1311, 1314(h), 1316, 1318, 1342(a), 1343, and 1361(a)]. Section 301(a) of the CWA prohibits the discharge of any pollutant except in compliance with an NPDES permit issued under section 402 of the act. Section 402(a) of the CWA authorizes the Administrator to issue permits that require a discharger to meet all the applicable requirements under sections 301, 302, 306, 307, 308, and 403. Section 301(b) of the CWA further requires that NPDES permits include effluent limitations that implement technology-based standards and, where necessary, water quality-based effluent limitations (WQBELs) that are as stringent as necessary to meet water quality standards. With respect to the protection of water quality, NPDES permits must include limitations to control all pollutants that the NPDES permitting authority determines are or might be discharged at a level that ''will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard,'' including both narrative and numeric criteria [40 CFR 122.44(d)(1)(i)]. If the Director determines that a discharge causes, has the reasonable potential to cause, or contributes to such an excursion, the permit must contain WQBELs for the pollutant [40 CFR 122.44(d)(1)(iii)]. Section 402(a)(2) of the CWA requires EPA to prescribe permit conditions to ensure compliance with requirements, ''. . . including conditions on data and information collection, reporting and such other requirements as [the Administrator] deems appropriate.'' Thus, a prospective permittee might need to measure various pollutants in its effluent at two stages: First, at the permit application stage so that the Director can determine what pollutants are present in the applicant's discharge and the amount of each pollutant present and, second, to quantify the levels of each pollutant limited in the permit to determine whether the discharge is in compliance with the applicable limits and conditions.

Section 304(h) of the CWA requires the Administrator of EPA to ''. . . promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to [section 401of this Act] or permit application pursuant to [section 402 of this Act].'' Section 501(a) of the act authorizes the Administrator to ''. . . prescribe such regulations as are necessary to carry out this function under [the act].'' EPA generally has codified its test procedure regulations (including analysis and sampling requirements) for CWA programs at 40 CFR part 136, although some requirements are codified in other parts (e.g., 40 CFR chapter I, subchapters N and O).

The Director is required under 40 CFR 122.21(e) to determine when an NPDES permit application is complete. Moreover, the Director shall not begin processing an application for an individual permit until the applicant has fully complied with the application requirements for that permit [40 CFR 124.3(a)(2)]. Under 40 CFR 122.21(g)(13), applicants are required to provide to the Director, upon request, such other information as the Director may reasonably require to assess the discharge. Finally, 40 CFR 122.41(j)(1) requires NPDES permits to include a standard condition specifying that ''samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.''

Among other things, section 308 of the CWA authorizes EPA to require owners or operators of point sources to establish records, conduct monitoring activities, and make reports to enable the permitting authority to determine whether there is a violation of any prohibition or any requirement established under provisions including section 402 of the CWA. Under sections 308(c) and 402(b)(2)(A), a state's authorized NPDES program must have authorities to inspect, monitor, enter, and require reports to at least the same extent as required in section 308.

As summarized above, the legal requirements and authorities exist for EPA to require NPDES applicants and permittees to use sufficiently sensitive EPA-approved analytical methods when quantifying the presence of pollutants in a discharge and to require the Director to require and accept only such data.

II. Background

Multiple analytical test methods exist for many pollutants regulated under the CWA. Therefore, EPA has generally

[3] The term ''Director'' refers to the permitting authority. See definition at 40 CFR 122.2.

[4] Although terms such as ''authorities,'' ''applicants,'' and ''permittees'' imply individuals, EPA uses these terms to refer to entities. For example, EPA uses the term ''NPDES permitting authorities'' to mean the EPA Regions, States, Territories, and Indian tribes granted authority to implement and manage the NPDES program. EPA uses the term ''NPDES applicants'' or ''NPDES permittees'' to mean facilities that have applied for, sought coverage under, or been issued an NPDES individual or general permit.

approved multiple methods for CWA pollutants under 40 CFR part 136 and 40 CFR chapter I, subchapters N and O. Some of the approved analytical test methods have greater sensitivities and lower minimum levels [5] [6] or method detection limits (MDLs) [7] than other approved methods for the same pollutant. This situation often occurs because of advances made in instrumentation and in the analytical protocols themselves. Many metals and toxic compounds (for example, mercury) have an array of EPA-approved methods, including some methods that have greater sensitivities and lower minimum levels than the others.

Although EPA has approved multiple analytical methods for individual pollutants, the Agency has historically expected that applicants would select from the array of available methods a specific analytical method that is sufficiently sensitive to quantify the presence of a pollutant in a given discharge. EPA has not expected that NPDES permit applicants would select a method with insufficient sensitivity, thereby masking the presence of a pollutant in their discharge, when an EPA-approved sufficiently sensitive method is available. Further, EPA anticipated that NPDES permitting authorities would specify an EPA-approved method in an NPDES permit where the Director determined that a particular analytical method was needed to provide meaningful results relative to the permit limit. EPA believes that the authority to prescribe a specific analytical method in an NPDES permit exists under the current regulations. However, some state permitting authorities expressed concern that this authority was not explicit in current regulations, thus limiting states' ability to prescribe an appropriate analytical method where needed to assess compliance with permit limits. This rule requires that, where EPA-approved methods exist, NPDES applicants must use sufficiently sensitive EPA-approved analytical methods when quantifying the presence of pollutants in a discharge and that the Director must prescribe that only sufficiently sensitive EPA-approved methods be used for analyses of pollutants or pollutant parameters under the permit.

EPA and state permitting authorities use data from the permit application to determine whether pollutants are present in an applicant's discharge and to quantify the levels of all detected pollutants. These pollutant data are then used to determine whether technology- or water quality-based effluent limits are needed in the facility's NPDES permit. It is critical, therefore, that applicants provide data that have been measured at levels that will be meaningful to the decision-making process. Among other things, data must be provided that will enable the Director to make a sound ''reasonable potential'' determination and, if necessary, establish appropriate water quality-based permit limits. The same holds true for monitoring and reporting relative to permit limits established for regulated parameters. The intent is for applicants and permittees to use analytical methods that are capable of detecting and measuring the pollutants at, or below, the respective water quality criteria or permit limits.[8]

For example, in 2002 and 2007 EPA published two new analytical methods for mercury that were several orders of magnitude more sensitive than previously available methods. In addition, a number of states have set water quality criteria for mercury that are below the detection levels of the older methods for mercury that EPA approved prior to 2002. Unlike the previous methods, the new methods are capable of measuring whether effluent samples are above or below the current water quality criteria. In 2007 EPA addressed this issue with respect to mercury in a memorandum titled ''Analytical Methods for Mercury in NPDES Permits,'' from James A. Hanlon, Director of EPA's Office of Wastewater Management, to the Regional Water Division Directors. This memorandum is available at *http://www.epa.gov/npdes/pubs/mercurymemo_analyticalmethods.pdf*. The memorandum explains EPA's expectation that ''All facilities with the potential to discharge mercury will provide with their NPDES permit applications monitoring data for mercury using Method 1631E or another sufficiently sensitive EPA-approved method. Accordingly, EPA strongly recommends that the permitting authority determine that a permit application that lacks effluent data analyzed with a sufficiently sensitive EPA-approved method such as Method 1631E, is incomplete unless and until the facility supplements the original application with data analyzed with such a method.''

Following issuance of the 2007 memorandum, EPA determined that the NPDES permit application regulations at 40 CFR 122.21 and the NPDES permit monitoring requirements at 40 CFR 122.44 should be revised to ensure that, where EPA-approved methods exist, applicants use sufficiently sensitive EPA-approved analytical methods when quantifying the presence of pollutants in a discharge and that Directors prescribe that only sufficiently sensitive EPA-approved methods be used to perform sampling and analysis for all pollutants, not just mercury. Therefore, in this rulemaking, EPA is revising the regulations to extend the requirement to use sufficiently sensitive EPA-approved analytical test methods, where they exist, to all pollutants and establish criteria for what qualifies as a ''sufficiently sensitive'' method.

This final rule requires that NPDES applicants must use sufficiently sensitive EPA-approved analytical methods, where they exist, when submitting information required by a permit application quantifying the presence of pollutants in a discharge. If the applicant does not provide data using a sufficiently sensitive EPA-approved analytical method, the Director may determine that the application is ''incomplete'' per 40 CFR 122.21(e).The Director may require that the applicant provide new screening data obtained using a sufficiently sensitive EPA-approved analytical method before making a completeness determination and moving forward with permit development. The final rule also requires that, as a condition of permit development, to assure compliance with permit limitations the permit shall include requirements to monitor according to sufficiently sensitive EPA-approved methods, where they exist.

[5] The term ''minimum level'' refers to either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL). Minimum levels may be obtained in several ways: They may be published in a method; they may be sample concentrations equivalent to the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a lab, by a factor. [See: (A) 40 CFR 136, appendix A, footnotes to table 2 of EPA Method 1624 and table 3 of EPA Method 1625 (49 FR 43234, October 26, 1984); (B) 40 CFR 136, section 17.12 of EPA Method 1631E (67 FR 65876–65888, October 29, 2002); (C) 61 FR 21, January 31, 1996; and (D) ''Analytical Method Guidance for the Pharmaceutical Manufacturing Point Source Category,'' EPA 821–B–99–003, August 1999].

[6] For the purposes of this rulemaking, EPA is considering the following terms related to analytical method sensitivity to be synonymous: ''quantitation limit,'' ''reporting limit,'' ''level of quantitation,'' and ''minimum level.''

[7] The MDL is determined using the procedure at 40 CFR Part 136, appendix B. It is defined as the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

[8] To address this situation some state permitting authorities have developed a list of monitored parameters and prescribed a required minimum level that must be achieved for each parameter as a part of their state regulations or policy.

Specifically, where an EPA-approved analytical method exists that would provide quantifiable results necessary to assess compliance with a permit limit and the permit allows monitoring to be conducted using different analytical methods that, although approved, would fail to produce data necessary to assess compliance, the permit would be inconsistent with the NPDES permitting requirements of 40 CFR 122.44(i).

EPA is defining the term ''sufficiently sensitive'' in two sections of the NPDES regulations: At 40 CFR 122.21(e) (Completeness), as a new subsection (3), and at 40 CFR 122.44(i)(1)(iv) (Monitoring Requirements). EPA is also modifying 40 CFR 136.1 (Applicability) by adding a new paragraph (c), which is simply a cross-reference to the changes being promulgated in 40 CFR 122.21(e)(3) and 40 CFR 122.44(i)(1)(iv). The new and revised sections indicate that an EPA-approved method is sufficiently sensitive where:

A. The method minimum level is at or below the level of the applicable water quality criterion or permit limitation for the measured pollutant or pollutant parameter; or

B. In the case of permit applications, the method minimum level is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or

C. The method has the lowest minimum level of the EPA-approved analytical methods.

The requirement to use a ''sufficiently sensitive'' EPA-approved method does not apply where no EPA-approved method exists. When no analytical method is approved under 40 CFR part 136 or required under subchapter N or O, and a specific method is not otherwise required by the Director, an NPDES applicant may use any suitable method; however, the applicant shall provide a description of the method.

The first two criteria, A and B, in the sufficiently sensitive definition address situations in which EPA has approved multiple methods for a pollutant and some of those approved methods have greater sensitivities and lower minimum levels than others. In this situation, the applicant or permitting authority may select a method based on the minimum level published in the EPA-approved method, where available, or using a derived minimum level. As noted in footnote 4, the minimum level may be explicitly listed in some EPA-approved methods. Where this is the case, the applicant may reference the published minimum level when determining whether a method selected to provide data for their permit application is sufficiently sensitive. Where EPA has included a minimum level for a pollutant in a specific method, it reflects the minimum level obtained in a multi-laboratory study of the new method in a wide variety of matrices, many of which EPA selects due to their complex nature. EPA acknowledges that complex matrices exist and provides flexibility and suggestions for ways to mitigate interferences in such instances, often within the published method for a specific pollutant. EPA's experience is that many laboratories find solutions to address difficult matrices and are able to achieve the published minimum level within the required quality assurance specifications. However, applicants have always had the option of calculating a matrix-specific method detection limit (MDL). Extreme matrices may necessitate the use of an elevated sample specific minimum level, in which case the laboratory should be able to show that a reasonable effort (e.g., published cleanup procedures) was attempted to achieve as low a minimum level as possible for those samples. The use of sample or matrix specific minimum levels rather than the published levels has always been an available option, and consistent with that flexibility, use of a matrix-specific minimum level may sometimes be necessary when determining which methods are sufficiently sensitive.

For EPA-approved methods that do *not* explicitly list minimum levels, the applicant can derive the minimum level from either the concentration of the lowest calibration standard in methods that dictate the concentrations of such standards, or as a multiple of the MDL or similar statistically derived detection limit concept. When the method dictates, or recommends, the concentration of the lowest calibration standard, that concentration can be converted to a minimum level by considering the weights and/or volumes of the sample and all of the intermediate preparation and analysis steps in the method. If a method provides a literature MDL for the matrix of interest, that MDL value can be used to estimate the minimum level as 10 times the standard deviation of the replicate measurements used to determine the MDL according to 40 CFR part 136, appendix B. However, MDLs are inherently method- and laboratory-specific, so whenever a permittee is contracting a laboratory for NPDES work, it is prudent to obtain that laboratory's MDL and compare it to the published MDL to ensure that both their MDL and their minimum level are appropriate for the intended application.

The third criterion, C, of the definition addresses situations in which none of the EPA-approved methods for a pollutant can achieve the minimum levels necessary to assess reasonable potential or to monitor compliance with a permit limit. In these situations, applicants or permittees must use the method with the lowest minimum level among the EPA-approved methods for the pollutant, and this method would meet the definition of sufficiently sensitive.

As explained above, the requirement to use a ''sufficiently sensitive'' EPA-approved method does not apply where no EPA-approved methods exist. The final rule addresses these situations, for permit applicants, where no approved analytical method exists under 40 CFR part 136 or is required under subchapter N or O, and one is not otherwise required by the Director. In such situations, an applicant may use any suitable method but shall provide a description of the method. With respect to pollutant limits in permits, where an EPA-approved analytical method does not exist, monitoring shall be conducted in accordance with a test procedure specified in the permit.

EPA recognizes that other factors beyond the minimum level or MDL can also be important in determining method performance, including a method's resolution, accuracy, and precision. Where there are no EPA-approved methods, this rule does not affect how those other factors are considered in selecting a method. Rather, the rule notes that permit applicants may consider these other factors when selecting a suitable method where no EPA-approved method exists.

For EPA-approved methods, however, these factors have already been considered during the method validation and approval process. As explained above, EPA evaluates method performance in a wide variety of wastewater matrices and approves those methods that have sensitivity, precision and accuracy that are appropriate for wastewater compliance monitoring. 40 CFR 136.6 also allows flexibility to tailor approved methods to more challenging wastewater matrices or overcome methodological problems. Based on data and information provided to EPA by analytical laboratories, EPA finds that experienced laboratories are often capable of achieving minimum levels below those published with a

method while maintaining the precision and accuracy specified in the method.

EPA acknowledges that while rare, methodological problems may exist that could affect the determination of a ''sufficiently sensitive'' method. In such rare situations, the Director may consider additional technical factors when determining whether the method is still ''sufficiently sensitive.'' Specifically, where the permit applicant or permittees can demonstrate to the Director that despite a good faith effort to overcome these methodological problems due to challenging wastewater matrices, either (1) the method's minimum level is higher than originally anticipated, or (2) the method results no longer meet the methods quality assurance/quality control (''QA/QC'') specification, the Director may take these factors into account when determining whether the permit applicant has met the requirements to use a ''sufficiently sensitive'' method or in prescribing a ''sufficiently sensitive'' method in the permit. In the first situation, the matrix or sample-specific minimum level should be used to evaluate which of the EPA-approved methods is ''sufficiently sensitive.'' In the second situation, if the method's results are no longer consistent with the QA/QC specifications, then the method is not performing adequately and a ''sufficiently sensitive'' method should be selected from the remaining EPA-approved methods. In either case, the permit applicant or permittee is responsible for demonstrating that a published minimum level is unachievable or a reasonable effort was applied to bring the original sufficiently sensitive method within the QA/QC specifications in the given matrix before selecting another EPA-approved method (e.g., cleanup procedures, dilution when appropriate, etc.).

Additionally, where a technology-based requirement is specified as ''zero discharge'' or ''no detect,'' the permitting authority may take into account the sensitivity of the method used to establish the requirement when determining if a method is ''sufficiently sensitive.'' EPA recognizes that if a more sensitive method is approved after such a requirement has been established, its use may be inconsistent with the technological basis of the original requirement. In situations where a technology-based requirement reflects a technology that eliminates the discharge of the subject pollutant altogether, the newer sensitive method is appropriate. However, where a technology-based limit reflects a technology that may not achieve the minimum level of the newer more sensitive method, the Director may determine that the method on which the requirement was originally based is ''sufficiently sensitive'' to determine compliance, as understood at the time the requirement was established.

For both EPA-approved methods and non-EPA-approved methods, EPA's understanding of standard practice is that if an applicant/permittee or laboratory has questions regarding the suitability of a specific method in a given situation, or has technical questions on its use, it will consult with its permitting authority. EPA has the same expectations in connection with today's rulemaking for questions specifically about which methods are sufficiently sensitive. The permitting authority continues to have the ultimate responsibility for determining whether an NPDES application is complete (40 CFR 122.21(e)) and establishing permit conditions, including monitoring and reporting requirements (40 CFR 122.44(i)).

The amendments in this rulemaking affect only chemical-specific methods; they do not apply to the Whole Effluent Toxicity (WET) methods or their use. Note that existing EPA regulations (40 CFR 122.44(d)(1)(ii)) and policy require permit writers to take into account the sensitivity of the species to toxicity testing when evaluating whole effluent toxicity. EPA has interpreted this provision as directing the permitting authority to develop criteria and limits based upon the most sensitive test species to ensure that the most sensitive species and all less sensitive species will be protected.

III. Summary of Public Comments and EPA's Response

On June 23, 2010, EPA proposed changes to the existing NPDES regulations (75 FR 35712) and requested comments from the public. EPA received 25 comment letters. The majority of the comments came from publicly owned treatment works and industry organizations, but EPA also received comments from laboratories, and state and federal agencies. The majority of comments covered the following categories: Implementation and technology; administration and timing; and burden. The complete list of comments and responses is available in the record of this rulemaking.

A. Implementation

1. Effect of the Rule on Current Practices

EPA received several comments that indicated the approach outlined in the proposed rule would force applicants and permittees to make decisions regarding the selection of an appropriate method without adequate information upon which to base a decision. Specifically, commenters indicated that issues related to the definition of the method minimum level would make this rule difficult to implement and that method sensitivity should not be the sole factor in deciding which method should be used in the permitting process. They indicated that there are other factors including accuracy, precision, selectivity, and whether the method has been validated that should be considered.

In response, EPA notes that applicants for NPDES permits have always needed to make decisions regarding which EPA-approved methods are the most appropriate for use when performing the screening analyses required under the various permit application regulations at 40 CFR 122.21. Similarly, NPDES permitting authorities, even before today's rulemaking, have had to consider which of the EPA-approved methods are the most appropriate for permittees to use to meet their monitoring and reporting requirements under an NPDES permit. Today's rule does not change the basic NPDES permit application or permit issuance process. Under 40 CFR 122.21, permittees seeking permit renewal or new applicants must provide the Director with adequate information to determine whether an NPDES application is complete. Once the Director makes this determination, the Director determines the applicable permit requirements, including any sampling or monitoring that must be taken that is ''representative of the monitored activity.'' See 40 CFR 122.41(j)(1). The effect of today's final rulemaking is to codify that where EPA-approved methods exist, only ''sufficiently sensitive'' EPA-approved methods may be used in connection with permit applications and to conduct monitoring and reporting under a permit.

To determine whether an EPA-approved analytical method is ''sufficiently sensitive'' in any particular case, NPDES applicants/permittees and permit authorities should use the best information available on what the minimum level is for the method, and EPA believes that in general a method's accurate minimum level will be readily ascertainable. Where the minimum level is explicitly listed in the EPA-approved method, applicants may reference the published minimum level when determining whether a method selected to provide data for their permit application is sufficiently sensitive. Alternatively, applicants have always had the option of providing matrix-specific method detection limits and

minimum levels rather than the published minimum levels, and nothing in today's rule changes that flexibility, including with respect to selecting a sufficiently sensitive EPA-approved method. For these cases the laboratory should be able to show that a reasonable effort (e.g., published cleanup procedures) was attempted to achieve as low a minimum level as possible for those samples. For EPA-approved methods that do *not* explicitly list minimum levels, the minimum level can be obtained or derived by the applicant or permitting authority. Indeed, many permitting authorities have developed guidance, policies or regulations that establish minimum levels for various methods, or specify specific methods to be used by applicants and permittees. Where applicable, these policies and regulations will continue to affect method selection, although at the same time, states must ensure that such policies and regulations conform with the criteria established in today's rulemaking that, where they exist, only ''sufficiently sensitive'' EPA-approved methods are being used when completing an NPDES permit application and when performing sampling and analysis pursuant to monitoring requirements in an NPDES permit. If the applicant does not provide data using a sufficiently sensitive EPA-approved analytical method where one exists, the Director may determine that the application is ''incomplete'' per 40 CFR 122.21(e). The Director may require that the applicant provide new screening data obtained using a sufficiently sensitive EPA-approved analytical method before making a completeness determination and moving forward with permit development. Thus, to avoid having the permitting authority reject data provided in an application because the data were not collected by means of a ''sufficiently sensitive'' method, the NPDES applicant should work closely with the permitting authority prior to conducting the required analyses. In addition, the permitting authority must ensure the permit includes a requirement to use a sufficiently sensitive EPA-approved analytical test method, where one exists, where necessary to perform sampling and analysis, consistent with 40 CFR 122.41(j) and 122.44(i).

2. Development of New or Alternate Test Procedures

EPA received several comments that indicated the proposed rule would require the development of new analytical methods where no EPA-approved methods exist or where existing EPA-approved methods would not quantify the pollutant concentration at or below the level of the criterion or permit limit. Other commenters indicated that the rule would alter the existing requirements for developing Alternate Test Procedures under 40 CFR part 136. EPA has modified the proposal to address these comments, as explained below.

EPA has modified the proposed language for this final rule so that it does not change existing regulatory requirements with respect to unapproved methods. Where no EPA-approved analytical methods exist, an applicant will need to select a method from another source of available analytical methods (e.g., Standard Methods for the Examination of Water and Wastewater) to measure that pollutant or pollutant parameter. Today's final rule does not require the applicant to develop new methods. The situation in which there are no EPA-approved methods is uncommon because there are EPA-approved methods for most pollutants or pollutant parameters screened and regulated under the NPDES program. Under the existing regulations at 40 CFR 122.21(g)(7), the NPDES applicant has the flexibility to use any suitable analytical method when no EPA-approved analytical method exists for that pollutant or pollutant parameter. Additionally, under the existing regulations at 40 CFR 122.44(i)(1)(iv), the NPDES permitting authority specifies a method in the permit when there is no EPA-approved method.

Where EPA-approved methods exist, but none of the available methods will quantify the pollutant concentration at or below the level of the criterion or permit limit, today's rulemaking does not require the development of any new analytical methods. However, in this situation, the rule will now require the use of the most sensitive of the EPA-approved methods.

Finally, today's rulemaking does not alter any of the existing requirements related to the development or approval of alternative test procedures under 40 CFR 136.4 and 136.5.

3. Consideration of Matrix Effects in Selecting a Sufficiently Sensitive Method

EPA received several comments that indicated the approach outlined in the proposed rule would force applicants and permittees to make decisions regarding the selection of an appropriate method without adequate information upon which to base a decision. Specifically, commenters indicated that issues related to the definition of the method minimum level would make this rule difficult to implement and that method sensitivity should not be the sole factor in deciding which method should be used in the permit process. They believe there are other critical factors including accuracy, precision, selectivity, and whether the method has been validated.

In response, as noted above, EPA has clarified that the requirement to use a ''sufficiently sensitive'' EPA-approved method does not apply where no EPA-approved method exists. EPA agrees that other factors beyond the minimum level can also be important in determining method performance, including a method's selectivity, resolution, accuracy, and precision. EPA has added language in the rule text that clarifies where no EPA-approved methods exist, permit applicants may consider these other factors, in conjunction with sensitivity, when selecting an appropriate method.

For EPA-approved methods, however, these factors have already been considered during the method validation and approval process. As explained above, EPA evaluates method performance in a wide variety of wastewater matrices and approves those methods that have selectivity, sensitivity, precision and accuracy that are appropriate for wastewater compliance monitoring. 40 CFR 136.6 also allows flexibility to tailor approved methods to more challenging wastewater matrices. EPA notes that applicants have always had the option of providing matrix or sample-specific minimum levels rather than the published levels and nothing in today's rule changes that flexibility, including with respect to selecting a sufficiently sensitive EPA-approved method. For these cases the laboratory should be able to show that a reasonable effort (e.g., published cleanup procedures) was attempted to achieve as low a minimum level as possible for those samples.

If the most sensitive method listed in 40 CFR Part 136 is not performing adequately in a given wastewater matrix (e.g., with regard to sensitivity, accuracy, and precision), several options are available and should be pursued. Dilution is often a good option if it does not drive the sample specific minimum level above the permit requirements. Cleanup procedures included in the method can also be utilized. If those cleanups do not prove adequate for a particular matrix, the analyst should consult ''Solutions to Analytical Chemistry Problems with Clean Water Act Methods,'' EPA 821–R–07–002 (or more recent revisions) to

determine if another cleanup procedure may be appropriate. If a solution is still not apparent, the permittee should consult EPA or the permitting authority.

Based on data and information provided to EPA by analytical laboratories, EPA finds that experienced laboratories are often capable of achieving minimum levels below those published with a method while maintaining the precision and accuracy specified in the method. However, EPA acknowledges that while rare, situations may exist where a method cannot perform adequately in a specific matrix. In such rare situations, the Director may consider additional technical factors when determining whether the method is still ''sufficiently sensitive.'' Specifically, where the permit applicant or permittees can demonstrate to the Director that despite a good faith effort to overcome these methodological problems due to challenging wastewater matrices, either (1) the method's minimum level is higher than originally anticipated, or (2) the method results no longer meet the methods QA/QC specification, the Director may take these factors into account when determining whether the permit applicant has met the requirements to use a ''sufficiently sensitive'' method or in prescribing a ''sufficiently sensitive'' method in the permit. In the first situation, the matrix or sample-specific minimum level should be used to evaluate which EPA-approved method is ''sufficiently sensitive.'' In the second situation, if the method's results are no longer consistent with the QA/QC specifications, then the method is not performing adequately and a ''sufficiently sensitive'' method should be selected from the remaining EPA-approved methods. In either case, the permit applicant or permittee is responsible for demonstrating that a published minimum level is unachievable or a reasonable effort was applied to bring the original sufficiently sensitive method within the QA/QC specifications in the given matrix before selecting another EPA-approved method (e.g., cleanup procedures, dilution when appropriate, etc.). To illustrate the type of situations where this provision would be appropriate, EPA provides two examples below.

EPA received comments about the situation where there are multiple EPA-approved methods for an organic pollutant and the methods employ different technologies (i.e., gas chromatography (GC) and gas chromatography/mass spectrometry (GC/MS)). These commenters raised concern that, in some instances, while the GC method may provide a lower detection limit, the GC/MS method provides a greater degree of confidence in the correct identification of the regulated parameter. As explained above, this is not an issue if the laboratory has demonstrated that it can achieve a minimum level for GC/MS that is lower than the NPDES permit limit for the regulated parameter, in which case GC/MS would be considered ''sufficiently sensitive.'' EPA agrees that GC/MS is more selective than GC, but several options are available to remove the interferences from difficult matrices before using a dual-column GC method (e.g., solid-phase extraction as a cleanup procedure, Florisil cleanup, alumina cleanup, sulfur removal with copper or TBA sulfite, gel permeation chromatography, etc.). Generally, a result from a dual-column GC method would only be questioned if the chromatograms from the two columns did not yield similar numerical results or if the chromatograms contained many extraneous peaks that suggest interferences are present. If the permit applicant or permittee is still concerned that the peaks may be caused by a different contaminant, and the GC method provides a false positive result, the permit applicant or permittee could use a GC/MS to confirm the presence of the contaminant. However, since the GC/MS is less sensitive, it may not be able to confirm low-level dual column GC results. The more sensitive GC/MS method options (e.g., larger sample volume, smaller final extract volume, selected ion monitoring techniques, or high resolution GC/MS) may be necessary to prove whether the dual column GC result is a false positive. The permittee should also consult with EPA and/or its permitting authority for potential solutions. In this case, if the permittee has exhausted all practical options (e.g., solid-phase extraction as a cleanup procedure, Florisil cleanup, alumina cleanup, sulfur removal with copper or TBA sulfite, gel permeation chromatography, etc.) and has documentation to demonstrate that the dual-column GC creates false positive results for that specific matrix, then the Director would appropriately approve the selection of a different EPA-approved method that would then be considered a sufficiently sensitive method (e.g., GC/MS).

As another example, EPA also received comments specific to Method 1631 for mercury. These commenters noted that use of the ''clean'' sampling methods associated with this method to minimize potential contamination from the sampling technique itself is not possible in many industrial settings. They noted that EPA's documentation of the sampling technique acknowledges it is not intended for treated and untreated discharges from industrial uses. EPA notes that since approval of this method and the associated clean sampling techniques, these techniques have been successfully used in some industrial settings. For example, sewage treatment plants accepting industrial wastewater have successfully eliminated permit exceedances for mercury as measured by Method 1631 by employing the clean sampling procedures. Where the permittee has documentation that clean sampling techniques cannot be adopted for the site-specific application, the Director would appropriately approve the selection of a different EPA-approved method that meets the definition of a sufficiently sensitive method (e.g., the one with the lowest minimum level of the remaining EPA-approved methods). If the ambient level of mercury contamination at the site is too high to use clean sampling methods, then using a less sensitive EPA-approved method can meet the definition of a sufficiently sensitive method.

Another commenter raised concerns specific to Method 1631. They questioned the method's suggestion to minimize laboratory contamination by soaking laboratory air filters in gold chloride solution so that mercury in incoming air will amalgamize with the filter's gold. This commenter questioned whether or not it was EPA's expectation that laboratories go to such lengths to employ such a sufficiently sensitive method where required under this rule. EPA notes the procedure described by the commenter is only a suggestion if laboratories are having problems with laboratory contamination. There are now many laboratories that perform Method 1631 without undue difficulty. In this case, where necessary to meet the definition of ''sufficiently sensitive'' in today's final rule, EPA would expect that the permittee use Method 1631, since the permittee should send their sample to a laboratory that can demonstrate it has control over sources of mercury within its own environment.

Finally, where a technology-based requirement is specified as ''zero discharge'' or ''no detect,'' the permitting authority may take into account the sensitivity of the method used to establish the requirement when determining if a method is ''sufficiently sensitive.'' EPA recognizes that if a more sensitive method is approved after such a requirement has been established, its use may be inconsistent with the technological basis of the original requirement. In situations where a

technology-based requirement reflects a technology that eliminates the discharge of the subject pollutant altogether, the newer sensitive method is appropriate. However, where a technology-based limit reflects a technology that may not achieve the minimum level of the newer more sensitive method, the Director may determine that the method on which the requirement was originally based is ''sufficiently sensitive'' to determine compliance, as understood at the time the requirement was established.

4. Report of the Federal Advisory Committee on Detection and Quantitation Approaches and Uses in Clean Water Act Programs

EPA received a number of comments that identified concerns that the proposed rule uses terms, such as minimum level, that are not defined in new or existing regulations. Commenters also indicated that the proposed rule fails to address a variety of issues regarding detection and quantitation that were raised in the Report of the Federal Advisory Committee on Detection and Quantitation Approaches and Uses in Clean Water Act Programs. EPA agrees that there are a variety of related issues raised in the aforementioned report, yet notes that the members of the Federal Advisory Committee (FAC) were unable to reach consensus over several key issues in the report. While several of these issues, such as the definition of minimum level, are discussed in today's rulemaking, applicants and permitting authorities must still, on a regular and ongoing basis, choose which of the available analytical methods are most appropriate for use when screening effluent for permit applications and as part of permit conditions. This has always been the case, regardless of today's rulemaking.

EPA believes that the requirements of the rule are adequately described and can be implemented without having to address the myriad of issues considered by the FAC. For today's rulemaking, EPA is not redefining or establishing new method detection limits (MDLs) or minimum levels, developing new procedures for determining detection or quantitation, or maintaining a clearinghouse on detection and quantitation issues. EPA considers such issues to be outside the scope of today's rulemaking.

5. Other Factors Affecting Selection of Analytical Methods

EPA received several comments that expressed concern that the rule would require the use of only the most sensitive available method, and that other factors such as geographical isolation or unique sample collection constraints might preclude the use of certain available methods. Some comments also expressed concerns regarding the availability of laboratories qualified to conduct some of the more sensitive analytical methods, particularly where the state requires applicants and permittees to use laboratories certified by the state to conduct analyses.

EPA is not requiring the use of any specific analytical technology or practice over others; only that the selected EPA-approved method is sufficiently sensitive. EPA expects that, in general, factors such as geographical isolation, or unique sampling collection constraints would not preclude the selection of a sufficiently sensitive method. The definition does not require the use of the most sensitive EPA-approved method available, so long as a less sensitive approved method still meets the criteria for being ''sufficiently sensitive.'' In cases where factors beyond a facility's control render the use of a particular method infeasible, such as extreme geographical isolation, the permitting authority could consider such factors in deciding which method best meets the definition of ''sufficiently sensitive.'' EPA expects such situations would be rare.

Issues related to sampling procedures, such as holding times, are frequently prescribed by the test procedures in 40 CFR Part 136, and may be contingent on the unique physical, chemical, and biological characteristics of the discharge. Standard practice has been and continues to be that if an applicant/permittee or laboratory has questions regarding the appropriateness of using a specific method in a given situation, or has technical questions on its use, it should consult with its permitting authority prior to conducting monitoring.

B. Administration and Timing

EPA received a few comments regarding the effect of the rule on recordkeeping and reporting requirements. The rule does not change existing recordkeeping and reporting requirements at 40 CFR 122.21(p), 122.41(j) and 122.48. The permitting authority, however, has discretionary authority to require its applicants or permittees to provide information under the latter two provisions. In addition, a few comments asked whether the rule alters the terms or conditions of existing permits. The rule itself does not modify the terms or conditions of existing NPDES permits. If, under the requirements of today's rulemaking, a change needs to occur in the analytical methods specified in an existing permit, that change would occur at the time of permit renewal, or it could occur through a permit modification under the procedures of 40 CFR Part 124, if the permitting authority determined that such a modification was appropriate.

EPA received a few comments regarding whether existing data, if collected using insufficiently sensitive methods, will be acceptable for submission with an application for permit renewal. NPDES application monitoring data that is collected after the effective date of the rule, or, if applicable, after an authorized state has revised its regulations to adopt the provisions of the rule,[9] must be based on the use of sufficiently sensitive test methods. However, the rule does not negate the existing requirement for applicants to submit data from previous years, even where these data may have been collected using methods that did not conform to the sufficiently sensitive criteria established in this rule. Based on all of the data submitted with the permit application, the permitting authority will determine whether it has information adequate to develop an NPDES permit. Where the permitting authority determines that data was collected using insufficiently sensitive methods, it may choose to disregard this information and accept only data collected employing sufficiently sensitive EPA-approved methods. In addition, even prior to the effective date of today's rulemaking, the permitting authority has the authority under the existing NPDES regulations to request additional data from applicants where insufficient data is provided with the application before considering an application complete.

EPA received a few comments pertaining to the rule's impact on indirect dischargers. The rule affects only direct dischargers (those applying for an individual NPDES permit) and state/EPA NPDES permitting authorities. The rule does not apply to indirect dischargers. POTWs with approved pretreatment programs may at their discretion (as authorized by their local ordinances and regulations) require their indirect dischargers to achieve specific minimum levels when performing analyses or may require the use of specific methods to enable them to better characterize contributions into their system. Where a state or EPA is the

[9] Authorized NPDES states have up to one year following rule issuance to revise their own regulations to conform to the requirements of this rule. Authorized NPDES states have up to two years to conform to the rule's requirements if they must make statutory changes.

pretreatment Control Authority, the specific requirements for analytical methods can be specified in the control mechanism issued to the indirect discharger.

EPA received several comments that indicated that while the commenters supported the concept established in the proposed rule, they believed additional flexibility should be provided to account for instream dilution. Specifically, the commenters requested that the criteria defining sufficiently sensitive be revised such that the minimum level would be compared to either ''the applicable water quality criterion, wasteload allocation, permit limit, or other critical regulatory value.'' EPA believes that the final rule need only require comparison of a method's minimum level with the applicable water quality criterion, as proposed, and that this language is sufficiently flexible to address the commenters' concern. Under this language, the permitting authority has adequate discretion to determine whether the data provided with a permit application were collected with methods that are sufficiently sensitive to measure at the relevant regulatory value. For example, where a permitting authority has conducted a timely and relevant dilution analysis (including an evaluation of ambient pollutant concentrations) and documented this analysis in the permit record, the permitting authority could provide this information to the applicant prior to the applicant sampling for the permit application. The applicant would then only need to show that the method it has selected has a minimum level that is at least as sensitive as necessary to determine compliance with the water quality criterion, after accounting for allowable dilution. The water quality criterion as adjusted for allowable dilution would be the ''applicable water quality criterion'' in this case, and the method would be ''sufficiently sensitive'' if it measures at this level. EPA considers this approach consistent with the requirements established in today's rule. For these reasons, EPA is not revising the regulatory text to incorporate the language suggested by the commenters.

C. Burden

EPA received a few comments indicating that site-specific situations might increase the implementation costs of the rule beyond those costs outlined in the proposed rule. Some of these commenters provided examples of when site-specific conditions might result in increased costs. EPA recognizes that the burden estimated is a national average and that the cost for an individual facility could be higher or lower than that average. However, EPA does not believe that the information provided by the commenters is representative of the impact for a typical facility affected by this rule, nor does it alter the Agency's original burden estimates.

EPA also recognizes that in some cases, use of a more sensitive method could have the practical effect of requiring a facility to adopt additional pollution control measures, even if the permit limit remained unchanged. This is because a more sensitive method may detect the presence of a pollutant that was previously undetected. EPA emphasizes that this rule would not be responsible for any change in stringency of the permit requirements in such a case, but acknowledges that a facility may incur additional pollution control costs if a previously undetected pollutant is later detected by the use of a sufficiently sensitive method, and additional treatment is required to meet the existing permit limit. In general, when EPA develops a cost analysis for a new regulation, there is an assumption made of full compliance with existing requirements. EPA does not have data that would allow it to predict in advance where or how often this situation might occur, or what a facility would be required to do to address it. Therefore, EPA has not attempted to quantify any such costs, as they are outside the scope of this rulemaking.

As noted above, where a technology-based requirement is specified as ''zero discharge'' or ''no detect,'' the permitting authority may take into account the sensitivity of the method used to establish the requirement when determining if a method is ''sufficiently sensitive.'' EPA recognizes that if a more sensitive method is approved after such a requirement has been established, its use may be inconsistent with the technological basis of the original requirement. In situations where a technology-based requirement reflects a technology that eliminates the discharge of the subject pollutant altogether, the Agency included costs that reflect that technology, the newer sensitive method is appropriate, and the permittee would not incur additional costs. However, where a technology-based limit reflects a technology that may not achieve the minimum level of the newer more sensitive method, the Director may determine that the method on which the requirement was originally based is ''sufficiently sensitive'' to determine compliance, as understood at the time the requirement was established, and there would thus be no additional control costs incurred by the facility.

EPA received a few comments regarding compliance with requirements under the statutory and Executive Order reviews contained in the proposed rule. EPA believes that there was a misunderstanding on the part of the commenters regarding the intent of the rule that led the commenters to believe that the rule would result in a higher cost of implementation than that estimated by EPA. EPA believes that the Agency has met its responsibilities under the applicable statutory and Executive Orders.

IV. The Final Rule

The final rule adds a new 40 CFR 122.21(e)(3) and revises 122.44(i)(1)(iv) to require that where EPA-approved methods exist, NPDES applicants use sufficiently sensitive EPA-approved analytical methods when submitting information quantifying the presence of pollutants in a discharge and that the Director must prescribe that only sufficiently sensitive EPA-approved analytical test methods be used for analyses of pollutants or pollutant parameters under the permit. EPA is also providing a cross-reference to these changes in a new 40 CFR 136.1(c). For the purposes of this rulemaking, if monitoring requirements are included as a condition of a general permit, those requirements are subject to the provisions established in 122.44(i)(1)(iv). Only these specific parts of the regulations undergoing revision are subject to challenge under section 509(b) of the Clean Water Act.

In addition, based on public comments, EPA made certain minor modifications to the final rule from the original proposal. Specifically, EPA amended 122.21(e)(3)(i)(B) and 122.44(i)(1)(iv)(A)(1) to add the word ''or'' when defining the term ''sufficiently sensitive,'' which was unintentionally omitted in the proposed rule. In addition, EPA added ''pollutant or pollutant parameter'' to 122.21(e)(3)(i)(C) and 122.44(i)(1)(iv)(A) to clarify the applicability of the criteria established under the sufficiently sensitive method definition. EPA also removed the second ''in accordance with'' in the introductory paragraphs for 122.21(e)(3) and 122.44(i)(1)(iv) to clarify that the method selected must be approved under 40 CFR part 136 *or* required under 40 CFR chapter I, subchapter N or O.

EPA removed language in 122.44(i)(1)(iv)(A)(2) of the proposed rule because it was not applicable to requirements established in this section and created confusion about the implementation of the rule. In this instance, even if the permittee believes

they are discharging above the permit limit and could potentially use a less sensitive method, the permitting authority is responsible for prescribing an EPA-approved method, where available, that is sensitive enough to detect at or below the permit limit in order to properly assess compliance with the permit.

EPA revised the proposed regulatory text at 122.21(e)(3)(ii) and 122.41(i)(1)(iv)(B) for instances where there are no EPA-approved methods. The proposed language included additional requirements for situations where there are no EPA-approved methods. Specifically, the proposed rule would have required that applicants and permitting authorities select a ''sufficiently sensitive'' non EPA-approved method and that applicants provide a description of the method, including the minimum level. The situation in which there are no EPA-approved methods is uncommon because there are EPA-approved methods for most pollutants or pollutant parameters screened and regulated under the NPDES program. In addition, the existing regulations already require that applicants select a suitable method and provide a description of the method. Based on public comments, EPA determined that this additional requirement was unnecessary and has revised the regulatory text to revert the existing language in 40 CFR 122.21 and 122.41. As a result, today's rule does not specify that non-EPA-approved methods must be sufficiently sensitive. To clarify this point, EPA also added language to the introduction of 122.21(e)(3) to specify that the requirement to use a sufficiently sensitive method applies ''except as specified in 122.21(e)(3)(ii).''

EPA amended 122.21(e)(3)(ii) by adding regulatory text to clarify that in the case where there are no EPA-approved methods, applicants may consider other relevant factors when selecting an appropriate method. In addition, EPA revised the proposed regulatory text to change ''or otherwise required by the Director'' to ''and not otherwise required by the Director'' to clarify that this provision applies to a situation where no EPA-approved methods exist *and* the Director has not required the use of a specific non-EPA-approved method. In this situation, the permit applicant may select a suitable non-EPA-approved method and provide a description of the method.

Finally, in both places where the new definition of ''sufficiently sensitive'' appears, EPA added a note to clarify that, consistent with 40 CFR part 136, permittees have the option of providing matrix or sample-specific minimum levels rather than the published levels. In addition, the note clarifies that where a permittee can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of ''sufficiently sensitive,'' the analytical results are not consistent with the QA/QC specifications for that method, then the Director may determine that the method is not performing adequately and a different method should be selected from the remaining EPA-approved methods consistent with 40 CFR 122.21(e)(3)(i) and 40 CFR 122.44(i)(1)(iv)(A). Where no other EPA-approved methods exist, a method should be selected consistent with 40 CFR 122.21(e)(3)(ii) and 40 CFR 122.44(i)(1)(iv)(B).

V. Impacts

Entities that discharge to waters of the United States vary in terms of the quantity of their discharges, the potential constituents contained in their discharges, and their operation and maintenance practices. Consequently, the Director's NPDES application requirements vary depending on applicant type. For example, Form 2A for municipalities requires minimal screening for POTWs with design flows under 100,000 gallons per day; however, for POTWs with design flows above 1 million gallons per day, multiple priority pollutant scans are required. Similarly, existing industrial and commercial facilities that complete Form 2C are required to test for toxic pollutants based on the nature of their manufacturing operation. To assist permitting authorities (EPA regions, States, and Tribes), EPA developed several NPDES permit application forms. Table IV–1 provides a list of these forms and the discharger type(s) for which they are intended. Permitting authorities may use EPA's forms or comparable forms of their own.

TABLE IV–1—EPA NPDES PERMIT APPLICATION FORMS BY APPLICANT TYPE

	Form or request	Applicant type
1	Form 1	New and existing applicants, except POTWs and treatment works treating domestic sewage.
2	Form 2A	New and existing POTWs (i.e., municipal facilities).
3	Form 2B	New and existing concentrated animal feeding operations (CAFOs) and aquatic animal production facilities.
4	Form 2C	Existing industries discharging process wastewater.
5	Form 2D	New industries discharging process wastewater.
6	Form 2E	New and existing industries discharging non-process wastewater only.
7	Form 2F	New and existing industries discharging stormwater.
8	40 CFR 122.21(r) and 122.22(d)	New and existing industries with cooling water intake structures.
9	Form 2S	New and existing POTWs and other treatment works treating domestic sewage (covers sludge).

As noted earlier, permitting authorities issue and develop effluent limitations for individual NPDES permits after analyzing the data contained in each permittee's application. The NPDES permit prescribes the conditions under which the facility is allowed to discharge to ensure the facility's compliance with the CWA's technology-based and water quality-based requirements. NPDES permits typically include restrictions on the quantity of pollutants that a permittee may discharge and require the permittee to conduct routine measurements of, and report on, a number of parameters using EPA-approved, pollutant-specific test procedures (or approved alternative test procedures).

In 2012 EPA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) that, in part, updated the Agency's burden estimates for applicants to complete Forms 1, 2A, 2C–2F, and 2S and for permitting authorities to review and process such forms.[10] The renewal ICR did not include updated estimates for Form 2B or for forms associated with cooling water intake structures (Item 8 in Table IV–1). Updated estimates to complete

[10] USEPA. ''Information Collection Request (ICR) for National Pollutant Discharge Elimination System (NPDES) Program (Renewal),'' OMB Control No. 2040–0004, EPA ICR No. 0229.20, March 2012.

those forms were contained in separate ICRs.[11] The existing ICRs include annual burden estimates for completing NPDES permit applications and for conducting ongoing compliance monitoring for both new and existing NPDES permittees. EPA's expectation is that permit applicants and permittees will use a range of methods based on a need to appropriately quantify pollutants in their discharge. To calculate cost and burden, the ICRs use an average cost for analytical methods, which is then translated into burden hours.

To assess the impact of this final rule, EPA also assessed the cost information for 40 CFR Part 136 methods found in the National Environmental Methods Index (NEMI) at *http://www.nemi.gov.* The NEMI site describes the ''relative cost'' as the cost per procedure of a typical analytical measurement using the specified methods (i.e., the cost of analyzing a single sample). Additional considerations affect total project costs (e.g., labor and equipment/supplies for a typical sample preparation, quality assurance/quality control requirements to validate results reported, number of samples being analyzed). EPA's review of the cost ranges provided in NEMI indicated that there was generally little difference in the cost ranges across the EPA-approved analytical methods for a particular pollutant. A table with the NEMI cost ranges is included in the record. While EPA acknowledges that there are cost differentials for some facilities based on case-specific situations, on the basis of the analytical cost ranges provided in NEMI, and the assumptions used in the current ICRs (i.e., that applicants and permittees will use a range of available approved methods), the final rule is expected to result in little or no new or increased analytical burden to applicants or permittees.

The existing ICRs also account for the ongoing burden to permitting authorities to review applications and to issue NPDES permits annually. They also account for the ongoing burden associated with reviewing discharge monitoring and other reports for compliance assessment purposes. Finally, the existing ICRs account for program revisions where they are necessary because the controlling Federal statutes or regulations were modified.

As noted above, EPA also recognizes that in some cases, use of a more sensitive method could have the practical effect of requiring a facility to adopt additional pollution control measures, even if the permit limit remained unchanged. EPA does not have data that would allow it to predict in advance where or how often this situation might occur, or what a facility would be required to do to address it. EPA has not attempted to quantify the costs of any such new control measures that might be adopted, as they are outside the scope of this rulemaking.

VI. Compliance Dates

Following issuance of this rule, authorized states have up to one year to revise, as necessary, their NPDES regulations to adopt the requirements of this rule, or two years if statutory changes are needed, as provided at 40 CFR 123.62.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The final rulemaking requires the use of sufficiently sensitive EPA-approved analytical test methods, where they exist, when applying for an NPDES permit and when performing sampling and analysis pursuant to monitoring requirements in an NPDES permit. However, it does not change the recordkeeping or reporting requirements associated with the use of analytical methods. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (which cover all potential NPDES applicants) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control numbers, as summarized in section V (Impacts) of this preamble. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, ''small entity'' is defined as (1) a small business based on the Small Business Administration regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. EPA has determined that the incremental analytical costs that NPDES permit applicants and permittees may bear as a result of this rule are minimal and would not rise to the level of a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that might result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has further determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, this final rule is not subject to the requirements of section 203 of UMRA.

[11] USEPA. ''Supporting Statement for the Information Collection Request for the NPDES Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations,'' OMB Control No. 2040–0250, EPA ICR No. 1989.09, January 2014.

USEPA, ''Information Collection Request (ICR) for Cooling Water Intake Structures at Phase III Facilities (Final Rule),'' OMB Control No. 2040–0268, EPA ICR No. 2169.05, January 2014.

USEPA, ''Information Collection Request (ICR) for Cooling Water Intake Structures Phase II Existing Facilities (Renewal),'' OMB Control No. 2040–0257, EPA ICR No. 2060.06, January 2014.

USEPA, ''Information Collection Request (ICR) for Cooling Water Intake Structures New Facility Rule (Renewal),'' OMB Control No. 2040–0241, EPA ICR No. 1973.05, December 2011.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. When promulgated, it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This final rule does not change the relationship between the national government and the States or change their roles and responsibilities. Rather, this final rulemaking requires that sufficiently sensitive EPA-approved analytical test methods be used, where they exist, when applying for an NPDES permit and when performing sampling and analysis pursuant to monitoring requirements in an NPDES permit. EPA does not expect this final rule to have any impact on local governments.

Furthermore, the revised regulations would not alter the basic state-federal scheme established in the CWA, under which EPA authorizes states to carry out the NPDES permitting program. EPA expects the revised regulations to have little effect on the relationship between, or the distribution of power and responsibilities among, the Federal and State governments.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. The final rule requires that sufficiently sensitive EPA-approved analytical test methods must be used, where they exist, when applying for an NPDES permit and when performing sampling and analysis pursuant to monitoring requirements in an NPDES permit. Nothing in this final rule would prevent an Indian tribe from exercising its own organic authority to deal with such matters.

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

The final rule is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant and the Agency does not believe that the environmental health and safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rulemaking is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113, section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide explanations to Congress, through OMB, when the Agency decides not to use available and applicable voluntary consensus standards. This final rulemaking does not change agency policy or requirements with respect to the use of voluntary consensus standards for the analysis of pollutants by NPDES permit applicants or permittees.

J. Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)

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

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. As explained above, the Agency does not have reason to believe that the rule addresses environmental health and safety risks that present a disproportionate risk to minority populations and low-income populations.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective September 18, 2014.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 136

Environmental protection, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

Dated: August 6, 2014.

Gina McCarthy,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

■ 1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 2. Section 122.21, is amended by adding a new paragraph (e)(3), to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25).

* * * * *

(e) * * *

(3) Except as specified in 122.21(e)(3)(ii), a permit application shall not be considered complete unless all required quantitative data are collected in accordance with sufficiently sensitive analytical methods approved under 40 CFR part 136 or required under 40 CFR chapter I, subchapter N or O.

(i) For the purposes of this requirement, a method approved under 40 CFR part 136 or required under 40 CFR chapter I, subchapter N or O is ''sufficiently sensitive'' when:

(A) The method minimum level (ML) is at or below the level of the applicable water quality criterion for the measured pollutant or pollutant parameter; or

(B) The method ML is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or

(C) The method has the lowest ML of the analytical methods approved under 40 CFR part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

Note to paragraph (e)(3)(i)(C): Consistent with 40 CFR part 136, applicants have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of ''sufficiently sensitive'', the analytical results are not consistent with the QA/QC specifications for that method, then the Director may determine that the method is not performing adequately and the applicant should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with 40 CFR 122.21(e)(3)(i). Where no other EPA-approved methods exist, the applicant should select a method consistent with 40 CFR 122.21(e)(3)(ii).

(ii) When there is no analytical method that has been approved under 40 CFR part 136, required under 40 CFR chapter I, subchapter N or O, and is not otherwise required by the Director, the applicant may use any suitable method but shall provide a description of the method. When selecting a suitable method, other factors such as a method's precision, accuracy, or resolution, may be considered when assessing the performance of the method.

* * * * *

■ 3. Section 122.44 is amended by revising paragraph (i) (1) (iv) to read as follows:

§ 122.44 Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).

* * * * *

(i) * * *

(1) * * *

(iv) According to sufficiently sensitive test procedures (i.e., methods) approved under 40 CFR part 136 for the analysis of pollutants or pollutant parameters or required under 40 CFR chapter I, subchapter N or O.

(A) For the purposes of this paragraph, a method is ''sufficiently sensitive'' when:

(*1*) The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or

(*2*) The method has the lowest ML of the analytical methods approved under 40 CFR part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

Note to paragraph (i)(1)(iv)(A)(*2*): Consistent with 40 CFR part 136, applicants or permittees have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant or permittee can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of ''sufficiently sensitive'', the analytical results are not consistent with the QA/QC specifications for that method, then the Director may determine that the method is not performing adequately and the Director should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with 40 CFR 122.44(i)(1)(iv)(A). Where no other EPA-approved methods exist, the Director should select a method consistent with 40 CFR 122.44(i)(1)(iv)(B).

(B) In the case of pollutants or pollutant parameters for which there are no approved methods under 40 CFR part 136 or methods are not otherwise required under 40 CFR chapter I, subchapter N or O, monitoring shall be conducted according to a test procedure specified in the permit for such pollutants or pollutant parameters.

* * * * *

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

■ 4. The authority citation for part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251 *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

■ 5. Section 136.1 is amended by adding a new paragraph (c) to read as follows:

§ 136.1 Applicability.

* * * * *

(c) For the purposes of the NPDES program, when more than one test procedure is approved under this part for the analysis of a pollutant or pollutant parameter, the test procedure must be sufficiently sensitive as defined at 40 CFR 122.21(e)(3) and 122.44(i)(1)(iv).

[FR Doc. 2014–19265 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

[145D0102DM DLSN00000.000000 DS62400000 DX62401]

RIN 1090–AA94

Privacy Act Regulations; Exemption for the Debarment and Suspension Program

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is issuing a final rule to amend its regulations to exempt certain records of the Debarment and Suspension Program system of records from particular provisions of the Privacy Act because these records contain investigatory material.

DATES: This final rule is effective September 18, 2014.

FOR FURTHER INFORMATION CONTACT: Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW., Mail Stop 5547 MIB, Washington, DC 20240. Email at *privacy@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Department of the Interior (DOI) published a notice of proposed rulemaking in the **Federal Register**, 76 FR 52295, August 22, 2011, proposing to

exempt certain records of the Debarment and Suspension Program system of records from one or more provisions of the Privacy Act because these records contain investigatory material within the provision of 5 U.S.C. 552a(k)(2) and (k)(5). The Debarment and Suspension Program system of records notice was published concurrently in the **Federal Register**, 76 FR 52341, August 22, 2011, and comments were invited on both the notice of proposed rulemaking and system of records notice. DOI received no comments on the notice of proposed rulemaking or system of records notice and will therefore implement the rulemaking as proposed.

Procedural Requirements

1. Regulatory Planning and Review (E.O. 12866)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This rule does not impose a requirement for small businesses to report or keep records on any of the requirements contained in this rule. The exemptions to the Privacy Act apply to individuals, not to entities covered under the Regulatory Flexibility Act.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

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

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

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule makes only minor changes to 43 CFR part 2. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule makes only minor changes to 43 CFR part 2. A takings implication assessment is not required.

6. Federalism (E.O. 13132)

In accordance with Executive Order 13132, this rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. The rule is not associated with, nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. A Federalism Assessment is not required.

7. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

a. Does not unduly burden the judicial system.

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

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

8. Consultation With Indian Tribes (E.O. 13175)

In accordance with Executive Order 13175, the Department of the Interior has evaluated this rule and determined that it would have no substantial effects on federally recognized Indian Tribes.

9. Paperwork Reduction Act

This rule does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required.

10. National Environmental Policy Act

This rule does not constitute a major Federal action and would not have a significant effect on the quality of the human environment. Therefore, this rule does not require the preparation of an environmental assessment or environmental impact statement under the requirements of the National Environmental Policy Act of 1969.

11. Effects on Energy Supply (E.O. 13211)

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

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Courts, Freedom of information, Government employees, Privacy.

Dated: August 12, 2014.

Amy Holley,

Chief of Staff, Policy, Management and Budget.

For the reasons stated in the preamble, the Department of the Interior amends 43 CFR part 2 as follows:

PART 2—FREEDOM OF INFORMATION ACT; RECORDS AND TESTIMONY

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 553; 31 U.S.C. 3717; 43 U.S.C. 1460, 1461.

■ 2. In § 2.254, add paragraphs (b)(14) and (c)(4) to read as follows:

§ 2.254 Exemptions.

(b) * * *

(14) Debarment and Suspension Program, DOI–11.

* * * * *

(c) * * *

(4) Debarment and Suspension Program, DOI–11.

* * * * *

[FR Doc. 2014–19651 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–RK–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 05–112; MB Docket No. 05–151; RM–11185; RM–11374; RM–11222; RM–11258]

Radio Broadcasting Services; Converse, Flatonia, Georgetown, Goldthwaite, Ingram, Junction, Lago Vista, Lakeway, Llano, McQueeney, Nolanville, San Antonio, Waco, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Rawhide Radio, LLC, Clear Channel Broadcasting Licenses, Inc., CCB Texas Licenses, LP, and Capstar TX Limited Partnership (''Joint Parties'') of a *Report and Order* that denied a Counterproposal filed by the Joint Parties and granted a mutually exclusive Counterproposal filed by Munbilla Broadcasting Properties, Ltd. *See* Supplementary Information.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

DATES: August 19, 2014.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the consolidated *Memorandum Opinion and Order* in MB Docket No. 05–112 and MB Docket No. 05–151, adopted July 23, 2014, and released July 24, 2014 The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals ll, CY–A257, 445 12th Street SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copying and Printing, Inc. 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.* Because the Commission is denying the Petition for Reconsideration, the Commission will not send a copy of this *Memorandum Opinion and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

The Memorandum Opinion and Order denied the Joint Parties Petition for Reconsideration because no error was committed in the *Report and Order* by requiring the Joint Parties Counterproposal to protect a previously filed and cut-off application. *See* 72 FR 37673, July 1, 2007. Although the Joint Parties Counterproposal had been filed and dismissed in an earlier proceeding, the refilling of the Counterproposal does not revive that dismissed proposal or create cut-off rights with regard to proposals in the present proceeding. Likewise, the Memorandum Opinion and Order determined that no error was committed by processing a ''cut-off'' application and relying on the effective but non-final dismissal of the Joint Parties Counterproposal in the earlier proceeding. Finally, the Memorandum Opinion and Order concluded that an engineering solution submitted by the Joint Parties could not be considered because it was filed late.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Peter H. Doyle,

Chief, Audio Division, Media Bureau.

[FR Doc. 2014–19417 Filed 8–18–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

48 CFR Parts 327 and 352

RIN 0991–AB87

Acquisition Regulations

AGENCY: Division of Acquisition, Office of Grants and Acquisition Policy and Accountability, Office of the Assistant Secretary for Financial Resources, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) is issuing a final rule to amend its Federal Acquisition Regulation (FAR) Supplement—the HHS Acquisition Regulation (HHSAR)—to add two clauses, Patent Rights—Exceptional Circumstances and, Rights in Data—Exceptional Circumstances, and their prescriptions.

DATES: Effective Date: September 18, 2014.

FOR FURTHER INFORMATION CONTACT: Cheryl Howe, Procurement Analyst, Department of Health and Human Services, Office of the Assistant Secretary for Financial Resources, Office of Grants and Acquisition Policy and Accountability, Division of Acquisition at (202) 690–5552.

SUPPLEMENTARY INFORMATION:

I. Background

The HHS published a proposed rule in the **Federal Register** at 78 FR 2229 on January 10, 2013, to ensure that providers of proprietary material(s) to the Government will retain all their preexisting rights to their material(s), and rights to any inventions made under a contract or subcontract (at all tiers), when a Determination of Exceptional Circumstances (DEC) has been executed.

''Material'' means any proprietary material, method, product, composition, compound, or device, whether patented or unpatented.

A DEC is executed consistent with the policy and objectives of the Bayh-Dole Act, 35 U.S.C. 200, *et seq.,* to ensure that subject inventions made under contracts and subcontracts (at all tiers) are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations including universities; to ensure that the Government obtains sufficient rights in federally supported inventions to meet its needs; to protect the public against nonuse or unreasonable use of inventions, and in the case of fulfilling the mission of the Department of Health and Human Services, to ultimately benefit the public health.

Under certain circumstances, in order to ensure that pharmaceutical companies, academia, and others will collaborate with HHS in identifying, testing, developing, and commercializing new drugs, therapeutics, diagnostics, prognostics and prophylactic measures affecting human health, a DEC must be executed and Contractor's and subcontractor's rights (at all tiers) in subject inventions should be limited accordingly, consistent with DEC requirements and through appropriate contract clauses.

II. Discussion and Analysis

A. Summary of Significant Changes

The comment period for the proposed rule closed on March 11, 2013. The HHS received responses from four respondents with 11 comments, collectively; however, only three of those comments resulted in minor

changes to the final rule. The comments are discussed below.

B. Analysis of Public Comments

1. Definition of ''Made''

Comment: One respondent states that while institutions are able to manage this in terms of preserving Government rights under the Bayh-Dole Act, it does raise potential legal conflicts if the institution has obligations to another sponsor who funded the conception and then must assign ownership rights to the Third party assignee under these clauses. Therefore, the commenter strongly urged HHS to change the definition for ''made'' to ''conception and first actual reduction to practice. . .'' with respect to the rights of the Third party assignee.

Response: The final rule is acceptable as it reflects statutory language.

2. License Retention by Nonprofit Organization

Comment: Two respondents stated that U.S. nonprofit educational institutions may retain a nonexclusive, royalty free license for noncommercial internal research, but not for educational purposes, which is a key mission for such institutions. Nor would this allow sharing with other nonprofit academic institutions as required under the National Institutes of Health policy. In addition, since most research at U.S. universities is sponsored, it is unclear what ''internal'' will permit. Therefore, we recommended that the retention of rights be clarified as ''nonprofit research and educational purposes.''

Response: The Government agrees that the license may be retained by U.S. nonprofit organizations and that the language should be modified. The clause language was rewritten to include: ''If the Contractor is a U.S. nonprofit organization it may retain a royalty free, nonexclusive, nontransferable license to practice the invention for all nonprofit research including for educational purposes, and to permit other U.S. nonprofit organizations to do so.''

3. Patent Expenses

Comment: One respondent stated that ''if required to assign an invention to a Third party assignee who acquired the full benefit of the invention, the contractor can assist the Third party assignee in securing patent protection at the Third party's expense. It is important to clarify that the Third party assignee is responsible for expenses related to securing patent protection as the expenses can be costly.

Response: The Government accepted this comment and rewrote the last sentence of paragraph 352.227–11(c) as: ''If the Contractor assigns a Subject Invention to the Third party assignee, then the Contractor and its employee inventors shall assist the Third party assignee in securing patent protection. All costs of securing the patent, including the cost of the Contractor's assistance, are at the Third party's expense. Any assistance provided by the Contractor and its employee inventors to the Third party assignee or other costs incurred in securing patent protection shall be solely at the Third party's expense and not billable to the contract.''

4. Six Month Filing Period

Comment: Two respondents commented that the publication delay sets a detrimental nationwide precedent that a 6-month publication delay is acceptable. The existing standard amongst most U.S. universities maximum of 90–120 days publication delay provides sufficient time to file a patent application; this is increasingly important in the First Inventor to File regime.

Response: The Government believes 6 months is reasonable as paragraph 352.227–14(d)(4) requires the contractor to provide the Contracting Officer a copy of any proposed publication or other public disclosure at least 30 days in advance of the disclosure but allows the Contracting Officer to request that publication be delayed for a reasonable time not to exceed 6 months. The Government expects that such a request, which will require affirmative action by the Contracting Officer, will be uncommon. In view of the new first to file provisions of the current patent statute it is expected that patent applications will be filed expeditiously.

5. Clarification of ''Third Party Assignee''

Comment: One respondent stated that the clauses contain confusing uses of terminology. For example, the term ''Third party assignee'' to whom Class I inventions will be assigned is used in the sections for both Class I and Class 2 inventions (the latter class involves a license rather than an assignment.)

Response: The Government agrees with the respondent's language and changed the clause to read ''However, the Contractor shall grant a license in the Class 2 Subject Inventions to the provider of the ''material'' or other party designated by the Agency as set forth in Alternate I.''

6. Application of Bayh-Dole Act

Comment: Two respondents submitted the following general comment and subsequent related specific comments: The basic premise of the Bayh-Dole Act and implementing regulations is that elimination or restriction of a contractor's right to retain title to subject inventions is intended only in the event of ''exceptional circumstances.'' Written case-by-case determinations and justifications are required. These must be submitted to the Secretary of Commerce (Commerce). Contractors have the right to appeal (35 U.S.C. 202; 37 CFR 401.3 and 401.4; FAR 27.3).

The notice asserts but does not demonstrate how the proposed clauses will better address the requirements of the Bayh-Dole Act and regulations. It merely recites the policy and objectives of the Bayh-Dole Act. Providing for a ''class'' deviation from the Bayh-Dole in the HHSAR appears inconsistent with the intent to limit the use of exceptional circumstance deviations through requiring individual case-by-case justifications. The present practice of the use of individual FAR deviations tailored to the specific DEC circumstances is more consistent with the objectives of the Bayh-Dole Act. We also note that the notice indicates that a copy has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. It does not indicate whether it also has been submitted to the National Institute of Standards and Technology, which now has overall oversight responsibility for the Bayh-Dole, including responsibility for Commerce review of DECs.

Response: The Government concurs with the respondent that this clause applies to exceptional circumstance; however, the Government is proposing this clause to implement the law for specific types of DECs. The proposed clause may not be appropriate for every DEC. The clause is appropriate for this kind of DEC, *i.e.,* those for evaluation of Third party materials. That is evident in the prescriptive part of the proposed section 327.303, which states that the clause will be used whenever a DEC involving the provision of materials has been executed in accordance with Agency policy, and procedures calls for its use, and the clause appropriately covers the circumstances.

7. Clause Not Self-Executing

Comment: One respondent stated that, in regard to the proposed Patent Rights—exceptional circumstances HHSAR clause (352.227–11), the clause defined 3 categories of Subject Inventions but referred to the DEC(s) for the definition. The respondent asserted that this meant the clause itself is not self-executing and that it presumes

DECs will all contain the same three categories, which appears inappropriate for a HHSAR clause as DECs may vary in this regard. This illustrates the problems with implementing DECs through one general clause instead of individual deviations.

Response: The Government did not intend for the clause to be self-executing. Rather, it only applies if it is invoked by a particular DEC involving the provision of materials. This will insure that the clause is not used inappropriately.

8. Clarification of Terms and Definitions

Comment: One respondent asserted that some terms and definitions in the proposed 352.227–11 clause were problematic and specified as follows: The definition of ''material'' to include methods, whether patented or unpatented, is over broad. The definition of ''Third party assignee'' refers to any entity described in the DEC, not necessarily materials providers which according to the Supplementary Information (IV.B.) are supposed to be the focus. This should be clarified. The proposed clause contains a confusing incorporation of FAR clause 52.227–11 at b(2)(ii), which appears to be contradicted by (e)(2)'s incorporation of FAR 52.227–13.

Response: The Government made the definition of ''material'' intentionally broad to include anything that may be provided to the Contractor under the contract. The nature of ''material'' will be described in the associated DEC. Generally it is anticipated that the Third party assignee would be the provider of the ''material;'' however, the Government reserves the right to require assignment to other entities, including the Government, when appropriate. However, the Government concurs that there are some inconsistencies in the references and have aligned them as follows: Paragraph (c) of FAR 52.227–13, which specifies march-in procedures, was invoked twice in the clause to address greater rights determinations—first in 352.227–11 (b)(3) (not (b)(2)(ii) as stated in the comment) and also in 353.227–11(e)(2). The last sentence of 352.227–11(e)(2) was modified to improve clarity. These provisions are applicable when greater rights are granted and the contractor acquires title to a Subject Invention.

9. Patent Rights Versus Copyrights

Comment: One respondent asserted that the proposed Rights in Data—Exceptional Circumstances clause (352.227–14) had a number of problems: The clause also requires approval of the Contracting Officer to assert copyright in all data other than journal articles (c)(1). Universities typically will accept only Alternate IV of the general FAR Rights in Data clause which permits universities to assert copyright generally. The proposed clause contains several Alternates but not Alternate IV. The Confidentiality requirement in (d)(6)(ii) is open-ended, with no limit on the duration of the requirement. The Rights in Data clause does not make the same distinctions among different classes of inventions as in the Patent Rights clause (52.227–11), which results in asymmetrical treatment of contractors' rights. Finally the Data Rights clause purports to cover computer software which, since potentially patentable, may conflict with the Patent Rights clause.

Response: Patent rights and copyrights are independent and the clause needs no further clarification. No time limits can be established in advance for information deemed confidential; it is handled on a case-by-case basis.

10. Outside Scope of This Rule

Comment: One respondent stated they wished to express their opposition to the proposed ''accommodation'' to the HHS mandate regarding health coverage.

Response: These comments were outside the scope of this rule.

11. No Response Necessary

Comment: One respondent stated that the proposed rule was ''a little complicate (sic), but good job[.]''

Response: The Government appreciates this comment.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action, and therefore, is not subject to review under section 6 of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The HHS has prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* No public comments were submitted on the Initial Regulatory Flexibility Analysis and no comments were received from the Office of Advocacy of the Small Business Administration on this rule. The FRFA is summarized as follows:

This final rule will amend the Health and Human Services Acquisition Regulation (HHSAR) to add two new clauses, 352.227–11, Patent Rights—Exceptional Circumstances and 352.227–14, Rights in Data—Exceptional Circumstances. These clauses will be used in lieu of FAR clause 52.227–14, Rights in Data—General and FAR clause 52.227–11 Patent Rights—Ownership by the Contractor to address the patent and data rights of the Government, the prime contractor, the subcontractors at all tiers) and the providers of proprietary materials to the Government (providers).

This action is being taken to ensure that providers, the majority of which are small businesses, will retain their preexisting rights to material and subject inventions in which the provider has a proprietary interest when a Determination of Exceptional Circumstances (DEC) has been executed. A DEC promotes the policy and objectives of the Bayh-Dole Act, 35 U.S.C. 200, *et seq.,* to ensure that subject inventions made under contracts and subcontracts (at all tiers) are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to ensure that the Government obtains sufficient rights in federally supported inventions to meet its needs; to protect the public against nonuse or unreasonable use of inventions; and ultimately to benefit the public health. In order to ensure that pharmaceutical companies, academia, and others will collaborate with the Department of Health and Human Services (HHS) under certain conditions in identifying, testing, developing, and commercializing new drugs, therapeutics, diagnostics, prognostics and prophylactic measures affecting human health, a determination that exceptional circumstances must be executed, and Contractor's and subcontractor's rights (at all tiers) in subject inventions should be limited accordingly through appropriate contract clauses.

The affected contracts are usually awarded using NAICS code 541711, Research and Development in Biotechnology, or NAICS code 541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology). Both NAICS have a small business size standard of 500 employees. It is estimated that this rule will affect 61 prime contractors of which four will be small businesses (6.5 percent); 76 subcontractors of which 21 will be small businesses (27.6 percent); and 379 providers of which 189 will be small businesses (49.87 percent). The aforementioned figures are based on historical data from one operating division of HHS. It is anticipated that numbers will increase proportionally as the clauses will be used on an HHS-wide basis. Using the HHSAR clauses better addresses the requirements of the Bayh-Dole Act and provides appropriate legal protection for the

proprietary rights of providers to ensure providers will collaborate with the Government and provide access to their promising proprietary material(s) to meet HHS program goals. The projected reporting, recordkeeping, or other compliance requirements projected for this rule will be carried out by the prime contractor. Only a small percentage (6.5 percent) of the prime contractors will be small businesses. The projected cost for compliance requirements for those small businesses will be $28,924.38.

The final rule does not duplicate, overlap, or conflict with any other Federal rules. These clauses will be used in lieu of FAR clause 52.227–14, Rights in Data—General and FAR clause 52.227–11, Patent Rights—Ownership by the Contractor.

In the past, a significant number of FAR deviations were processed each time a DEC was executed. Using the final HHSAR clauses better addresses the requirements of the Bayh-Dole Act and provides solid legal protection for the proprietary rights of providers to ensure providers will collaborate with the Government and provide access to their promising proprietary material(s) to meet HHS program goals. Therefore, it is believed that the approach outlined in the final rule is the most practical and provides benefits to the Government, the public health, and the industry to ensure HHS program goals can be achieved.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies because this final rule contains information collection requirements under HHSAR 352.227–11, Patent Rights—Exceptional Circumstances (approved under OMB Control Number 0990–0419), and HHSAR 352.227–14, Rights in Data—Exceptional Circumstances (approved under OMB Control Number 0990–0419). In response to the notice of proposed rulemaking and the request for comment on the burden estimates, no comments were received on the burden estimates.

List of Subjects in 48 CFR Parts 327 and 352

Government procurement.

For the reasons stated in the preamble, HHS amends 48 CFR parts 327 and 352 as follows:

■ 1. The authority citation for 48 CFR parts 327 and 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 327—PATENTS, DATA, AND COPYRIGHTS

■ 2. Add subpart 327.3 to read as follows:

Subpart 327.3—Patent Rights Under Government Contracts

Sec.

327.303 Solicitation provision and contract clause.

Subpart 327.3—Patent Rights Under Government Contracts

327.303 Solicitation provision and contract clause.

The Contracting Officer shall insert the clause at 352.227–11, Patent Rights—Exceptional Circumstances and any appropriate alternates in lieu of FAR 52.227–11 whenever a Determination of Exceptional Circumstances (DEC) involving the provision of materials has been executed in accordance with Agency policy and procedures calls for its use and 352.227–11 appropriately covers the circumstances. The Contracting Officer should reference the DEC in the solicitation and shall attach a copy of the executed DEC to the contract.

327.404–70 [Amended]

■ 3. Add section 327.409 to read as follows:

■ 4. Amend section 327.404–70 by removing the words ''clause in'' and adding the words ''clause at'' in its place.

327.409 Solicitation provision and contract clause.

The Contracting Officer shall insert the clause at 352.227–14, Rights in Data—Exceptional Circumstances and any appropriate alternates in lieu of FAR 52.227–14 whenever a Determination of Exceptional Circumstances (DEC) executed in accordance with Agency policy and procedures calls for its use. Prior to using this clause, a DEC must be executed in accordance with Agency policy and procedures. The Contracting Officer should reference the DEC in the solicitation and shall attach a copy of the executed DEC to the contract.

PART 352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add section 352.227–11 to read as follows:

352.227–11 Patent Rights—Exceptional Circumstances.

Patent Rights—Exceptional Circumstances (SEPT 2014)

This clause applies to all Contractor and subcontractor (at all tiers) Subject Inventions.

(a) *Definitions.* As used in this clause—

Agency means the Agency of the U.S. Department of Health and Human Services that is entering into this contract.

Class 1 Subject Invention means a Subject Invention described and defined in the DEC that will be assigned to a third party assignee, or assigned as directed by the Agency.

Class 2 Subject Invention means a Subject Invention described and defined in the DEC.

Class 3 Subject Invention means a Subject Invention that does not fall into Class 1 or Class 2 as defined in this clause.

DEC means the Determination of Exceptional Circumstances signed by [insert approving official] _____ on _____ [insert date] _____ and titled ''[insert description].''

Invention means any invention or discovery, which is or may be patentable or otherwise protectable under Title 35 of United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et. seq.*)

Made means: When used in relation to any invention other than a plant variety, the conception or first actual reduction to practice of such invention; or when used in relation to a plant variety, that the Contractor has at least tentatively determined that the variety has been reproduced with recognized characteristics.

Material means any proprietary material, method, product, composition, compound, or device, whether patented or unpatented, which is provided to the Contractor under this contract.

Nonprofit organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

Practical application means to manufacture, in the case of a composition or product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

Small business firm means a small business concern as defined at section 2 of Public Law 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 13 CFR 121.3–12, respectively, will be used.

Subject Invention means any invention of the Contractor made in the performance of work under this contract.

Third party assignee means any entity or organization that may, as described in the DEC, be assigned Class 1 inventions.

(b) *Allocation of principal rights.* (1) *Retention of pre-existing rights.* Third party assignees shall retain all preexisting rights to Material in which the Third party assignee has a proprietary interest.

(2) *Allocation of Subject Invention rights.* (i) *Disposition of Class 1 Subject Inventions.* (A) Assignment to the Third party assignee or as directed by the Agency. The Contractor shall assign to the Third party assignee designated by the Agency the entire right, title, and interest throughout the world to each Subject Invention, or otherwise dispose of or transfer those rights as directed by the Agency, except to the extent that rights are retained by the Contractor under paragraph (b)(3) of this clause. Any such assignment or other disposition or transfer of rights will be subject to a nonexclusive, nontransferable, irrevocable, paid-up license to the U.S. Government to practice or have practiced the Subject Invention for or on behalf of the U.S. throughout the world. Any assignment shall additionally be subject to the ''March-in rights'' of 35 U.S.C. 203. If the Contractor is a U.S. nonprofit organization it may retain a royalty free, nonexclusive, nontransferable license to practice the invention for all nonprofit research including for educational purposes, and to permit other U.S. nonprofit organizations to do so.

(B) [Reserved]

(ii) *Disposition of Class 2 and 3 Subject Inventions.* Class 2 Subject Inventions shall be governed by FAR clause 52.227–11, Patent Rights-Ownership (December 2007) (incorporated herein by reference). However, the Contractor shall grant a license in the Class 2 Subject Inventions to the provider of the Material or other party designated by the Agency as set forth in Alternate I.

(iii) Class 3 Subject Inventions shall be governed by FAR clause 52.227–11, Patent Rights-Ownership by the Contractor (December 2007) (previously incorporated herein by reference).

(3) *Greater Rights Determinations.* The Contractor, or an employee-inventor after consultation by the Agency with the Contractor, may request greater rights than are provided in paragraph (b)(1) of this clause in accordance with the procedures of FAR paragraph 27.304–1(c). In addition to the considerations set forth in paragraph 27.304–1(c), the Agency may consider whether granting the requested greater rights will interfere with rights of the Government or any Third party assignee or otherwise impede the ability of the Government or the Third party assignee to, for example, develop and commercialize new compounds, dosage forms, therapies, preventative measures, technologies, or other approaches with potential for the diagnosis, prognosis, prevention, and treatment of human diseases.

A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Agency Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (c)(1) of this clause, or not later than 8 months thereafter, unless a longer period is authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. Each determination of greater rights under this contract shall be subject to paragraph (c) of the FAR clause at 52.227–13 (incorporated herein by reference), and to any reservations and conditions deemed to be appropriate by the Agency such as the requirement to assign or exclusively license the rights to Subject Inventions to the Third party assignee.

A determination by the Agency denying a request by the Contractor for greater rights in a Subject Invention may be appealed within 30 days of the date the Contractor is notified of the determination to an Agency official at a level above the individual who made the determination. If greater rights are granted, the Contractor must file a patent application on the invention. Upon request, the Contractor shall provide the filing date, serial number and title, a copy of the patent application (including an English-language version if filed in a language other than English), and patent number and issue date for any Subject Invention in any country for which the Contractor has retained title. Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.

(c) *Invention disclosure by Contractor.* The Contractor shall disclose in writing each Subject Invention to the Agency Contracting Officer and to the Director, Division of Extramural Inventions and Technology Resources (DEITR), if directed by the Contracting Officer, as provided in paragraph (j) of this clause within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the Agency Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was Made and all inventors. It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale (offer for sale), or public use of the invention and whether a manuscript describing the invention has been submitted for publication, and if so, whether it has been accepted for publication at the time of disclosure.

In addition, after disclosure to the Agency, the Contractor will promptly notify the Contracting Officer and DEITR of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor. If the Contractor assigns a Subject Invention to the Third party assignee, then the Contractor and its employee inventors shall assist the Third party assignee in securing patent protection. All costs of securing the patent, including the cost of the Contractor's assistance, are at the Third party's expense. Any assistance provided by the Contractor and its employee inventors to the Third party assignee or other costs incurred in securing patent protection shall be solely at the Third party's expense and not billable to the contract.

(d) *Contractor action to protect the Third party assignee's and the Government's interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Agency all instruments necessary to: Establish or confirm the rights the Government has throughout the world in Subject Inventions pursuant to paragraph (b) of this clause; convey title to a Third party assignee in accordance with paragraph (b) of this clause; and enable the Third party assignee to obtain patent protection throughout the world in that Subject Invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor, each Subject Invention ''Made'' under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on Subject Inventions and to establish the Government's rights or a Third party assignee's rights in the Subject Inventions. This disclosure format should require, as a minimum, the information required by subparagraph (c)(1) of this clause. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) If the Contractor is granted greater rights, the Contractor agrees to include, within the specification of any United States non-provisional patent application it files, and any patent issuing thereon, covering a Subject Invention the following statement: ''This invention was made with Government support under (identify the Contract) awarded by (identify the specific Agency). The Government has certain rights in the invention.''

(4) The Contractor agrees to provide a final invention statement and certification prior to the closeout of the contract listing all Subject Inventions or stating that there were none.

(e) *Subcontracts.* (1) The Contractor will include this clause in all subcontracts, regardless of tier, for experimental, developmental, or research work. At all tiers, the clause must be modified to identify the parties as follows: References to the Government are not changed, and the subcontractor has all rights and obligations of the Contractor in the clause. The Contractor will not, as part of the consideration for awarding the contract, obtain rights in the subcontractor's Subject Inventions.

(2) In subcontracts, at any tier, the Agency, the subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any

jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (c)(1)(ii) of FAR clause 52.227–13.

(f) *Reporting on utilization of Subject Inventions in the event greater rights are granted to the Contractor.* The Contractor agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees when a request under subparagraph b.3. has been granted by the Agency. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Agency in connection with any march-in proceeding undertaken by the Agency in accordance with paragraph (h) of this clause. As required by 35 U.S.C. 202(c)(5), the Agency agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

(g) Preference for United States industry in the event greater rights are granted to the Contractor. Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any Subject Invention in the United States unless such person agrees that any product embodying the Subject Invention or produced through the use of the Subject Invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(h) *March-in rights in the event greater rights are granted to the Contractor.* The Contractor acknowledges that, with respect to any Subject Invention in which it has acquired ownership through the exercise of the rights specified in paragraph (b)(3) of this clause, the Agency has the right to require licensing pursuant to 35 U.S.C. 203 and 210(c), and in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of Agency in effect on the date of contract award.

(i) Special provisions for contracts with nonprofit organizations in the event greater rights are granted to the Contractor. If the Contractor is a nonprofit organization, it shall:

(1) Not assign rights to a Subject Invention in the United States without the written approval of the Agency, except where an assignment is made to an organization that has as one of its primary functions the management of inventions, provided that the assignee shall be subject to the same provisions as the Contractor;

(2) Share royalties collected on a Subject Invention with the inventor, including Federal employee co-inventors (but through their Agency if the Agency deems it appropriate) when the Subject Invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) Use the balance of any royalties or income earned by the Contractor with respect to Subject Inventions, after payment of expenses (including payments to inventors) incidental to the administration of Subject Inventions for the support of scientific research or education;

(4) Make efforts that are reasonable under the circumstances to attract licensees of Subject Inventions that are small business concerns, and give a preference to a small business concern when licensing a Subject Invention if the Contractor determines that the small business concern has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business concerns; provided, that the Contractor is also satisfied that the small business concern has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Contractor; and

(5) Allow the Secretary of Commerce to review the Contractor's licensing program and decisions regarding small business applicants, and negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Contractor could take reasonable steps to more effectively implement the requirements of paragraph (i)(4) of this clause.

(j) *Communications.* All invention disclosures and requests for greater rights shall be sent to the Agency Contracting Officer, as directed by the Contracting Officer. Additionally, a copy of all disclosures, confirmatory licenses to the Government, face page of the patent applications, waivers and other routine communications under this funding agreement at all tiers must be sent to:

[Insert Agency Address]

Agency Invention Reporting Web site: *http://www.iEdison.gov.*

Alternate I (Sept 2014). As prescribed in *327.303,* the license to Class 2 inventions recited in 352.227–11(b)(2)(a) is as follows:

[Insert description of license to Class 2 inventions]

(End of clause)

■ 6. Add section 352.227–14 to read as follows:

352.227–14 Rights in Data—Exceptional Circumstances.

As prescribed in *327.409(b)(1),* insert the following clause with any appropriate alternates:

Rights in Data—Exceptional Circumstances (SEPT 2014)

(a) *Definitions.* As used in this clause—

[Definitions may be added or modified in paragraph (a) as applicable.]

Computer database or *database* means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software—(i) Means (A) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(B) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(ii) Does not include computer databases or computer software documentation.

Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Form, fit, and function data means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

Limited rights means the rights of the Government in limited rights data as set forth in the Limited Rights Notice in Alternate II paragraph (g)(3) if included in this clause. ''Limited rights data'' means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

Restricted computer software means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

Restricted rights, as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of Alternate III paragraph (g)(4) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

Technical data means recorded information (regardless of the form or method of the recording) of a scientific or technical

nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (See 41 U.S.C. 403(8)).

Unlimited rights means the rights of the Government 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.

(b) *Allocation of rights.* (1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in—

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to—

(i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;

(ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;

(iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) *Copyright.* (1) *Data first produced in the performance of this contract.* (i) Unless provided otherwise in paragraph (d) of this clause, the Contractor may, without prior approval of the Contracting Officer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Contracting Officer is required to assert copyright in all other data first produced in the performance of this contract.

(ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor—

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) *Removal of copyright notices.* The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) Release, publication, and use of data. The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except—

(1) As prohibited by Federal law or regulation (*e.g.,* export control or national security laws or regulations);

(2) As expressly set forth in this contract; or

(3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer or in the following paragraphs.

(4) In addition to any other provisions, set forth in this contract, the Contractor shall ensure that information concerning possible inventions made under this contract is not prematurely published thereby adversely affecting the ability to obtain patent protection on such inventions. Accordingly, the Contractor will provide the Contracting Officer a copy of any publication or other public disclosure relating to the work performed under this contract at least 30 days in advance of the disclosure. Upon the Contracting Officer's request the Contractor agrees to delay the public disclosure of such data or publication of a specified paper for a reasonable time specified by the Contracting Officer, not to exceed 6 months, to allow for the filing of domestic and international patent applications in accordance with Clause 352.227–11, Patent Rights—Exceptional Circumstances (abbreviated month and year of Final Rule publication).

(5) *Data on Material(s).* The Contractor agrees that in accordance with paragraph (d)(2), proprietary data on Material(s) provided to the Contractor under or through this contract shall be used only for the purpose for which they were provided, including screening, evaluation or optimization and for no other purpose.

(6) *Confidentiality.* (i) The Contractor shall take all reasonable precautions to maintain Confidential Information as confidential, but no less than the steps Contractor takes to secure its own confidential information.

(ii) Contractor shall maintain Confidential Information as confidential unless specifically authorized otherwise in writing by the Contracting Officer. Confidential Information includes/does not include [Government may define confidential information here.]

(e) *Unauthorized marking of data.* (1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g)(3) or (4) of this clause (if those alternate paragraphs are included in this clause), and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may cancel or ignore the markings. However, pursuant to 41 U.S.C. 253d, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final Agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph

(e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with Agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request there under.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by this paragraph (e) from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) *Omitted or incorrect markings.* (1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor—

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may—

(i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) *Protection of limited rights data and restricted computer software.*

(1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i) through (iii) of this clause. As a condition to this withholding, the Contractor shall—

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) [Reserved]

(h) *Subcontracting.* The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) Relationship to patents or other rights. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of clause)

Alternate I (SEPT 2014). As prescribed in *327.409,* substitute the following definition for ''limited rights data'' in paragraph (a) of the basic clause:

Limited rights data means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

Alternate II (SEPT 2014). As prescribed in *327.409,* insert the following paragraph (g)(3) in the basic clause:

(g)(3) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be entitled to be withheld. If delivery of that data is required, the Contractor shall affix the following ''Limited Rights Notice'' to the data and the Government will treat the data, subject to the provisions of paragraphs (e) and (f) of this clause, in accordance with the notice:

Limited Rights Notice (SEPT 2014)

(a) These data are submitted with limited rights under Government Contract No. _____ __ (and subcontract _____, if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any; provided that the Government makes such disclosure subject to prohibition against further use and disclosure: [Agencies may list additional purposes or if none, so state.]

(b) This notice shall be marked on any reproduction of these data, in whole or in part.

(End of notice)

Alternate III (SEPT 2014). As prescribed in *327.409,* insert the following paragraph (g)(4) in the basic clause: (g)(4)(i) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be entitled to be withheld. If delivery of that computer software is required, the Contractor shall affix the following ''Restricted Rights Notice'' to the computer software and the Government will treat the computer software, subject to paragraphs (e) and (f) of this clause, in accordance with the notice:

Restricted Rights Notice (SEPT 2014)

(a) This computer software is submitted with restricted rights under Government Contract No. _____ (and subcontract _____, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice or as otherwise expressly stated in the contract.

(b) This computer software may be—

(1) Used or copied for use with the computer(s) for which it was acquired, including use at any Government installation to which the computer(s) may be transferred;

(2) Used or copied for use with a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restricted rights;

(5) Disclosed to and reproduced for use by support service Contractors or their subcontractors in accordance with paragraphs (b)(1) through (4) of this notice; and

(6) Used or copied for use with a replacement computer.

(c) Notwithstanding the foregoing, if this computer software is copyrighted computer software, it is licensed to the Government with the minimum rights set forth in paragraph (b) of this notice.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the contract.

(e) This notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form notice may be used instead:

Restricted Rights Notice Short Form (SEPT 2014)

Use, reproduction, or disclosure is subject to restrictions set forth in Contract No. ____ ____ (and subcontract, if appropriate) with __ _____ (name of Contractor and subcontractor).

(End of notice)

(iii) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, it will be presumed to be licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

Alternate IV (SEPT 2014). As prescribed in *327.409,* substitute the following paragraph (c)(1) for paragraph (c)(1) of the basic clause:

(c) *Copyright*—(1) *Data first produced in the performance of the contract.* Except as otherwise specifically provided in this contract, the Contractor may assert copyright in any data first produced in the performance of this contract. When asserting copyright, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number), to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. For computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public), by or on behalf of the Government.

Alternate V (SEPT 2014). As prescribed in *327.409,* add the following paragraph (j) to the basic clause:

(j) The Contractor agrees, except as may be otherwise specified in this contract for specific data deliverables listed as not subject to this paragraph, that the Contracting Officer may, up to 3 years after acceptance of all deliverables under this contract, inspect at the Contractor's facility any data withheld pursuant to paragraph (g)(1) of this clause, for purposes of verifying the Contractor's assertion of limited rights or restricted rights status of the data or for evaluating work performance. When the Contractor whose data are to be inspected demonstrates to the Contracting Officer that there would be a possible conflict of interest if a particular representative made the inspection, the Contracting Officer shall designate an alternate inspector.

Dated: August 11, 2014.

Angela Billups,

Associate Deputy Assistant Secretary for Acquisition.

[FR Doc. 2014–19312 Filed 8–18–14; 8:45 am]

BILLING CODE 4150–24–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0084; 4500030113]

RIN 1018–AZ08

Endangered and Threatened Wildlife and Plants; Endangered Status for the Florida Leafwing and Bartram's Scrub-Hairstreak Butterflies; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on August 12, 2014, that determined endangered species status under the Endangered Species Act of 1973, as amended (Act), for the Florida leafwing (*Anaea troglodyta floridalis*) and Bartram's scrub-hairstreak (*Strymon acis bartrami*), two butterflies endemic to South Florida. In that rule, we made an error in our amendatory language. With this document, we correct our error.

DATES: Effective September 11, 2014.

FOR FURTHER INFORMATION CONTACT: Anissa Craghead, (703) 358–2445.

SUPPLEMENTARY INFORMATION: We published a final rule in the **Federal Register** on August 12, 2014 (79 FR 47222), that determined endangered species status under the Act (16 U.S.C. 1531 et seq.) for two butterflies: the Florida leafwing (*Anaea troglodyta floridalis*) and Bartram's scrub-hairstreak (*Strymon acis bartrami*). In the amendatory language of that rule, for the two butteflies' entries, we inadvertently added a ''Family'' column to the List of Endangered and Threatened Wildlife (List) at title 50, section 17.11(h), of the Code of Federal Regulations. The List does not have a ''Family'' column. In order to have the two butterflies' entries set forth accurately in the List, we are publishing this correction, which newly and correctly sets forth the Regulation Promulgation section of the final we published at 79 FR 47222 (August 12, 2014).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—[AMENDED]

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

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

■ 2. Amend § 17.11(h) by adding entries for ''Butterfly, Bartram's scrub-hairstreak'' and ''Butterfly, Florida leafwing'' to the List of Endangered and Threatened Wildlife in alphabetical order under INSECTS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historical range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	* *	*		*	*	
INSECTS							
*	*	* *	*		*	*	
Butterfly, Bartram's scrub-hairstreak.	*Strymon acis bartrami*	U.S.A. (FL)	NA	E	843	17.95(i)	NA
*	*	* *	*		*	*	
Butterfly, Florida leafwing.	*Anaea troglodyta floridalis.*	U.S.A. (FL)	NA	E	843	17.95(i)	NA
*	*	* *	*		*	*	

* * * * *

Dated: August 12, 2014.

Anissa Craghead,

Alternate Federal Register Liaison, U.S. Fish and Wildlife Service.

[FR Doc. 2014–19590 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 79, No. 160
Tuesday, August 19, 2014

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 15

[Docket No. FDA–2014–N–1168]

Generic Drug User Fee Amendments of 2012; Public Hearing on Policy Development; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing to solicit public comment on certain topics related to implementation of the Generic Drug User Fee Amendments of 2012 (GDUFA), and the GDUFA Commitment Letter that accompanies the legislation. The public hearing also will provide an opportunity for public input on future policy priorities. FDA is seeking participation in the public hearing and written comments from all interested parties, including, but not limited to, regulated industry, consumers, patients, caregivers, health care professionals, and patient groups.

DATES: The public hearing will be held on September 17, 2014, from 9 a.m. to 5 p.m. The public hearing may be extended or may end early depending on the level of public participation. Submit electronic or written requests to make oral presentations at the hearing by September 3, 2014. Electronic or written comments will be accepted after the hearing until October 13, 2014.

ADDRESSES: The public hearing will be held at the College Park Marriott Hotel and Conference Center, 3501 University Blvd., East, Hyattsville, MD 20783.

Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify all comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Shaniece Bowens, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1611, 240–402–7923, email: *shaniece.bowens@fda.hhs.gov;* or Connie Wisner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1674, 240–402–7946, email: *connie.wisner@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the Hatch-Waxman Amendments) amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act). The Hatch-Waxman Amendments created section 505(j) of the FD&C Act (21 U.S.C. 355(j)). Section 505(j) of the FD&C Act established the abbreviated new drug application (ANDA) approval pathway, which allows lower-priced generic versions of previously approved innovator drugs to be approved and marketed.

On July 9, 2012, GDUFA was signed into law by the President to help speed the delivery of safe and effective generic drugs to the public and to reduce costs to industry. Under GDUFA, FDA agreed to certain obligations as laid out in the GDUFA Commitment Letter that accompanies the legislation.[1] To support these obligations, FDA is developing numerous guidance documents. Thus far, FDA has developed the following draft guidances for industry: [2]

- ANDA Submissions—Content and Format of ANDAs
- ANDA Submissions—Refuse to Receive for Lack of Proper Justification of Impurity Limits
- ANDA Submissions—Amendments and Easily Correctable Deficiencies Under GDUFA
- ANDA Submissions—Prior Approval Supplements Under GDUFA
- Controlled Correspondence Related to Generic Drug Development

II. Purpose and Scope of the Public Hearing

A. GDUFA Implementation: Draft Guidance Documents

The purpose of this public hearing is to (1) solicit public comment on the five draft guidance documents described in section I that FDA has issued to facilitate implementation of GDUFA and (2) recommend future policy priorities, including recommendations for additional guidance topics to facilitate GDUFA implementation. We are soliciting comments from interested members of the public, including industry, consumers, patient groups, caregivers, and health care professionals, on the following topics related to GDUFA implementation guidances:

1. Are there comments on the five draft guidances described in section I?
2. Are there GDUFA implementation issues related to the five draft guidances described in section I that have not been addressed?
3. What other GDUFA implementation topics need the development of guidance?
4. Are there any topics or issues related to generic drug development other than those related to GDUFA implementation that need the development of guidance?

B. GDUFA Implementation Related to Generic Drug Exclusivity

Another purpose of this hearing is also to solicit feedback on issues that may arise in FDA's consideration of 180-day exclusivity provided for in section 505(j)(5)(B)(iv) of the FD&C Act.

Timing of ANDA approval is directly affected by an applicant's eligibility for 180-day exclusivity, and thus FDA's consideration of any issues related to 180-day exclusivity is a component of approval actions. FDA decisions regarding 180-day exclusivity are fact-specific, and the facts that have the potential to determine eligibility for exclusivity may shift up to the time when an ANDA that is eligible for 180-day exclusivity, or another ANDA

[1] See Generic Drug User Fee Act Program Performance Goals and Procedures (GDUFA Commitment Letter) for fiscal years 2013 through 2017, available at *http://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM282505.pdf*).

[2] The draft guidance documents referenced in this document are available on the FDA Drugs guidance Web page at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*.

referencing the same listed drug, is ready for approval.

With the enactment of GDUFA, FDA will take actions on pending applications consistent with the timeframes agreed upon in the GDUFA Commitment Letter. In this hearing, we are seeking input on possible processes FDA might introduce under GDUFA for making determinations on 180-day exclusivity, as described in the following questions. When submitting input on the questions provided in this document, we encourage commenters to consider FDA's statutory and regulatory authorities, including any restrictions on FDA's authority to disclose certain information related to unapproved ANDAs. We are seeking comment on the following topics:

1. Should FDA's consideration of eligibility for 180-day exclusivity for a specific drug product be a public process, including consideration of whether a first applicant has forfeited its eligibility for exclusivity under section 505(j)(5)(D) of the FD&C Act? If a public process is advisable, would it be so in all instances, or is there a subset of circumstances in which the process should be public? Also, what administrative mechanisms would best facilitate such a process?

2. Legal challenges to FDA's decisions on 180-day exclusivity often must be resolved on an expedited basis which can be inconvenient for the parties and the court. What legal or regulatory mechanisms, if any, are available to better facilitate FDA's determination of and orderly resolution of sponsors' challenges to 180-day exclusivity determinations?

3. Are there other topics related to 180-day exclusivity on which you would like to comment?

4. Are there topics related to 180-day exclusivity that would benefit from FDA guidance?

C. GDUFA Implementation and Potential First Generics

The GDUFA Commitment Letter also provides that certain ANDAs may be identified at the date of submission for expedited review, including ANDAs for ''first generic products for which there are no blocking patents or exclusivities on the reference listed drug.'' [3] Subsequent to GDUFA's enactment, FDA has received numerous individual stakeholder comments on what should qualify as a first generic ANDA for the purposes of expedited review. These comments reflect a range of options, for example, from a broad definition that would prioritize review of all ANDAs for each strength of a Reference Listed Drug submitted for which there is not already an approved ANDA at the time of submission, to a more narrow definition under which only ANDAs that contain a paragraph IV certification and qualify as a ''first applicant'' under section 505(j)(5)(B)(iv)(II)(bb) of the FD&C Act would be designated as a first generic eligible for expedited review. In addition, several stakeholders have indicated that depending on the criteria FDA applies, first generic status could or should change over time based on other external factors, for example, withdrawal or rescission of approval of another applicant's ANDA, or shifts in the patent or exclusivity landscape (for example, an unsuccessful patent challenge).

In order to meet the goals in the GDUFA Commitment letter with respect to expedited ANDA review, we will be prioritizing ANDA review consistent with the recently issued Manual of Policies and Procedures (MAPP) 5240.3 Rev. 1: Prioritization of the Review of Original ANDAs, Amendments, and Supplements, and MAPP 5200.4: Criteria and Procedures for Managing the Review of Original ANDAs, Amendments and Supplements.[4] In order to meet the goals of the GDUFA Commitment Letter related to first generics in particular, in a manner that best effectuates the intent of the negotiators, we are seeking comment on the following questions:

1. What specific criteria should FDA apply to identify an ANDA as a first generic eligible for expedited ANDA review?

2. Are there other topics related to first generics eligible for expedited review on which you would like to comment?

III. Attendance, Registration, and Presentations

Attendance is free and on a first-come, first-served basis. We recommend that you register early because seating is limited.

If you wish to attend the hearing and/or make an oral presentation at the hearing, please register and/or send a request for oral presentation by email to *GenericDrugPolicy@fda.hhs.gov* by September 3, 2014. The email should contain complete contact information for each attendee, including name, title, affiliation, address, email address, and telephone number. Those without email access may register by contacting Shaniece Bowens or Connie Wisner by September 3, 2014 (see **FOR FURTHER INFORMATION CONTACT**).

Individuals and organizations with common interests should consolidate or coordinate their presentations and request time for a joint presentation. FDA will do its best to accommodate requests to speak and will determine the amount of time allotted for each oral presentation, and the approximate time that each oral presentation is scheduled to begin. These individuals should identify the section and the number of each question they wish to address (see section II) in their presentation to help FDA organize the presentations.

FDA will notify registered presenters of their scheduled presentation times, and make available an agenda at *http://www.fda.gov/Drugs/NewsEvents/ucm265628.htm* approximately 2 weeks before the public hearing. Once FDA notifies registered presenters of their scheduled times, presenters should submit an electronic copy of their presentation to *GenericDrugPolicy@fda.hhs.gov* by September 9, 2014. Persons registered to make an oral presentation should check in before the hearing and are encouraged to arrive early to ensure the designated order of presentation times.

If you need special accommodations because of a disability, please contact Shaniece Bowens or Connie Wisner (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the hearing.

IV. Notice of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). The hearing will be conducted by a presiding officer, who will be accompanied by FDA senior management from the Office of Generic Drugs and other relevant Agency components. Under § 15.30(f), the hearing is informal and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation (§ 15.30(e)). Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (21 CFR part 10, subpart C) (§ 10.203(a)). Under § 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b).

[3] GDUFA Commitment Letter, at 15.

[4] *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDER/ManualofPoliciesProcedures/.*

(See section VI for more details.) To the extent that the conditions for the hearing as described in this document conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

V. Request for Comments

Regardless of attendance at the public hearing, interested persons may submit either electronic comments to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. To ensure consideration, submit comments by (see **DATES**). Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

VI. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see **ADDRESSES**). A transcript will also be available in either hard copy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

Dated: August 14, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–19632 Filed 8–15–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Parts 550, 551, 556, 581, 582 and 585

[Docket ID: BOEM–2013–0058; MMAA104000]

RIN 1010–AD83

Risk Management, Financial Assurance and Loss Prevention

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Advance notice of proposed rulemaking (ANPR).

SUMMARY: BOEM is seeking comments and information regarding its effort to update its regulations and program oversight for Outer Continental Shelf (OCS) financial assurance requirements. When BOEM's existing bonding regulations were originally drafted and first implemented, the principal risks associated with OCS leases were non-payment of rents and royalties, noncompliance with laws and regulations, and potential problems due to bankruptcy. While potentially significant, such risks were generally well-known and of limited complexity, size and scope.

Due to increasingly complex business, functional, organizational and financial issues and vast differences in costs associated with expanded and varied offshore activities, BOEM has recognized the need to develop a comprehensive program to assist in identifying, prioritizing, and managing the risks associated with industry activities on the OCS. BOEM intends to design and implement a more robust and comprehensive risk management, financial assurance and loss prevention program to address these complex issues and cost differences associated with offshore operations. To do so, BOEM is seeking stakeholder comments regarding various risk management and monitoring activities pertaining to financial risks to taxpayers that may result from activities on the OCS. This notice specifically discusses the bonding and financial assurance program for BOEM's offshore oil and gas program. However, we also welcome the submission of comments on the analogous bonding and financial assurance program for BOEM's offshore renewable energy and hard minerals programs.

BOEM currently requires lessees to provide performance bonds and/or one of various alternative forms of financial assurance to ensure compliance with the terms and conditions of leases, Rights-of-Use and Easements (RUEs) and Pipeline Rights-of-Way (ROWs). BOEM is seeking comments on who is best suited to mitigate risks and whether the correct parties are providing guarantees and other forms of financial assurance, as well as whether, or to what extent, the current forms of financial assurance are adequate and appropriate.

Because costs and damages associated with oil spill financial responsibility (OSFR) are covered separately in the regulations, which is the subject of other proposed rulemakings on BOEM's regulatory agenda, BOEM is not soliciting comments on those regulations and their associated risk mitigation measures at this time.

DATES: BOEM will consider all comments received by midnight of October 20, 2014. BOEM cannot commit to considering comments received after midnight on October 20, 2014.

ADDRESSES: You may submit comments on this ANPR using the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments. Please use Regulation Identifier Number (RIN) 1010–AD83 as an identifier in your message. See also the ''Public Comment Policy'' paragraph under the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For information regarding BOEM's comprehensive risk management, financial assurance, and loss prevention program or the major topics of this ANPR, contact Terry Scholten at *terry.scholten@boem.gov* (504–810–2078) or Donna Dixon at *Donna.Dixon@boem.gov* (504–731–1527), or by mail at 1201 Elmwood Park Blvd., GM364D, New Orleans, LA 70123. For issues related to the rulemaking process or timetable, contact Peter Meffert at *peter.meffert@boem.gov* (703–787–1610), or by mail at 381 Elden St., Herndon, VA 20170.

SUPPLEMENTARY INFORMATION:

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 comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so under Federal law.

Background: BOEM has program oversight for Outer Continental Shelf (OCS) financial assurance requirements set forth in 30 CFR parts 550, 556 (subpart I), 581 (subpart C), 582 (subpart D), 585 (subpart E), and in § 551.7, all of which are promulgated pursuant to the Outer Continental Shelf Lands Act (OCSLA, 43 U.S.C. 1331 *et seq.*). Section 5(a) of OCSLA authorizes the Secretary of the Interior to promulgate rules and regulations necessary to administer the OCS leasing program, including regulations concerning financial assurance. Section 8(p)(6) of OCSLA requires the Secretary to obtain financial security for OCS leases, easements and rights-of-way issued for purposes other

than the development and production of oil and gas.

Within DOI, BOEM is the bureau with primary authority to manage the financial risks to the government associated with the development of energy and mineral resources on the OCS. BOEM is in the process of updating regulations at 30 CFR part 556 to exercise this authority, as well as other regulations pertaining to financial assurance mentioned in the Summary above. BOEM is also reexamining the assumptions underlying its existing financial assurance and bonding program, as well as considering how to address risks and loss prevention more comprehensively. BOEM is enhancing its existing financial assurance and bonding program by incorporating a risk management approach to identifying, defining, quantifying, and treating all of the commercial, functional, organizational/business risks facing entities operating on the OCS in order to implement loss prevention measures. BOEM intends to apply this same approach to evaluating how OCS business entities can best meet their financial and contractual obligations. Such an approach would deal with all types of risk, such as mitigating financial risks resulting from fiscal, commercial and business risks, credit risk, functional and organizational risks, and hazard or event risks. Loss prevention procedures involve all of the efforts undertaken, including the regulations, processes, audits and financial controls, which are designed to minimize the government's exposure to financial risk.

Program and Regulation Development: BOEM is developing a comprehensive risk management, financial assurance, and loss prevention program to address the financial, commercial, functional, organizational/business risks facing entities operating on the OCS in order to implement loss prevention measures. BOEM intends to reduce contingent liabilities, minimize governmental and taxpayer financial exposure to financial loss, and provide a fair, equitable and transparent approach to risk management that is understood by stakeholders and assists in the effective implementation of appropriate and cost-effective risk management and loss prevention techniques.

BOEM is committed to engaging all interested stakeholders in this regulatory process. It will coordinate and consult with other Federal agencies, including the Bureau of Safety and Environmental Enforcement (BSEE) and the Office of Natural Resources Revenue (ONRR). To facilitate comment submission, BOEM has identified four major topics. Each topic includes questions designed to provide respondents with a general framework for commenting. Please note that these topics and questions are not intended to be all-inclusive; other comments, questions, or suggestions of topics, are encouraged. Note BSEE is also conducting a separate comprehensive risk assessment related to safety of operations on the OCS, which will include a development and analysis of decommissioning cost estimates.

Major Topics:

I. Identification of Pertinent Risks/Liabilities
II. Risk Monitoring and Risk Management
III. Demonstrating Financial Assurance Over Project Lifecycles
IV. Financial Assurance, Bonding Levels and Requirements

Topic I: Identification of Pertinent Risks/Liabilities

Description: BOEM recognizes the need to develop a comprehensive risk management, financial assurance and loss prevention program that can assist in identifying, prioritizing, and managing the risks associated with OCS financial, commercial, functional, and business activities. Along with evaluating and assessing the risks associated with ongoing activities, such a program would also include, but is not limited to, evaluating and assessing the business, fiscal and commercial risks associated with transfers of ownership of leases, operating rights, RUEs, ROWs, and facilities as well as the transfer of ownership of all forms of interests in any OCS leases, RUEs, ROWs, and facilities. Such interests could include record title interests, operating rights interests, operating and/or working interests, economic interests or future participating or financial interests, among others.

BOEM is specifically interested in comments regarding the financial risks and liabilities associated with aging offshore infrastructure, deepwater decommissioning, subsea decommissioning, pipeline abandonment, Arctic operations, and new technologies designed to address deepwater development or exploration and/or development of energy or mineral resources in locations with unusually adverse conditions. BOEM also needs to address business risks associated with the changing characteristics of entities operating on the OCS (*e.g.,* smaller companies), underperformance, non-performance or default on financial or legal obligations, and underpayment or non-payment of rentals and royalties. Finally, BOEM is seeking information regarding best practices in managing the financial, commercial, functional, organizational/business risks facing entities operating on the OCS in order to implement loss prevention measures associated with catastrophic damage caused by natural events (*e.g.,* hurricanes, ice floes, earthquakes), engineering failure, or other causes. Questions for respondents regarding identification of pertinent risks/liabilities:

1. In addition to the examples provided in this ANPR, are there other risks (monetary and nonmonetary) that BOEM should consider in developing its comprehensive operational risk management, financial assurance, and loss prevention program? What are they? Please describe any other risks noted.

2. What measures should BOEM consider to reduce the risk and magnitude of identified outcomes?

3. What information should BOEM consider in estimating the appropriate financial assurance to cover each of the identified risks?

4. How should BOEM obtain the information needed to estimate the appropriate financial assurance to cover each of the identified risks?

5. What information should BOEM consider in establishing appropriate levels and types of financial assurance?

6. How should BOEM obtain the information needed to establish appropriate levels and types of financial assurance associated with each of the identified risks?

7. How should BOEM evaluate risk levels and priorities to responsibly manage current and future liabilities?

8. What information should BOEM consider in addressing financial assurance needed to cover catastrophic damage caused by natural events, engineering failure, or other causes?

9. Should BOEM require proof of insurance/financial assurance for catastrophic events?

Topic II: Risk Monitoring and Risk Management

Description: BOEM is interested in understanding and defining the necessary elements of a comprehensive operational risk management, financial assurance, and loss prevention program and believes that monitoring its business risk and recognizing necessary risk transfer strategies are central to this effort. This effort includes risk management processes and evaluations that are systematic, are capable of being replicated, and that utilize best practices. In order to improve communication and better inform BOEM's decision-making processes, BOEM seeks information regarding its

risk monitoring and risk management practices. Questions for respondents regarding risk monitoring and risk management:

10. What should BOEM's risk management, financial assurance and loss prevention program include?

11. What measures should BOEM consider in managing risk transference?

12. How should BOEM monitor an entity's financial health in order to assess the risk to taxpayers? How often should this be done?

13. How should BOEM monitor an entity's organizational strength and any associated risk to taxpayers?

14. What measures could/should BOEM use to reduce taxpayer risk (*e.g.,* insurance, contractual indemnity clauses, contractual risk transference strategies, bonding)?

15. What risk transfer mechanisms should BOEM consider to mitigate risks associated with catastrophic events?

16. Given the complex business arrangements involved in OCS projects, which operational business partners should BOEM consider when assessing and monitoring overall financial risks (*e.g.,* lessees, operating rights owners, contractors, subcontractors)?

17. Should BOEM consider using individualized company-specific or project-specific risk management, financial assurance and loss prevention plans? If so, what should they entail and should they be optional or required?

18. Should BOEM require prior approval of all types of assignments between companies and/or lenders, including, but not limited to, assignments of overriding interests, royalty interests, net profits, production payments, or other types of lease interests?

19. Should BOEM monitor and approve the total percentage of assignments of rights and obligations between companies and/or lenders?

20. Even if BOEM does not approve all transfers of all types of rights and obligations between companies and/or lenders, should BOEM require evidence of all such transfers to be filed with BOEM in order to maintain an accurate repository of records of all transfers?

21. To what extent should BOEM monitor debt obligations?

22. Should BOEM require the recording and/or approval of all transfers of purely ''economic'' interests?

Topic III: Demonstrating Financial Assurance Over Project Lifecycles

Description: The 40- to 50-year (or more) life of some OCS projects injects further uncertainty in the attempt to define, manage, and reduce financial risks. Technological and financial challenges, which are not evident at the inception of a project, may arise as time goes by, and consequently, the amount of financial assurance needed may vary over time. In order to deal with ongoing commercial issues and difficult business challenges resulting in complex and far-reaching business impacts, BOEM plans to implement financial assurance and loss prevention practices designed to better define financial metrics, reduce data collection barriers, and help prepare and plan for business incidents that could compound risks to U.S. taxpayers.

BOEM's current regulations utilize bonding as the primary form of financial assurance. In addition, lessees may submit the following alternative forms of security to fulfill financial assurance requirements: treasury securities and other types of security instruments approved by the Regional Director, lease-specific abandonment accounts, third-party guarantees, demonstration of financial strength and reliability, indemnity obligations, treasury notes, and trust agreements. BOEM is seeking information to assist in managing problems that are difficult to predict and in creating strategies that reduce response barriers and foster appropriate business planning measures.

Questions for respondents regarding demonstration of financial assurance over project lifecycles:

23. What criteria demonstrate a company's ability to remain financially viable (*i.e.,* solvent) over the long term?

24. What criteria demonstrate a company's ability to pay specific costs associated with lease obligations on the OCS (*e.g.,* decommissioning)?

25. In assessing financial assurance, how should BOEM consider the value of proved producing reserves (*i.e.,* metrics and methodologies) in determining the amount of financial assurance necessary to protect taxpayer interests?

26. What factors should BOEM consider in assessing corporate structure and offshore business performance and history to help ensure that taxpayers are protected from liability risks for costs accrued by offshore operations?

27. How should BOEM consider the financial and technical qualifications of a company before the company is allowed to conduct business on the OCS?

28. To protect U.S. taxpayers, should BOEM treat significant financial or legal changes as events that would require offshore companies or operators to provide notice of such events and that would trigger BOEM's reassessment of the companies' or operators' existing financial assurances? If so, what significant financial or legal changes should be used?

29. Should BOEM tailor the amounts/levels and types of financial assurance requirements for OCS operations on a case-by-case basis (*e.g.,* by individual project, individual lease, unit, and/or company)?

30. Should BOEM consider allowing companies to set up a decommissioning trust that is funded from a percentage of production? If so, would such a trust apply to a single well or many wells, a single lease or more than one lease, a unit, one company, or some combination of these, or some other formulation?

31. There are multiple levels of business entity risk, including: (1) Risk by type of entity (whether a corporation, LLC, trust, partnership, etc.), particularly as new types of entities are being created whose control may be exercised from outside the organization; (2) risk by level of entity (where one company or entity owns another that may own a third entity, etc.); (3) risk created by shared ownership (particularly of a lease or facility, or where there are many entities involved in the ownership of the same interest); (4) risk created by subdivided interests in a lease such that different companies own distinct, severed interests in the same lease (whether divided by depth or aliquot or by function or by operating/non-operating ownership rights); (5) risks created by asset transfers from one entity to another or from one organization's domestic accounts or affiliates to some offshore accounts, operations or affiliates; or (6) other risks associated with unique or complex business entities or combinations thereof. How should BOEM deal with the complexity of multiple business entities in assessing financial assurance and managing taxpayer risk?

32. Should the levels/amounts of financial assurance and the types of allowable security demonstrating that financial assurance (*e.g.,* insurance, bonds) vary by the type of risk and/or the project lifecycle? And, if so, how?

33. Termination or cancellation of leases and/or RUEs may be necessitated by a lessee's or operator's failure to meet its financial obligations related to bonding or financial assurance. What factors do you believe BOEM should consider before making the determination that a lessee's or operator's failures with regard to meeting its financial assurance obligations are so significant that BOEM should terminate or cancel a lease or RUE on that basis?

34. What financial assurance and/or bonding provisions should be

established and maintained to deal with the outstanding liabilities that remain after a lease, RUE or ROW has been terminated or cancelled? How can these be administered and enforced if the affected party has no remaining active operations on the OCS?

35. BOEM is considering assessing the financial strength of individual companies with active operations on the OCS more than once per year. How often should BOEM make a determination of financial strength (*e.g.,* monthly, quarterly, semi-annually, etc.)?

36. Overall, how should BOEM use standard financial metrics, such as net worth, debt to equity ratio, cash flow, loss, capitalization, liquidity, etc., to determine financial assurance (i.e., the amount/level and/or types of financial assurance needed)?

37. Besides the Bureau of Safety and Environmental Enforcement's (BSEE's) decommissioning cost estimates, and amounts identified by ONRR for potential non-payment of financial obligations, and potential non-compliance with legal obligations, what other factors should BOEM consider when determining the appropriate amount of supplemental financial assurance?

Topic IV: Financial Assurance, Bonding Levels and Requirements

Description: BOEM currently relies primarily upon surety bonds to provide basic protection against risks associated with a lessee's or operator's failure to meet regulatory and lease requirements. Initial (*i.e.,* general) lease bonds, required for all leases, are determined by the level of activity on the lease. This may take the form of a lease-specific bond or an area-wide bond:

Lease activity	Lease-specific bond amount	Area-wide bond amount
No approved operational activity	$50,000	$300,000
Exploration Plan	200,000	1,000,000
Development Production Plan	500,000	3,000,000
ROW	N/A	300,000

(*See* 30 CFR 556.52–556.59, subpart I, Bonding.)

If these amounts are deemed insufficient to cover decommissioning liability and other lease obligations, BOEM may require additional assurance in the form of additional (*i.e.,* supplemental) bonding or other additional security. BOEM now may determine that an additional bond or supplemental financial assurance is not necessary for a lease if at least one record title owner meets the financial strength and reliability criteria detailed in the Notice to Lessees and Operators No. 2008–N07, ''Supplemental Bond Procedures,'' available at *http://www.boem.gov/Regulations/Notices-To-Lessees/Notices-to-Lessees-and-Operators.aspx.* Currently, approximately 90 percent of leases do not require an additional bond or supplemental financial assurance because at least one record title owner has been determined to meet these criteria (*i.e.,* the financial assurance instrument is self-insurance). Additional bonding and supplemental financial assurance practices utilize decommissioning cost estimates and analyses provided by the BSEE and also consider potential underpayment of rentals and royalties. Questions for respondents regarding bonding or supplemental financial assurance levels, amounts, and requirements:

38. Is BOEM's two-tiered bonding structure (*i.e.,* initial bond followed by additional bond) the best means of protecting the taxpayers' interests?

39. If BOEM continues to use bonds, should BOEM do away with the two-tier bonding approach, and just require one bond? Or, should additional bonds be required in certain circumstances, and if so, what key criteria should be used to determine when additional bonding would, or would not, be necessary?

40. Should BOEM continue to allow self-insurance for those companies who demonstrate the requisite financial strength, or should BOEM eliminate self-insurance? And, either way, why?

41. What are the benefits and drawbacks to utilizing lease-specific abandonment accounts, surety bonds, treasury notes, third party guarantees, indemnity agreements, escrow accounts, certificates of deposit, insurance, and trust agreements? Are there any other financial assurance arrangements BOEM should consider? If so, what are they and how do they work?

42. What are the benefits and drawbacks to utilizing combinations of the instruments discussed in the previous question?

43. In addition to inflation, what other factors should be considered in establishing and revising bond and/or supplemental financial assurance amounts?

44. What bond and/or supplemental financial assurance amounts would provide realistic coverage in today's business environment?

45. The current regulations (30 CFR 556.52) allow business entities to use area-wide bonds in lieu of posting individual bonds within an OCS area. The areas are: 1) the Gulf of Mexico and the area offshore the Atlantic Coast; 2) the area offshore the Pacific Coast States of California, Oregon, Washington, and Hawaii; and 3) the area offshore the Coast of Alaska. Should BOEM continue to allow area-wide bonds? If so, under what circumstances should they be allowed?

46. Do you have any other suggestions regarding how BOEM's financial assurance program can be made more viable and robust?

47. Should BOEM address (or vary) additional bonding and/or supplemental financial assurance requirements over the phases of a project lifecycle (*e.g.,* should bonding and/or supplemental financial assurance be required today in order to decommission a structure in 20 years)? If so, how? Should such variations in requirements be automatic, or determined on a case-by-case basis?

48. How should BOEM best address the individual risks identified or associated with a specific project or lease?

49. Given the high costs associated with offshore decommissioning, and if BOEM continues to allow self-insurance, how should the financial strength and reliability criteria in NTL No. 2008–N07 be updated? What are the most important factors to consider and/or evaluate?

50. In the case of trust agreements, how and when in the project lifecycle should the accounts be funded? What are the benefits and drawbacks of different trust funding methods?

51. Should BOEM consider a fee-per-barrel produced approach as a means of funding an insufficient lease-specific decommissioning account? What would be the benefits and drawbacks of this approach?

52. In addition to bonding, should acceptable insurance coverage (including tail insurance or a project-

specific insurance policy) be utilized to fund or guarantee lease, operating, or regulatory responsibilities?

53. Under what circumstances should bonds or other forms of financial assurance be released?

54. What are typical costs for current forms of financial assurance (e.g., performance bonds, payment bonds, captives, trusts, treasury notes, third party indemnity agreements, insurance) available on the market and identify whether these are for an individual site or overall costs? What variables are associated with these costs? If collateral is required, how much must be posted?

BOEM seeks responses to the above questions, and seeks other relevant input regarding the development of a comprehensive risk management, financial assurance, and loss prevention program. BOEM encourages all interested parties to respond to these questions and to provide comments and information relevant to the development of such a program. BOEM will determine how to proceed after analyzing the comments received as a result of this ANPR.

Dated: July 21, 2014.

Janice M. Schneider,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 2014–19380 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–HQ–OAR–2011–0151; FRL–9915–39–OAR]

RIN 2060–AR98

General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that the period for providing public comments on the July 17, 2014, notice of proposed rulemaking for ''General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country'' is being extended by 30 days.

DATES: The public comment period for the notice of proposed rulemaking published July 17, 2014 (79 FR 41846), is being extended by 30 days to September 17, 2014, in order to provide the public additional time to submit comments.

ADDRESSES: Written comments on the notice of proposed rulemaking may be submitted to the EPA electronically, by mail, by facsimile or through hand delivery/courier. Please refer to the notice of proposed rulemaking (79 FR 41846) for the addresses and detailed instructions. Publicly available documents relevant to this action are available for public inspection either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. The EPA has established the official public docket No. EPA–HQ–OAR–2011–0151.

A copy of this document will be posted in the regulations and standards section of our new source review (NSR) home page located at *http://www.epa.gov/nsr* and on the tribal NSR page at *http://www.epa.gov/air/tribal/tribalnsr.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Stoneman, Outreach and Information Division, Office of Air Quality Planning and Standards, (C304–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–0823, facsimile number (919) 541–0072; email address: *stoneman.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA received two requests to extend the comment period on the July 17, 2014, notice of proposed rulemaking for ''General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country.'' Based on the evaluation of those requests and the level of interest in the notice of proposed rulemaking, the EPA is extending the public comment period for an additional 30 days. The public comment period will end on September 17, 2014, rather than August 18, 2014. This will ensure that the public has sufficient time to review and comment on all of the information available, including the notice of proposed rulemaking and other materials in the docket.

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Indians, Indians-law, Indians-tribal government, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 8, 2014.

Mary Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–19553 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0439; FRL–9914–74–Region–9]

Revisions to the California State Implementation Plan, Placer County Air Pollution Control District, Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Placer County Air Pollution Control District (PCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern negative declarations for volatile organic compound (VOC) source categories for the PCAPCD. We are proposing to approve these negative declarations under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by September 18, 2014.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0439, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will

be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the negative declarations listed in Table 1:

TABLE 1—SUBMITTED NEGATIVE DECLARATIONS

CTG source category	Negative declaration—CTG reference document
Aerospace	EPA–453/R–97–004—Control of VOC Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.
Automobile and Light-duty Truck Assembly Coatings.	EPA–450/2–77–008—Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks. EPA 450/R–08–006—Control Techniques Guidelines for Automobile and Light-duty Truck Assembly Coatings.
Dry Cleaning (Petroleum)	EPA–450/3–82–009—Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.
Fiberglass Boat Manufacturing	EPA 453/R–08–004—Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.
Flexible Package Printing	EPA–453/R–06–003—Control Techniques Guidelines for Flexible Package Printing.
Large Appliances Surface Coatings	EPA–450/2–77–034—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume V: Surface Coating of Large Appliances. EPA 453/R–07–004—Control Techniques Guidelines for Large Appliance Coatings.
Magnetic Wire	EPA–450/2–77–033—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume IV: Surface Coating of Insulation of Magnetic Wire.
Metal Furniture Coatings	EPA–450/2–77–032—Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Surface Coating of Metal Furniture. EPA 453/R–07–005—Control Techniques Guidelines for Metal Furniture Coatings.
Natural Gas/Gasoline	EPA–450/2–83–007—Control of VOC Equipment Leaks from Natural Gas/Gasoline Processing Plants.
Paper and Fabric	EPA–450/2–77–008—Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
Paper, Film, and Foil Coatings	EPA 453/R–07–003—Control Techniques Guidelines for Paper, Film, and Foil Coatings.
Pharmaceutical Products	EPA–450/2–78–029—Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
Refineries	EPA–450/2–77–025—Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds. EPA–450/2–78–036—Control of VOC Leaks from Petroleum Refinery Equipment.
Rubber Tires	EPA–450/2–78–030—Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.
Ships/Marine Coating	EPA–453/R–94–032 Alternative Control Technology Document—Surface Coating Operations at Shipbuilding and Ship Repair Facilities and Ships 61 FR 44050 Shipbuilding and Ship Repair Operations (Surface Coating).
Synthetic Organic Chemical	EPA–450/3–84–015—Control of VOC Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry. EPA–450/4–91–031—Control of VOC Emissions from Reactor Processes and Distillation Operations in SOCMI.

In the Rules and Regulations section of this **Federal Register**, we are approving these negative declarations in a direct final action without prior proposal because we believe these negative declarations are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in a subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: July 21, 2014.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2014–19424 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2014–0582; FRL–9915–29–Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri, Certain Coals To Be Washed

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP)

revision submitted by the state of Missouri on May 8, 2012, related to a Missouri Rule titled, ''Certain Coals to be Washed.'' This rule requires specified coals to be washed prior to sale in the St. Louis metropolitan area. This action amends the SIP to update an outdated reference in the rule.

DATES: Comments on this proposed action must be received in writing by September 18, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0582, by mail to Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7147, or by email at *bhesania.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

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: August 7, 2014.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2014–19556 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1509, 1527, and 1552

[EPA–HQ–OARM–2013–0224; FRL–9915–19–OARM]

Acquisition Regulation; Incorporation of Class Deviation to Notification of Conflicts of Interest Regarding Personnel and Project Employee Confidentiality Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to amend the EPA Acquisition Regulation (EPAAR) to incorporate a class deviation to clause 1552.209–73, Notification of Conflicts of Interest Regarding Personnel, and 1552.227–76, Project Employee Confidentiality Agreement, and their respective prescriptions, to include Alternate 1 for the subcontract flow-down requirements for other than Superfund work. The class deviation to the two clauses was executed to address the increased use of these conflict of interest (COI) clauses in non-Superfund contracts to better protect the Agency from COI. The Superfund flow-down language in the basic clauses does not apply or relate to non-Superfund contracts and would likely be confusing if the Superfund specific language was not deleted. The proposed rule also provides for minor administrative edits.

DATES: Comments must be received on or before September 18, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OARM–2013–0224, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: humphries.daniel@epa.gov.*
- *Mail:* EPA–HQ–OARM–2013–0224, OEI Docket, Environmental Protection Agency, 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of three (3) copies.
- *Hand Delivery:* EPA Docket Center-Attention OEI Docket, EPA West, Room B102, 1301 Constitution Ave. NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OARM–2013–0224. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket, and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov,* or in hard copy at the Office of Environmental Information (OEI) Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number

for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1752. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Daniel Humphries, Policy, Training, and Oversight Division, Office of Acquisition Management (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–4377; email address: *humphries.daniel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

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

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

EPA is updating the EPAAR to incorporate a class deviation that was executed to add subcontract flow-down requirements for other than Superfund work to the two clauses: 1552.209–73 and 1552.227–76. The Agency's COI clauses are generally written to address COI for the Superfund programs. These two clauses are increasingly included in non-Superfund contracts to better protect the Agency from COI. The Superfund specific flow-down language in the respective clauses do not generally apply or relate to non-Superfund contracts and would likely be confusing if it was not deleted. To address this, the proposed rule includes an Alternate 1 that provides subcontract flow-down requirements for other than Superfund work, as well as minor administrative edits.

III. Proposed Rule

This proposed rule includes the following content changes: (1) Adds prescriptive language to 1509.507–2(b) for an Alternate 1 under clause 1552.209–73 that replaces paragraph (d) for other than Superfund work. (2) For clause 1552.209–73, Alternate 1 is added for other than superfund work under paragraph (d) that addresses subcontract flow-down requirements. (3) Under 1527.409, prescriptive language is added for an Alternate 1 for clause 1552.227–76 that replaces paragraph (d) for other than Superfund work. (4) Under Clause 1552.227–76, Alternate 1 is added for other than Superfund work for paragraph (d) that addresses subcontract flow-down requirements. (5) The proposed rule also provides minor administrative edits.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and therefore, not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. No information is collected under this action.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute; unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's final rule on small entities, ''small entity'' is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action revises a current EPAAR provision and does not impose requirements involving capital investment, implementing procedures, or record keeping. This rule will not have a significant economic impact on small entities.

D. 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.

This rule contains no Federal mandates (under the regulatory provisions of the Title II of the UMRA) for State, Local, and Tribal governments or the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an

accountable process to ensure ''meaningful and timely input by State and Local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications as specified in Executive Order 13175.

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

Executive Order 13045, entitled ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

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

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution of Use'' (66 FR 28335, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) (15 U.S.C. 272 note) of NTTA, Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposed rulemaking does not involve human health or environmental effects.

List of Subjects in 48 CFR Parts 1509, 1527, and 1552

Government procurement.

Dated: August 6, 2014.

John R. Bashista,

Director, Office of Acquisition Management.

Therefore, 48 CFR Chapter 15 is proposed to be amended as set forth below:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

PART 1509—CONTRACTOR QUALIFICATIONS

■ 1. The authority citation for part 1509 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

■ 2. Section 1509.507–2 is amended by revising paragraphs (a) and (b) and in paragraph (c) introductory text by removing the term ''simplified acquisition procedures'' and adding in its place ''simplified acquisitions''.

The revisions read as follows:

1509.507–2 Contract clause.

(a) The Contracting Officer shall include the clause at 1552.209–71, in all Superfund contracts in excess of the simplified acquisition threshold and, as appropriate, in simplified acquisitions for Superfund work. Contracts for other than Superfund work shall include Alternate I in this clause in lieu of paragraph (e).

(b) The Contracting Officer shall include the clause at 1552.209–73, in all solicitations and contracts for Superfund work in excess of the simplified acquisition threshold and, as appropriate, in simplified acquisitions for Superfund work. Contracts for other than Superfund work shall include Alternate I in this clause in lieu of paragraph (d).

* * * * *

PART 1527—PATENTS, DATA, AND COPYRIGHTS

■ 3. The authority citation for part 1527 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

■ 4. Revise section 1527.409 to read as follows:

1527.409 Solicitation provisions and contract clauses.

The Contracting Officer shall insert the clause in 1552.227–76 in all Superfund solicitations and contracts in excess of the simplified acquisition threshold and, as appropriate, in simplified acquisitions for Superfund work. The clause may be used in other contracts if considered necessary by the Contracting Officer. Contracts for other than Superfund work shall include Alternate I in this clause in lieu of paragraph (d).

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. The authority citation for part 1552 continues to read as follows:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

■ 6. 1552.209–73 is amended by removing the term ''Project Officer'' in paragraphs (b) and (c) and adding in its place ''Contracting Officer's Representative'' and adding Alternate I.

The addition reads as follows:

1552.209–73 Notification of conflicts of interest regarding personnel.

* * * * *

Alternate I. Contracts for other than Superfund work shall include Alternate I in this clause in lieu of paragraph (d).

(d) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph (d), unless otherwise authorized by the Contracting Officer.

■ 7. 1552.227–76 is amended by adding Alternate I to read as follows:

1552.227–76 Project employee confidentiality agreement.

* * * * *

Alternate I. Contracts for other than Superfund work shall include Alternate I in this clause in lieu of paragraph (d).

(d) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph (d), unless otherwise authorized by the Contracting Officer.

[FR Doc. 2014–19420 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 13–184; FCC 14–99]

Modernization of the Schools and Libraries ''E-rate'' Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks further comment on meeting the future funding needs of the E-rate program in light of the goals we adopt for the program in an accompanying Report and Order. The Commission acknowledges that modernizing a program of this size and scope cannot be accomplished at once and so it will continue to seek public input and additional ideas to bring 21st Century broadband to libraries and schools throughout the country.

DATES: Comments are due on or before September 15, 2014 and reply comments are due on or before September 30, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by either WC Docket No. 13–184, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: James Bachtell or Kate Dumouchel, Wireline Competition Bureau, Telecommunications Access Policy Division, at (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in WC Docket No. 13–184; FCC 14–99, adopted on July 11, 2014 and released on July 23, 2014. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th St. SW., Washington, DC 20554 or at the following Internet address: *http://www.fcc.gov/document/fcc-releases-e-rate-modernization-order.* The Report and Order that was adopted concurrently with the FNPRM is published elsewhere in this issue of the **Federal Register**.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

I. Further Notice of Proposed Rulemaking

1. In this FNPRM we seek further comment on meeting the future funding needs of the E-rate program in light of the goals we adopt for the program today. We also seek comment on several discrete issues that may further simplify the administration of the E-rate program by continuing to reduce the burden on applicants of applying for and receiving E-rate support, as well as promoting cost-effective purchasing through multi-year contracts and consortium purchasing. Specifically, we seek comment on ensuring that multi-year contracts are efficient. We also seek comment on proposals to ensure the efficient use of NSLP data. In particular, we seek to require participating NSLP schools to use their NSLP eligibility for purposes of calculating their school's discount rate calculation, rather than

continue to permit more costly and administratively burdensome income surveys. We also seek comment on proposals that will encourage consortium participation by easing the concerns of consortia participants by calculating the consortia's discount rate using a weighted average. We further seek comment on whether there are any additional programmatic or rule changes that will encourage applicants to join consortia either through additional incentives, or reduced application burdens. Finally, we seek additional comment on how best to calculate the amount of funding eligible libraries need in order to purchase Wi-Fi networks and other internal connections.

2. Furthermore, as we consider next steps to further modernize the E-rate program, we invite comment on additional improvements to the E-rate program. In particular, we seek comment on additional steps we can take to further the goals we adopt in the accompanying Report and Order. To encourage the deployment of whole networks, are there additional changes to the E-rate program that we should adopt to meet the connectivity needs of schools and libraries? Are there other ways we can foster cost-effective purchasing throughout the program? Are there more changes that we can make to further improve the application process or to otherwise improve the administration of the program? Are there other data that we can and should collect in furtherance of our goals for the E-rate program? We acknowledge that modernizing a program of this size and scope cannot be accomplished at once and so we continue to seek public input and additional ideas to bring 21st Century broadband to libraries and schools throughout the country.

A. Meeting Future Funding Needs

3. In light of the goals we have adopted for the E-rate program and the changes that we have made to the program, we seek additional comment on the future funding levels needed for the E-rate program to meet those goals. In the accompanying Report and Order, we have taken a number of significant steps that lay the foundation for this evaluation and that will help structure our analysis. First, we have set specific goals and connectivity targets for the program, which we can now use to size future funding needs. Second, we have taken major steps to refocus E-rate funding on broadband, in order to maximize the funding available to meet our connectivity goals. Third, we have taken new strides to increase the efficiency and impact of E-rate funding, which should help drive down per-unit pricing for E-rate supported services over time. Fourth, we have set a specific target of providing $1 billion annually in E-rate support for category two services, in order to provide discounts to all eligible schools and libraries seeking to make LAN and WLAN deployments. These steps now put us in a strong position to consider the longer-term program needs and how they compare to currently available funding. Numerous commenters have called on the Commission to raise the E-rate funding cap, which was set in 1997, and only began to be adjusted for inflation in 2011. Others have, more specifically, called on the Commission to focus on providing increased funding for connectivity to eligible schools and libraries, particularly those that have not been able to afford access to high-speed connections, and argue that doing so will require additional support. Other commenters have argued that the funding cap should not be raised. In light of the steps described, we now seek specific comment on how much funding is needed to meet the E-rate programs goals, keeping in mind our responsibility to minimize the overall Universal Service Fund contribution burden on businesses and consumers. In particular, we seek data and analysis in the following four areas:

- *First,* we invite data regarding the gap between schools' and libraries' current connectivity and the specific connectivity targets we adopt here. In particular, we request this data with respect to WAN connections and Internet connections, using those terms as defined in the accompanying Report and Order. Several states and providers have submitted such data already. We invite further submissions, as well as analyses of what overall conclusions can be drawn from the existing data. How is the accelerated deployment of internal connections that the accompanying Report and Order promotes likely to affect the pace at which high-speed connectivity needs *to* school and library premises grow?
- *Second,* we seek specific information on how much funding is needed to bridge those gaps in light of likely pricing for broadband services—both WAN and Internet—taking into account the significant new efficiency measures we adopt here, as well as general industry trends in broadband pricing over time.
- *Third,* we seek further comment on the per-student and per-square foot budgets we have adopted for internal connections funding for funding years 2015 and 2016, whether these budgets should be continued in future funding years, and the closely related question of the $1 billion funding target we adopt for category two services. Will these budgets be sufficient to meet schools and libraries need for Wi-Fi and other internal connections? Are they too generous? Are there other approaches we can take to ensuring sufficient funding for category two services?
- *Finally,* we seek comment on the sufficiency of the significant funding freed up by the reforms adopted herein to meet these needs. In particular, we seek comment on the extent to which focusing the program on broadband frees sufficient funding to meet long term connectivity needs.

4. We also seek comment on how the substantial reduction in the real purchasing power of the E-rate budget since the program's creation should affect our analysis. As several commenters have noted, the E-rate cap was not adjusted for inflation between 1998 and 2010. By most general measures of inflation, this resulted in an approximately $800–900 million reduction in the real purchasing power of E-rate funding. We seek additional comment on this issue.

B. Ensuring That Multi-Year Contracts Are Efficient

5. As part of our continuing efforts to promote cost-effective purchasing, we propose to limit E-rate support to eligible services purchased under contracts of no more than five years, including voluntary extensions. We propose to exempt from this requirement contracts that require large capital investments to install new facilities expected to have a useful life of 20 years or more. Currently, our rules do not specify a maximum length for contracts for E-rate supported services, but as the Commission explained in the *E-rate Modernization NPRM,* 78 FR 51597, August 20, 2013, we seek to balance the advantages that longer term contracts give applicants against the opportunity that shorter term contracts give applicants to take advantage of rapidly falling prices in a dynamic marketplace.

6. In the *E-rate Modernization NPRM,* the Commission sought comment on whether it should limit the maximum term (including voluntary extensions) of multi-year contracts that applicants may enter into for E-rate-supported services to three years. We agree with those commenters who argue that a three-year maximum contract length does not adequately balance the needs of applicants against the benefits of regular contract negotiations. Some commenters suggested that five years was the right length for E-rate supported contracts.

However, the record is not particularly robust on how a five-year maximum contract length would affect schools' and libraries' ability to purchase from state master contracts, which often exceed five years, or to enter into contracts that seek to spread the cost of infrastructure builds over many years. Therefore, we invite commenters to revisit the issue of maximum contract length, and we seek comment on the benefits and drawbacks of our new proposal.

7. Commenters generally agree that the markets for E-rate supported services, both broadband services and internal connections, are dynamic, and prices, particularly of broadband services on a per-megabit-basis, have consistently been declining over time. As a result, shorter-term contracts allow applicants to take advantage of falling market prices, and protect applicants from being locked into prices substantially higher than the market rate. On the other hand, we are mindful of the importance of multi-year agreements to schools and libraries and the benefits these agreements provide, including cost efficiencies. Commenters also report that having the flexibility to enter into multi-year agreements can allow applicants to negotiate more favorable terms over the life of the contract. Furthermore, multi-year agreements can increase administrative efficiencies for applicants and vendors because they do not have to rebid contracts annually. Moreover, we are revising our rules to simplify the process for seeking E-rate support for multi-year contracts of five years or less. On the issue of whether five years strikes the right balance, we seek comment on whether there are particular E-rate supported services for which we should require shorter maximum contract lengths because the price of such services is so dynamic or for other reasons. We seek comment on what such services might be, and why we should require all contracts for such services to be less than five years, and how much less. Are there services for which we should allow longer maximum contract lengths? What might such services be and why should we allow longer maximum contract lengths for such services? How long should the maximum contract length be for such services?

8. *State and other master contracts.* We believe that limiting most contracts for E-rate supported services to five years generally strikes the right balance between the interests described. However, we seek comment on how this approach will affect schools' and libraries' current procurement processes, and in particular how it will affect their ability to purchase from state or other master contracts, service agreements, or joint purchasing agreements. Some commenters have expressed concern that the maximum length of a contract for E-rate supported services should be determined by—or at least should not conflict with—state and local procurement decisions and laws. As a practical matter, no commenter has offered an example of a state law that would require service contracts to extend beyond five years and the record demonstrates that many of these state and local procurement laws do not allow contracts beyond five years. If a state has a requirement that would conflict with a maximum duration that we set, we seek comment on whether we should grant applicants in that state a waiver of this rule or select a longer duration, consistent with the laws and rules in all states. Are there other reasons that we should allow E-rate applicants to purchase E-rate supported services using state and other master contracts, service agreements or joint purchasing agreements with terms that are longer than five years?

9. *Alternatives to maximum duration.* We also seek comment on other ways to achieve our goal of ensuring that schools and libraries can take advantage of falling prices for E-rate supported services while minimizing administrative burdens. For example, would it be sufficient to require that contracts for E-rate supported services include a provision requiring the applicant to renegotiate the contract or otherwise seek lower prices at least once every five years? How could we ensure such renegotiation results in the best possible pricing for E-rate supported services? Alternatively, might we permit longer-term contracts for E-rate services if they include provisions that would help ensure that applicants enjoyed the benefits of declining prices of bandwidth and their likely increasing demand for it? Thus, should we allow a contract that sets a fixed price for an increasing level of bandwidths over the term of the contract, based on applicants' anticipated needs and the rapid declining price of bandwidth?

10. *New builds.* We also seek comment on our proposal to allow longer contracts for services that require infrastructure build-outs. We recognize that long-term contracts may be the most efficient way to contract for the installation of a new dedicated fiber connection, or other such facility, which is likely to have a useful life of 20 years or more. However, in response to the *E-rate Modernization NPRM,* we received no comments arguing that providers need the flexibility to offer such long-term contracts, or that applicants need the option of long-term contracts to purchase affordable services. We therefore seek focused comment on how to ensure the most effective competition for the provision of new fiber builds, or other such infrastructure projects.

11. The E-rate program currently provides support for special construction charges separate from the charges for recurring services. Does this obviate the need for longer-term contracts? We also seek comment on whether the winner of an initial short term contract would likely face any serious competition over subsequent terms, once it had recovered its capital investment. We seek comment on whether a 20-year contract might be most likely to allow a service provider to amortize its installation costs once over the entire contract, while some indexing or similar arrangement could provide E-rate applicants with the increasing bandwidths they would likely desire over the period at no additional cost above the costs of upgrading the electronics to provide the higher bandwidth.

12. Assuming that we adopt some restriction on the duration of contracts for E-rate services discussed, we recognize some existing long-term contracts for E-rate supported services are likely to violate such new restrictions. While we would require all new contracts executed after the effective date of the proposed rule to be in compliance, we seek comment on whether we should grandfather existing E-rate contracts, and if so, for how long a period of time. We also seek comment on whether, if we did not grandfather such contracts, we would have legal authority to require existing long-term contracts to comply with a limitation. Further, we seek comment on whether, if we do have such authority, we should set a date by which parties would be able to amend existing contracts to comply with such a limitation, and if so, how much time we should allow for such amendments.

C. Standardizing the Collection of NSLP Data

13. As part of our continuing efforts to streamline the administration of the E-rate program, we propose to standardize USAC's collection of data about participation in the United States Department of Agriculture's (USDA's) NSLP for purposes of calculating schools' and libraries' E-rate discount rates. Currently schools use NSLP data to determine their level of economic disadvantage for the E-rate program by measuring the percentage of student

enrollment that is eligible for free or reduced price lunch under NSLP or a federally approved alternative mechanism. We propose to standardize USAC's collection of NSLP data by requiring schools to use the NSLP information reported by state agencies to USDA's Food and Nutrition Service (FNS) and by requiring schools that participate in NSLP to use NSLP data for purposes of determining their discount rate. Both measures will simplify the application process for schools and libraries, reduce the administrative burden on USAC, and reduce the risk of applicant error in calculation of NSLP participation that can have negative consequences for applicant funding requests.

14. *State Reported NSLP Data.* We propose to require schools and libraries that use NSLP data to calculate their E-rate discount rates using the school district's NSLP information that is reported by their state agency to FNS. Currently, only some schools and libraries use state-reported NSLP data when calculating their discount rates. By November 15th of each year, after requisite income verifications are complete, states report their consolidated NSLP eligibility data to FNA using Form FNS 742—School Food Authority (SFA) Verification Collection Report.

15. We propose to require schools and libraries to use state reported NSLP data on the basis that it should reflect the most accurate and verifiable accounting of a district's NSLP participation rate. Requiring the use of state reported data should reduce the frequency with which USAC issues commitment adjustment decision letters after it has identified an error in a school or school district's discount eligibility reporting. We seek comment on the benefits and drawbacks to this proposal. Do all states and territories report NSLP data to FNS by November 15th every year? In the accompanying Report and Order we have required school districts to apply for E-rate support using the district-wide average of their student population's NSLP eligibility. Is state reported NSLP data available on a district-wide basis and is it calculated in a way that is consistent with our new discount rate calculation rules? When does state reported NSLP data become available to schools? Can libraries access information about state-reported NSLP data? Would the requirement to use state-reported NSLP data impact Tribal schools and libraries, and if so, how so? Is there alternative reporting data that would better reflect the level of economic disadvantage for Tribal schools and libraries? Is there other better reporting data that we should use for any other set of schools?

16. If we use state reported data for determining E-rate discount rates, that data would always be a year behind. Should there be a process through which school districts can use more current information that is subject to the same level of review as the state reported NSLP data? What should that process be? We also seek comment on how the use of state reported NSLP data impacts schools' and libraries' E-rate application process. Would the use of state reported NSLP data provide an advantage for some school districts over others? Does the requirement to use this data unfairly favor certain types of applicants over others? Are there additional reasons why state reported data would disadvantage schools or libraries or complicate the application process? Commenters should explain any response and provide specific examples.

17. In the accompanying Report and Order, we adopted USDA's CEP allowing participating schools to use their CEP data and multiplier to determine eligibility for E-rate support. The E-rate program also accepts information from schools and school districts participating in USDA's Provision 1, 2 and 3. How would schools and school districts participating in these alternative NSLP provisions (CEP and Provisions 1, 2 and 3) be affected by a state reported data requirement?

18. *Mandatory use of NSLP data for schools that participate in the NSLP.* We next propose to require schools that participate in the NSLP to use their NSLP eligibility data when calculating their E-rate discount rate. Currently, under the E-rate program, even schools that participate in the NSLP can choose to use a federally approved alternative mechanism, such as a survey, as a proxy for poverty when calculating E-rate discount rates. Requiring schools that participate in NSLP to use NSLP eligibility rates to calculate their discount rates will further simplify the application process for the schools and it will also speed review of applications as income surveys and other alternatives are more time-consuming to review. It will also help ensure the program's integrity by protecting against waste, fraud, and abuse. We seek comment on the benefits and drawbacks to this proposal. We seek comment on whether there are additional considerations for why an NSLP participant may need to use an alternative method for discount calculation.

D. Encouraging Consortium Participation

19. By aggregating purchasing across many schools and libraries, consortia can drive down the prices of E-rate supported services. In the accompanying *E-rate Modernization Order,* we adopted changes to our rules to encourage consortium purchasing. In the interest of doing more to encourage consortia, we seek further comment on how to break down barriers to schools and libraries joining consortia. Specifically, we propose to change the way consortia discount rates are calculated and also seek comment on additional ways to encourage consortium participation.

1. Consortium Discount Rate Calculations

20. Under the current rules, a consortium lead calculates the consortium discount rate by taking a simple average of the discount rates of all the consortium members. The Commission has said that consortium leads are expected to adjust the discount rate received by each member to more closely reflect that member's individual discount rate. Despite that direction from the Commission, commenters suggest that consortium leads sometimes assign the consortium discount rate to all members regardless of members' individual discount rate, which deters high-discount rate applicants from joining consortia because the consortium discount rate is often lower than their own rate. Moreover, even if a consortium lead tries to adjust the discount rate received by each applicant to more accurately reflect what the discount rates would be outside of the consortium, the mix of applicants and the types of services selected may make it impossible for a consortium lead to give every applicant the discount rate to which it would have been entitled if it had applied for services on its own. Indeed, the current consortium calculation formula permits and encourages consortia to inflate their discount rate by taking on high-discount members with few students because each member has the same impact on the consortium discount rate regardless of its student count. For the same reason, the current calculation discourages consortia from taking on smaller members whose discount rate is lower than the consortium's average without the additional district, school, or library.

21. We therefore propose to require consortia with only schools or school districts to use a weighted average formula that would account for the

number of students in each member school or school district as well as the individual discount levels. Under this proposal, a consortium lead would calculate the consortium discount rates by multiplying each member's individual discount rate by its number of students, adding those figures for each member and then dividing by the total number of students in the consortium. After determining the consortium discount rate, the consortium lead could then adjust each member's funding so that it better reflects each member's individual discount rate. We seek comment on whether we should require the consortium lead to adjust each member's funding. By using the weighted average, consortia should be better able to allocate the funding according to each applicant's own discount rate. We seek comment on the benefits and drawbacks of such an approach, and on whether it would encourage more schools and school districts to join consortia. We also seek comment on whether there are any safeguards we need to put in place to ensure that consortia leads equitably allocate funding. Some services, such as fiber backbone access, are shared among consortium members, which makes it difficult for consortium leads to determine the proportion of the service each member uses. Are there additional issues we need to consider for such shared services?

22. For consortia composed of schools and libraries or just libraries, we seek comment on how best to calculate a weighted average discount rate, given that libraries do not have student counts. We propose to count each 50 square feet of library space as one student for the consortium discount rate calculation. For example, a library with 5000 feet of library space would count as 100 students in the discount calculation (5000 divided by 50). If that library had a 50 percent discount rate and formed a consortium with a school district with 500 students and an 80 percent discount rate, the consortium discount rate would be 75 percent. We seek comment on the benefits and drawbacks to this approach. Would a formula based on number of patrons, volumes of books or another square footage benchmark be better substitutes for student count? Are there any other better and/or simpler alternatives?

23. We also seek comment on how common it is for consortium leads to re-adjust the consortium discount rate for each member to more accurately reflect that member's individual discount rate. Additionally, we seek comment on how common it is for consortia to seek to inflate their discount rates by adding high-discount members with few students. If consortium leads neglect to re-adjust each member's discount rate, would the weighted approach we propose be sufficient to encourage high-discount applicants with many students to join consortia?

24. Using a weighted average of the discount rate of all consortium members should reduce the risk that any one member's discount rate is greatly different than if the member did not join the consortium. There will continue to be circumstances, however, under which an applicant's discount rate is still reduced by virtue of joining the consortium. Therefore, in the alternative, we seek comment on whether we should require consortium leads to submit applications for E-rate support that would ensure each consortium member receives the exact discount rate it would be entitled to if it were to apply for services on its own. To do this, the consortium lead would create separate funding requests in an application for each group of consortium members who share the same discount rate. For example, the consortium lead would group into one funding request all consortium members with an 80 percent discount rate and all consortium members with a 60 percent discount rate into another funding request. Under the new district-wide discount calculation we introduce in the accompanying Report and Order, there would only be a limited number of discount rate groups in each consortium because most discount rates will be the round numbers in the discount matrix. To the extent a consortium application included shared services, the lead would explicitly cost-allocate those services among the different funding requests. We expect that this approach would encourage consortium participation for high-discount entities by guaranteeing them the same discount rate as a consortium member that they would have as an individual applicant. We seek comment on this alternative. Would ensuring that high-discount applicants receive the same discount rate whether they apply for services as a consortium member or individual applicant encourage consortium participation for high-discount applicants? Would grouping discounts by funding request be too administratively burdensome for consortium leads? We understand that some consortia have only one payer and that this grouped approach would not provide them with any additional benefit. We seek comment on how common it is for a consortium to have one payer. Would the benefit to consortia with multiple payers outweigh the administrative burden on consortia with multiple payers?

25. We seek comment on the advantages and disadvantages of these options and welcome suggestions for other methods for calculating consortium discount rates.

2. Additional Ways to Encourage Consortium Participation

26. We seek comment on additional programmatic or rules changes we can adopt to encourage consortium participation.

27. For example, to ensure that applicants receive the most cost-effective services possible, should we require applicants to consider services on all master contracts available to them in the bid evaluation process? What would be the advantages and disadvantages of such a rule? How could we ensure that applicants would be aware of the services available to them on master contracts? Would requiring applicants to consider options from all master contracts available to them in their bid evaluations be unduly burdensome for small applicants? What can we do to accommodate the unique financial constraints that schools and libraries on some Tribal lands deal with and the unique relationships among Tribal Nations. Should we, for example, establish different consortia rules for schools and libraries on Tribal lands or operated by Tribal Nations? What should such rules be?

28. The Education Coalition has proposed a model that would provide an additional 5 percent discount rate for consortia meeting minimum size standards. The Education Coalition's specific proposed requirements for receiving an additional incentive are that the participating entities (1) serve at least 30 percent of the students in a state, include at least 30 percent of the local education agencies in the state, or be designated as a consortium by the state, (2) document the participation of individual entities, (3) maintain a level of governance, (4) perform large-scale, centralized procurement that results in master contracts, and (5) open participation to all eligible schools and libraries, including public charter schools and private schools. We seek comment on the Educations Coalition's proposal and more generally on the merits of providing an additional 5 percent incentive for consortia.

29. Would applicants be more likely to form consortia if an additional 5 percent discount were available for consortia? Should the discount of consortia be limited to the otherwise-

applicable top discount rate, regardless of the additional discount (i.e., top discount of 90 percent for category one purchases and 85 percent for category two purchases)? The Education Coalition contends that high-performing state and large regional consortia have a track record of lowering prices. Should demonstrated effectiveness in lowering prices be a condition of any additional consortium discount? For example, should an additional discount only be available to consortia that show that their pricing is at least 10 percent better than the state average? Would the minimum size thresholds in this proposal ensure that consortia are large enough to receive significant discounts? Would states designate small groups that do not have much bulk buying power as consortia so that they can take advantage of the additional discount? Should we therefore limit or eliminate the separate state designation prong of the Education Coalition proposal? How would the Education Coalition's proposal affect those E-rate participants who, because of their geographic location, receive the best prices from smaller, local service providers? The Education Coalition's proposal would allow libraries to participate in consortia eligible for an additional discount rate, but only if the libraries participate in consortia with schools and school agencies. Are there ways it should be modified to ensure libraries can get the benefits of such consortia? For example, should we require that all such consortia make their prices available to all libraries within the area encompassed by the consortium, and allow libraries to take advantage of these contracts without conducting a separate bidding process? Should there be an alternative approach that allows for consortia made up only of libraries or only of schools? How would this proposal affect schools and libraries on Tribal lands or operated by Tribal Nations? We also seek comment on any administrative challenges that consortia face that were not raised in comments to the *E-rate Modernization NPRM.* What rules can the Commission enact to alleviate those issues?

30. Other commenters have proposed that we permit private-sector entities to join consortia with E-rate participants. Our rules now prevent ineligible private sector entities from joining such consortia unless the pre-discount prices for interstate services are at tariffed rates. We seek comment on the potential advantages and disadvantages of permitting private sector entities to join E-rate consortia.

31. Would a consortium consisting of E-rate participants and private-sector entities provide the economy of scale sufficient to reduce the cost of E-rate eligible services and encourage E-rate participants to join consortia, particularly in rural areas? Is there any data or other information showing the impact on connectivity or pricing that allowing this consortium combination? What safeguards would we have to put in place to ensure that the Fund does not support services used by ineligible entities? Would prohibiting private-sector consortium members from using membership in the consortium to evade generally tariffed rates be a sufficient safeguard? In rural areas where abundant fiber is available for private-sector entities but not for schools and libraries, are there additional rule changes that we can implement to allow schools and libraries to gain access to that fiber?

E. Ensuring Support for Libraries is Sufficient

32. As part of our effort to ensure affordable access to robust connectivity for all libraries, we seek additional focused comment on the funding eligible libraries need in order to deploy robust LANs/WLANs within their buildings and the best method(s) to calculate libraries' internal connections budgets. In the accompanying Report and Order, we set a pre-discount budget of $2.30 per square foot for libraries with a pre-discount funding floor of $9,200 in category two support available for each library over five years for those libraries that apply for E-rate support in funding years 2015 and/or 2016. In so doing, we have recognized that the record of library funding needs for internal connections is not as robust as we would like, and not all parties agree with the square-foot based budgeting approach we have chosen to adopt. We therefore seek additional focused comment on the approach we use to calculate libraries' budgets.

33. In particular, we seek additional comment on whether we should adopt another metric in addition to or instead of square footage to set library budgets. Should we establish more than one method of establishing a library's budget and give libraries the option to choose a method based on their particular community, architecture, and service levels? If we allow libraries the option to choose between different methods, should we libraries be locked in to the selected budget each subsequent funding year or should libraries be able to select a method each funding year?

34. We also seek additional comment on the appropriate funding amount for each library. Some commenters suggest that a $2.30 per square foot pre-discount budget is not enough support to ensure that libraries are able to deploy the necessary networks to meet the needs of their communities. In particular, the Urban Libraries Council argues that libraries should receive E-rate funding of no less than $4.00 per square foot. In light of these comments, we seek additional data on efficient library deployments. We also seek additional data on the LAN/WLAN deployment costs in small libraries, and whether the $9,200 funding floor adopted above is either too high or too low.

II. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

35. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

36. The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Specifically, under the schools and libraries universal service support mechanism, also known as the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, Internet access, and internal connections.

B. Need for, and Objectives of, the Proposed Rules

37. This FNPRM is a part of the Commission's continual efforts to improve the E-rate program. In the accompanying Report and Order, we adopt the goals for the E-rate program (1) ensure affordable access to high-speed broadband sufficient to support

digital learning in schools and robust connectivity for all libraries, (2) maximize the cost-effectiveness of spending for E-rate supported purchases, and (3) make the E-rate application process and other E-rate processes fast, simple and efficient.

38. The rules we propose in this FNPRM will enable us to meet these goals. Specifically, we propose to require that multi-year contracts be competitively bid at least every five years, require applicants to use state-audited National School Lunch Plan (NSLP) data when calculating discount rates and require consortia to calculate discount rates using a weighted average of the discount rates of all consortium members.

C. Legal Basis

39. The legal basis for the FNPRM is contained in sections 1 through 4, 201–205, 254, 303(r), and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151 through 154, 201 through 205, 254, 303(r), and 403.

D. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

40. We have described in detail in the Final Regulatory Flexibility Analysis in this proceeding, supra, the categories of entities that may be directly affected by our proposals. For this Initial Regulatory Flexibility Analysis, we hereby incorporate those entity descriptions by reference.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

41. Several proposals under consideration in the FNPRM may, if adopted, result in additional recordkeeping requirements for small entities, but other proposals will reduce recordkeeping requirements for small entities.

1. Proposed Rules That Lessen Reporting Burdens

42. *Efficient use of NSLP data.* Our proposal that E-rate applicants be required to use state-audited NSLP data to determine their E-rate discount rates will reduce administrative burdens on applicants because they will no longer be permitted to use federally-approved alternatives such as surveys to determine discount rates.

2. Proposed Rules that Increase Reporting Burdens

43. *Multi-year contracts.* Our proposal to require certain contracts to be open to competitive bidding at least once in every five year period could increase recordkeeping requirements by requiring applicants to solicit and evaluate bids for E-rate support more frequently than they would without the rule. Overall, the benefit the Fund will realize in ensuring that applicants take advantage of falling market prices outweighs the burden on this requirement.

44. *Consortium discount rates.* Our proposal to require consortia to calculate discount rates using a weighted average of all consortium members could increase recordkeeping requirements by making the discount rate formula more complex for certain consortia. The benefit of encouraging consortia participation by ensuring that consortium members receive discount rates closer to their individual discount rates outweighs this burden.

F. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

45. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

46. We proposed alternatives and sought comment on alternatives to our proposals that would be less burdensome to small entities. For example, we seek comment extending the duration between re-bidding on contracts that would index terms to market prices and bandwidths and contracts for fiber builds. Additionally, we seek comment on an alternative discount calculation that could reduce recordkeeping requirements for small applicants.

47. As noted, the proposals and options being introduced for comment will not have a significant economic impact on small entities under the E-rate program. Indeed, the proposals and options will benefit small entities by simplifying processes, ensuring access to broadband, maximizing cost-effectiveness and maximizing efficiency. We nonetheless invite commenters, in responding to the questions posed and tentative conclusions in the FNPRM, to discuss any economic impact that such changes may have on small entities, and possible alternatives.

G. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

48. None.

49. It Is Ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Shall Send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

H. Initial Paperwork Reduction Act Analysis

50. The FNPRM seeks comment on a potential new or revised information collection requirement. If the Commission adopts any new or revised information collection requirement, the Commission will publish a separate notice in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

I. Ex Parte Presentations

51. *Permit-But-Disclose.* The proceeding this FNPRM initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter

may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

J. Comment Filing Procedures

52. *Comments and Replies.* We invite comment on the issues and questions set forth in the FNPRM and IRFA contained herein. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this FNPRM by September 15, 2014 and may file reply comments by September 30, 2014. All filings related to this FNPRM shall refer to WC Docket No. 13–184. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

53. In addition, one copy of each paper filing must be sent to each of the following: (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554; Web site: *www.bcpiweb.com;* phone: (800) 378–3160; (2) Lisa Hone, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 6–A326, Washington, DC 20554; email: *Lisa.Hone@fcc.gov;* and (3) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5–A452, Washington, DC 20554; email: *Charles.Tyler@fcc.gov.*

54. Filing and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Copies may also be purchased from the Commission's duplicating contractor, BCPI, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI through its Web site: *www.bcpi.com,* by email at *fcc@bcpiweb.com,* by telephone at (202) 488–5300 or (800) 378–3160 or by facsimile at (202) 488–5563.

55. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the FNPRM in order to facilitate our internal review process.

56. For additional information on this proceeding, contact James Bachtell at (202) 418–2694 or Kate Dumouchel at (202) 418–1839 in the Telecommunications Access Policy Division, Wireline Competition Bureau.

III. Ordering Clauses

57. According, It Is Ordered, that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, 303(r), and 403, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 1302, this Further Notice of Proposed Rulemaking is Adopted effective September 18, 2014.

58. It Is Further Ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Shall Send a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54, as follows:

PART 54—UNIVERSAL SERVICE

Subpart F—Universal Service Support for Schools and Libraries

■ 1. The authority citation for part 54 continues to read as follows:

Authority: Sections 1, 4(i), 5, 201, 205, 214, 219, 220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Communications Act of 1996, as amended; 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

■ 2. Amend § 54.505 by revising paragraph (b)(4) to read as follows:

§ 54.505 Discounts.

* * * * *

(b) * * *

(4) School districts, library systems, consortia, library consortia and other billed entities shall calculate discounts on supported services described in § 54.502(b) that are shared by two or more or their schools, libraries or consortium members by calculating a weighted average based on the number of students in each consortium member. The weighted average shall be calculated by multiplying each

member's individual discount rate by its number of students, adding those figures for each member and then dividing by the total number of students in the consortium. Libraries that are consortium members shall substitute 50 square feet of library space for each student.

* * * * *

[FR Doc. 2014–18936 Filed 8–18–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 380, 383, and 384

[Docket No. FMCSA–2007–27748]

RIN 2126–AB66

Minimum Training Requirements for Entry-Level Commercial Drivers' License Applicants; Consideration of Negotiated Rulemaking Process

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of intent.

SUMMARY: FMCSA announces that the Agency is exploring the feasibility of conducting a negotiated rulemaking (Reg Neg) concerning entry-level training for drivers of commercial motor vehicles (CMVs). Specifically, the Agency is exploring a Reg Neg to implement the entry-level driver training (ELDT) provisions in the Moving Ahead for Progress in the 21st Century Act (MAP–21). The FMCSA has hired a convener to speak with interested parties about the feasibility of conducting of an ELDT Reg Neg. FMCSA anticipates that these interested parties may include driver organizations, CMV training organizations, motor carriers (of property and passengers) and industry associations, State licensing agencies, State enforcement agencies, labor unions, safety advocacy groups, and insurance companies.

DATES: Please submit your comments no later than September 18, 2014.

ADDRESSES: You may submit comments identified by docket number FMCSA–2007–27748 using any one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.*
- Fax: 202–493–2251.
- Mail: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email Mr. Richard Clemente, Transportation Specialist, FMCSA, Office of Bus and Truck Standards and Operations, 202–366–4325, *mcpsd@dot.gov*. If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, 202–366–3024, *Barbara.Hairston@dot.gov*.

SUPPLEMENTARY INFORMATION: In the early 1980s, the Federal Highway Administration's (FHWA) Office of Motor Carriers, predecessor agency to the FMCSA, determined that there was a need for technical guidance in the area of truck driver training. Research showed that few driver training institutions offered a structured curriculum or a standardized training program for any type of CMV driver. A 1995 study entitled ''Assessing the Adequacy of Commercial Motor Vehicle Driver Training'' (the Adequacy Report) concluded, among other things, that effective ELDT needs to include behind-the-wheel (BTW) instruction on how to operate a heavy vehicle.

In 2004, FMCSA implemented a driver training rule that focused on areas unrelated to the hands-on operation of a CMV, relying instead on the commercial driver's license (CDL) knowledge and skills tests to encourage training in the operation of CMVs. These current training regulations in 49 CFR Part 380, subpart E cover four areas: (1) Driver qualifications; (2) hours of service limitations; (3) wellness; and (4) whistleblower protection. In 2005, the U.S. Court of Appeals for the District of Columbia Circuit (the Court) remanded the rule to the Agency for further consideration because the Court found that the decision to issue a rule that did not mandate behind the wheel training was not supported by the documentation in the rulemaking record—the final rule ignored the BTW training component covered by the 1995 Adequacy Report. *Advocates for Highway and Auto Safety* v. *Federal Motor Carrier Safety Admin.,* 429 F.3d 1136, 1152 (D.C. Cir. 2005).

On December 26, 2007, FMCSA published a Notice of Proposed Rulemaking (NPRM) seeking public comment on enhanced ELDT requirements (72 FR 73226). The proposed rule would have applied to drivers who apply for a CDL beginning 3 years after a final rule went into effect. Following that date, persons applying for new or upgraded CDLs would have been required to successfully complete specified minimum classroom and BTW training from an accredited institution or program. The Agency proposed that the State driver-licensing agency issue a CDL only if the applicant presented a valid driver training certificate from an accredited institution or program.

Following publication of the NPRM, the Agency reviewed the public responses to the proposal. Additionally, FMCSA held ELDT listening sessions on January 7, 2013 (ABA Marketplace), and March 22, 2013 (Mid-America Trucking Show). Finally, the Agency tasked its Motor Carrier Safety Advisory Committee (MCSAC) to provide ideas the Agency should consider in implementing the MAP–21 requirements. Based on the feedback received during the listening session and in light of the new requirements imposed by MAP–21, the Agency withdrew the 2007 NPRM on September 19, 2013 (78 FR 57585). Copies of the transcripts from the listening sessions and the MCSAC's report are included in the docket referenced at the beginning of this document.

FMCSA is now assessing the feasibility of using Reg Neg for this rulemaking. In a Reg Neg, an agency invites representatives of interested parties that are likely to be affected by a regulation to work with each other and the agency on a negotiating committee to develop a consensus draft of a proposed rule. If a consensus is reached, the Agency would then publish the proposal for public comment under customary regulatory procedures. FMCSA believes this cooperative problem-solving approach should be given serious consideration. To do so, the Agency must determine, among other statutory factors, whether an appropriate advisory committee can be assembled that would fairly represent all affected interests, will negotiate in good faith and whether consensus on the issues is likely.

FMCSA has retained a neutral convener, Mr. Richard Parker from the University of Connecticut, School of Law, to undertake the initial stage in the Reg Neg process. Mr. Parker's credentials have been placed in docket FMCSA–2007–27748 for the public's convenience.

The neutral convener will interview affected interests, including but not limited to, CMV driver organizations,

CMV training organizations, motor carriers (of property and passengers) and industry associations, State licensing agencies, State enforcement agencies, labor unions, safety advocacy groups, and insurance companies and associations. The convener will determine whether additional categories of interested parties may be necessary. The convenor will, among other things, examine the potential for adequate and balanced representation of these varied interests on an advisory committee that would be convened to negotiate the regulation. The convener will then submit a written ''convening'' report of findings and recommendations to the Agency, and the final report will be available to the public. The convener's report will provide a basis for FMCSA to decide whether to proceed with a Reg Neg, and, if so, to determine the scope of the issues the committee would address. In the alternative, FMCSA may decide to forgo the Reg Neg and proceed with traditional notice-and-comment rulemaking.

All interested parties are advised that the confidentiality provisions of the Administrative Dispute Resolution Act, 5 U.S.C. 574, will apply to the convener's activities. The Federal Government will make no claim to the convener's notes, memoranda, or recollections or to documents provided to the convener in confidence in the course of the convening process.

The convenor will not interpret FMCSA or DOT policy on behalf of the Agency or the Department nor make decisions on items of policy, regulation, or statute. The convenor will not take a stand on the merits of substantive items under discussion.

The FMCSA will provide the convener any comments it receives in reaction to this notice and will file the comments in docket FMCSA–2007–27748. If you want to submit comments to this notice directly to the docket, use the addresses above under the heading **ADDRESSES**.

Should the FMCSA decide to proceed with a Reg Neg process, the Agency will follow the procedures set forth in the Negotiated Rulemaking Act of 1996, 5 U.S.C. 561 *et seq.* This would include the mandatory publication of a notice of intent to solicit comment on membership and invite interested persons to apply for nomination to the committee. It also includes the establishment of a negotiating committee under the Federal Advisory Committee Act (5 U.S.C. Appendix 2).

Issued under the authority of delegation in 49 CFR 1.87.

Dated: August 12, 2014.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–19637 Filed 8–15–14; 11:15 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2014–0025; 4500030113]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Island Marble Butterfly as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce our 90-day finding on a petition To list the island marble butterfly (*Euchloe ausonides insulanus*) as an endangered species under the Endangered Species Act of 1973 (Act), as amended. Based on our review, we find that the petition presents substantial scientific or commercial data indicating that the petitioned action may be warranted. Therefore, with the publication of this document, we are notifying the public that when resources become available, we will be conducting a review of the status of this subspecies to determine if the petitioned action is warranted. In order to assure that the best scientific and commercial data informs the status review and, if warranted, the subsequent listing determination, and to provide an opportunity for all interested parties to provide information for consideration for the status review, we are requesting information regarding the island marble butterfly. Based on the results of our status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct the status review, we request that we receive information no later than December 31, 2016. Information submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter docket number FWS–R1–ES–2014–0025. You may submit information by clicking on ''Comment Now!'' If your information will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By U.S. mail:* Public Comments Processing, Attn: FWS–R1–ES–2014–0025; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Request for Information).

FOR FURTHER INFORMATION CONTACT: Tom McDowell, Washington Fish and Wildlife Office, 510 Desmond Drive, Lacey, WA 98503; telephone 360–753–9440; facsimile 360–534–9331. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review; also commonly referred to as a ''12-month finding''). For the status review to be complete and based on the best available scientific and commercial data, we request information on the island marble butterfly from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The subspecies' biology, range, and population trends, including:

(a) Habitat requirements;

(b) Genetics and taxonomy, with particular regard to the validity of the subspecies classification for *Euchloe ausonides insulanus;*

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends;

(e) Any relevant aspects of the life history or behavior of the island marble butterfly that has not yet been documented; and

(f) Past and ongoing conservation measures for the subspecies, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a)(1) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (''Factor A'');

(b) Overutilization for commercial, recreational, scientific, or educational purposes (''Factor B'');

(c) Disease or predation (''Factor C'');

(d) The inadequacy of existing regulatory mechanisms (''Factor D''); or

(e) Other natural or manmade factors affecting its continued existence (''Factor E'').

(3) The potential effects of climate change on this subspecies or its habitat.

(4) Actions taken by landowners that would provide conservation benefits (short-term and long-term; e.g., the maintenance of home gardens with the requisite host or nectar plants to support the island marble butterfly in various life stages throughout the year) to the island marble butterfly.

If, after the status review, we determine that listing is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act) under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the subspecies. Therefore, we also request data and information for the island marble butterfly on:

(1) What may constitute ''physical or biological features essential to the conservation of the species,'' within the geographical range occupied by the subspecies;

(2) Where these features are currently found;

(3) Whether any of these features may require special management considerations or protection;

(4) Specific areas outside the geographical area occupied by the subspecies that are ''essential for the conservation of the species''; and

(5) What, if any, critical habitat you think we should propose for designation if the subspecies is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as copies or references to scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

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

Information and supporting documentation that we received and used in preparing this finding will be available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition and supporting information submitted with the petition. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to commence a review of the status of the species, which will be subsequently summarized in our 12-month finding.

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act (see Request for Information).

In considering what factors might constitute threats, we must look beyond the exposure of the species to a factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat and, during the status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species such that the species may warrant listing as an endangered or threatened species as those terms are defined in the Act. However, the identification of factors that could impact a species negatively may not be sufficient to compel a finding that the information in the petition and our files is substantial. The information must include evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of an endangered or threatened species under the Act.

Review of Petition To List the Island Marble Butterfly as an Endangered Species Under the Act

Additional information regarding our review of this petition can be found at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2014–0025 in the document labeled Appendix for Island Marble Butterfly.

Species and Range

This petition concerns the island marble butterfly (*Euchloe ausonides insulanus*), with a range in San Juan Island and Lopez Island, Washington, U.S.A.

Petition History

On December 11, 2002, we received a petition dated December 10, 2002, requesting that we emergency list the island marble butterfly as an endangered species, and that we designate critical habitat concurrently with the listing. On February 13, 2006, we published a 90-day finding in the **Federal Register** (71 FR 7497) concluding that the petition presented substantial scientific information

indicating that listing the island marble butterfly may be warranted. On November 14, 2006, we published a notice of 12-month petition finding, concluding that the island marble butterfly did not warrant listing (71 FR 66292). Please see that 12-month finding for a complete summary of all previous Federal actions for this species.

On August 24, 2012, we received a petition dated August 22, 2012, from the Xerces Society for Invertebrate Conservation, requesting that the island marble butterfly be listed as an endangered species under the Act. The petition requested an emergency listing and emergency critical habitat designation. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that listing may be warranted for the island marble butterfly under section 4(a)(1) of the Act, based on factors A, C, and E (see Appendix for the Island Marble Butterfly). We therefore request information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information).

Our review of the petition does not indicate that an emergency situation exists. However, if at any time conditions change and we determine emergency listing is necessary, an emergency rule may be developed.

Conclusion

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petition presents substantial scientific or commercial information indicating that listing the island marble butterfly as an endangered species may be warranted, and we are initiating a status review to determine whether this action is warranted. At the conclusion of our status review, we will issue a 12-month finding in accordance with section 4(b)(3)(B) of the Act. In that 12-month finding, the Service may: decide that the petitioned action is not warranted; decide that the petitioned action is warranted, but precluded; or decide that the petitioned action is warranted, and if so, promptly publish a proposed rule.

It is important to note that the ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough review of the species. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

References Cited

On *http://www.regulations.gov,* the docket for the island marble butterfly (FWS–R1–ES–2014–0025) contains the relevant appendix mentioned above. This appendix contains a complete list of references cited. The appendix is also available upon request from the Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 5, 2014.

David Cottingham,

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

[FR Doc. 2014–19560 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 79, No. 160
Tuesday, August 19, 2014

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

Submission for OMB Review; Comment Request

August 14, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 18, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal & Plant Health Inspection Service

Title: Gypsy Moth Identification Worksheet.

OMB Control Number: 0579–0104.

Summary Of Collection: Under the Plant Protection Act (7 U.S.C. 7701 – *et seq.*), the Secretary of Agriculture either independently or in cooperation with the States, is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pest new to the United States or not widely distributed throughout the United States. The Plant Protection and Quarantine (PPQ), a program within the Animal and Plant Health Inspection Service (APHIS), is responsible for implementing the intent of this Act, and does so through the enforcement of its Domestic Quarantine Regulations contained in Title 7 of the Code of Federal Regulations (CFR) Part 301. The European gypsy moth is one of the most destructive pests of fruit and ornamental trees as well as hardwood forests. The Asian gypsy moth is an exotic strain of gypsy moth that is closely related to the European variety already established in the U.S. Due to significant behavioral differences, this strain is considered to pose an even greater threat to trees and forested areas. In order to determine the presence and extent of a European gypsy moth or an Asian gypsy moth infestation, APHIS sets traps in high-risk areas to collect specimens.

Need And Use Of The Information: APHIS will collect information from the Gypsy Moth Identification Worksheet, PPQ Form 305, to identify and track specific specimens that are sent to the Otis Development Center for identification tests based on DNA analysis. This information collected is vital to APHIS' ability to monitor, detect, and eradicate gypsy moth infestations and the worksheet is completed only when traps are found to contain specimens. Information on the worksheet includes the name of the submitter, the submitter's agency, the date collected, the trap number, the trap's location (including the nearest port of entry), the number of specimens in the trap, and the date the specimen was sent to the laboratory.

APHIS will also use the Your Move Gypsy Moth Free Brochure-Program Aid No. 2147 to collect information on required inspection of outdoor household articles that are to be moved from a gypsy moth quarantined area to a non-quarantined area to ensure that they are free of all life stages of gypsy moth.

Description of Respondents: Individuals or households; State, Local or Tribal Government.

Number of Respondents: 200,120.

Frequency of Responses: Recordkeeping; Reporting; On occasion.

Total Burden Hours: 216,600.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–19640 Filed 8–18–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Organic Survey. Revision to burden hours will be needed due to changes in the size of the target population, sample design, and questionnaire length. Response to this survey will be mandatory.

DATES: Comments on this notice must be received by October 20, 2014 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0249, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *Fax:* (202) 720–6396.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock,

NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

• *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS Clearance Officer, at (202) 690–2388.

SUPPLEMENTARY INFORMATION:

Title: Organic Survey.

OMB Control Number: 0535–0249.

Expiration Date of Previous Approval: July 31, 2014.

Type of Request: To revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition as well as economic statistics, farm numbers, land values, on-farm pesticide usage, pest crop management practices, as well as the Census of Agriculture.

This is a resubmission of the **Federal Register** Notice to include several changes to the survey that were not included in the original notice. The original notice was published on March 17, 2014.

In 2009, NASS conducted the 2008 Organic Production Survey (OMB #0535–0249). This was originally designed to be conducted once every five years as a mandatory, follow-on-survey to the 2007 Census of Agriculture. In 2011, when the docket was renewed, it was changed to accommodate a formal agreement with the USDA Risk Management Agency (RMA). Specifically, the survey was changed to a voluntary survey that was to be conducted annually if funding permitted, and it would allow for a rotation of target crops each year. With the completion of the 2012 Census of Agriculture, NASS proposes to expand the scope of the Organic Production Survey questionnaire to include questions that are needed for the 5-year Census of Agriculture data series using funding provided through the Census of Agriculture program. Accordingly, NASS proposes to restore mandatory reporting to the Organic Survey. The name of this docket will be changed to Organic Survey. This survey will only be conducted once under this approval; the data reference year will be 2014, and data will be collected in 2015.

The sample will consist of all farm operators from the 2012 Census of Agriculture who reported they produce organically certified crops and/or livestock, were exempt from certification (i.e., they produce less than $5,000 in sales per year), and those who were in the process of transitioning over to being organic farmers. The survey will be conducted in all States. Some operation level data will be collected to use in classifying each operation for summary purposes. The majority of the questions will involve production data (acres planted, acres harvested, quantity harvested, quantity sold, livestock produced and sold, value of sale, etc.), production expenses, and marketing and production practices.

Approximately 14,000 operations will be contacted by mail in early January 2015, with a second mailing later in the month to non-respondents. Respondents will be able to complete the questionnaire by use of the internet, if they so choose. Telephone and personal enumeration will be used for remaining non-response follow-up. The National Agricultural Statistics Service will publish summaries in October 2015 at both the State level and for each major organic commodity when possible. Due to confidentiality rules, some State level data may be combined and published at the regional or national level to prevent disclosure of individual operation's data. This collection of data will support requirements within the Agricultural Act of 2014. Under Section 11023 some of the duties of the Federal Crop Insurance Corporation (FCIC) are defined as ''(i) IN GENERAL—As soon as possible, but not later than the 2015 reinsurance year, the Corporation shall offer producers of organic crops price elections for all organic crops produced in compliance with standards issued by the Department of Agriculture under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) that reflect the actual retail or wholesale prices, as appropriate, received by producers for organic crops, as determined by the Secretary using all relevant sources of information. ''(ii) ANNUAL REPORT.—The Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on progress made in developing and improving Federal crop insurance for organic crops, including—''(I) the numbers and varieties of organic crops insured; ''(II) the progress of implementing the price elections required under this subparagraph, including the rate at which additional price elections are adopted for organic crops; ''(III) the development of new insurance approaches relevant to organic producers; and ''(IV) any recommendations the Corporation considers appropriate to improve Federal crop insurance coverage for organic crops''.

Authority: This census of organic farmers is required by law under the ''Census of Agriculture Act of 1997,'' Public Law 105–113, 7 U.S.C. 2204(g) as amended. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law. 104–13 (44 U.S.C. 3501, et seq.) and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 45 minutes per response.

Respondents: Farmers and Ranchers.

Estimated Number of Respondents: 14,000.

Estimated Total Annual Burden on Respondents: 11,000 hours (based on an estimated 80% response rate, using 2 mail attempts, followed by phone and personal enumeration for non-respondents).

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, technological or other forms of

information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, August 11, 2014.

R. Renee Picanso,

Associate Administrator.

[FR Doc. 2014–19679 Filed 8–18–14; 8:45 am]

BILLING CODE 3410–20–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

[Docket No. ATBCB–2013–0001]

RIN 3014–AA42

Rail Vehicles Access Advisory Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of advisory committee meeting.

SUMMARY: On May 23, 2013, we, the Architectural and Transportation Barriers Compliance Board (Access Board), established the Rail Vehicles Access Advisory Committee (Committee) to advise us on revising and updating our accessibility guidelines issued pursuant to the Americans with Disabilities Act for transportation vehicles that operate on fixed guideway systems (e.g., rapid rail, light rail, commuter rail, intercity rail, and high speed rail). The Committee will hold its fourth meeting on the following dates and times.

DATES: The Committee will meet on September 11, 2014, from 10 a.m. to 5 p.m. and on September 12, 2014, from 9:30 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004–1111. Call-in information and a communication access real-time translation (CART) web streaming link will be posted on the Access Board's Rail Vehicles Access Advisory Committee Web site page at *www.access-board.gov/rvaac.*

FOR FURTHER INFORMATION CONTACT: Paul Beatty, Office of Technical and Information Services, Access Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–0012 (Voice); (202) 272–0072 (TTY). Electronic mail address: *rvaac@access-board.gov.*

SUPPLEMENTARY INFORMATION: On May 23, 2013, we published a notice establishing a Rail Vehicles Access Advisory Committee (Committee) to make recommendations to us on matters associated with revising and updating our accessibility guidelines issued pursuant to the Americans with Disabilities Act for transportation vehicles that operate on fixed guideway systems (e.g., rapid rail, light rail, commuter rail, intercity rail, and high speed rail). See 78 FR 30828 (May 23, 2013).

The Committee will hold its fourth meeting on September 11, 2014, from 10 a.m. to 5 p.m. and on September 12, 2014, from 9:30 a.m. to 3 p.m. The preliminary agenda for the September meeting includes: deliberation of committee member concerns pertaining to the accessibility of rail vehicles; consideration of process-related matters; and possible subcommittee meetings. Subcommittee meetings will occur in the same meeting room as the Committee meeting. The preliminary meeting agenda, along with information about the Committee, is available on our Web site (*www.access-board.gov/rvaac*).

The Committee meeting and subcommittee meetings will be open to the public and interested persons can attend the meetings and communicate their views. Members of the public will have opportunities to address the Committee on issues of interest to them during a public comment period scheduled each day the full committee meets. Members of groups or individuals who are not members of the Committee also have the opportunity to participate in subcommittees.

The meetings will be accessible to persons with disabilities. An assistive listening system, communication access real-time translation (CART), and sign language interpreters will be provided. Persons attending the meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (see *www.access-board.gov/the-board/policies/fragrance-free-environment* for more information).

Persons wishing to provide handouts or other written information to the Committee are requested to provide electronic formats to Paul Beatty via email at least five business days prior to the meetings so that alternate formats can be distributed to Committee members.

David M. Capozzi,

Executive Director.

[FR Doc. 2014–19621 Filed 8–18–14; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–33–2014]

Approval of Subzone Status, Neolpharma, Inc., Caguas, Puerto Rico

On April 1, 2014, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting subzone status subject to the existing activation limit of FTZ 7, on behalf of Neolpharma, Inc., in Caguas, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (79 FR 19051, April 7, 2014). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 7O is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 7's 2,000-acre activation limit.

Dated: August 13, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–19650 Filed 8–18–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–932]

Certain Steel Threaded Rod From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (''Department'') and the International Trade Commission (''ITC'') that revocation of the antidumping duty order on certain steel threaded rod from the People's Republic of China (''PRC'') would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

DATES: *Effective Date:* August 19, 2014.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2312.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2014, the Department of Commerce (''Department'') initiated the first five-year (''sunset'') review of the antidumping duty order on certain steel threaded rod from the People's Republic of China (''PRC'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''Act'').[1] As a result of its review, the Department determined that revocation of the antidumping duty order on certain steel threaded rod from the PRC would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[2] On August 8, 2014, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on certain steel threaded rod from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Order

The merchandise covered by the *Order* is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to the order are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of the *Order* are steel threaded rod, bar, or studs, in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheading 7318.15.5051, 7318.15.5056, 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of the *Order* are: (a) threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials (''ASTM'') A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, or ASTM A320 Grade L7.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping order on certain steel threaded rod from the PRC. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (''sunset'') review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: August 13, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–19661 Filed 8–18–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Five-Year (''Sunset'') Review,* 79 FR 11762 (March 3, 2014) (''*Initiation Notice*''); *see also Notice of Antidumping Duty Order: Certain Steel Threaded Rod from the People's Republic of China,* 74 FR 17154 (April 14, 2009) (''*Order*'').

[2] *See Certain Steel Threaded Rod from the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order,* 79 FR 36288 (June 26, 2014).

[3] *See Steel Threaded Rod from China,* 79 FR 46450 (August 8, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–517–804]

Amended Final Determination and Termination of the Investigation of Sales at Less Than Fair Value: Certain Oil Country Tubular Goods From Saudi Arabia

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) received and reviewed a ministerial error allegation based on its *Final Determination* of the sales at less than fair value investigation of oil country tubular goods (OCTG) from Saudi Arabia.[1] Based on the analysis of this allegation, we made changes to the margin calculation for Jubail Energy Services Company (JESCO). Because the revised margin is *de minimis,* we are terminating this investigation and ordering termination of the suspension of liquidation. A discussion of the allegation and the final weighted-average dumping margin can be found below in the section entitled ''Amended Final Determination.''

DATES: *Effective Date:* August 19, 2014.

FOR FURTHER INFORMATION CONTACT: Jason Rhoads, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0123.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 2014, the Department announced its *Final Determination* which was published in the **Federal Register** on July 18, 2014.[2] On July 21,

[1] *See Certain Oil Country Tubular Goods From Saudi Arabia: Final Determination of Sales at Less Than Fair Value,* 79 FR 41986 (July 18, 2014) *(Final Determination*).

[2] *Id.*

2014, JESCO submitted a ministerial error allegation pursuant to 19 CFR 351.224(c). On July 28, 2014, Petitioners submitted rebuttal comments.[3] Based on the analysis of this allegation, we made changes to the margin calculation for JESCO.

Period of Investigation

The period of investigation is July 1, 2012, through June 30, 2013.

Scope of the Investigation

The merchandise covered by this investigation is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

Amended Final Determination Margins

After analyzing the allegation and the submissions of the parties, we determine in accordance with section 735(e) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.224(e) that we made ministerial errors in the margin calculation for JESCO. For a detailed discussion of the ministerial error allegations and the Department's analysis, *see* Memorandum to Ronald K. Lorentzen, entitled ''Ministerial Error Memorandum in the Less than Fair Value Investigation of Certain Oil Country Tubular Goods from Saudi Arabia,'' dated concurrently with this notice. A list of the topics included in the Ministerial Error Memorandum is included as Attachment II to this notice. The Ministerial Error Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and it is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Ministerial Error Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Ministerial Error Memorandum are identical in content.

We are amending the final determination of the antidumping duty investigation of OCTG from Saudi Arabia to reflect the correction of the above-cited ministerial error. As a result of correcting the ministerial error in the *Final Determination,* the revised final weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average dumping margin
Jubail Energy Services Company	*de minimis.*
All Others	N/A.

Section 735(c)(5)(A) of the Act provides that the estimated ''all others'' rate shall be an amount equal to the weighted average of the weighted-average dumping margins calculated for the producers or exporters individually examined, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act. Because we calculated a weighted-average dumping margin for the only mandatory respondent (JESCO) that was *de minimis,* we assigned no rate to all other producers and exporters.

Termination of Suspension of Liquidation

In accordance with sections 735(a)(4) and 735(c)(2)(A) and (B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to terminate the suspension of liquidation on all entries of OCTG from Saudi Arabia and to refund any cash deposits previously required under section 733(d)(1)(B) of the Act.

ITC Notification

In accordance with section 735(d) of the Act, we notified the ITC of our amended negative final determination.

Publication

This amended final determination is published in accordance with sections 735(d) and (e) of the Act.

Dated: August 11, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock.

Excluded from the scope of the investigation are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

[3] Boomerang Tube, Energex Tube, a division of JMC Steel Group, Northwest Pipe Company, Tejas Tubular Products, TMK IPSCO, and Welded Tube USA Inc. (collectively, the petitioners).

The merchandise subject to the investigation may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Ministerial Error Memorandum

1. Summary
2. Background
3. Legal Authority
4. Analysis of Alleged Ministerial Error
   a. The Department Incorrectly Calculated the Profit Rate for JESCO's Third Country Sales
5. Recommendation

[FR Doc. 2014–19673 Filed 8–18–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Cangrejos Yacht Club, Puerto Rico

Date: Monday, August 18, 2014.

AGENCY: NOAA Office of General Counsel, Oceans and Coasts Section, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of stay of record closure.

SUMMARY: This announcement provides notice that the decision record will be held open for an additional 30 days, until September 18, 2014, in the administrative appeal filed with the Department of Commerce by Cangrejos Yacht Club of Carolina, Puerto Rico.

Date: The decision record for the Cangrejos Yacht Club administrative appeal will close on September 18, 2014.

ADDRESSES: Materials from the appeal record are available at the Internet site *http://www.ogc.doc.gov/czma.htm* and at the Office of General Counsel, Oceans and Coasts Section, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Suite 6111, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Suzanne Bass, Attorney-Advisor, via email at *suzanne.bass@noaa.gov,* or at (301) 713–7387.

SUPPLEMENTARY INFORMATION: On January 2, 2014, Pedro J. Bonilla, representing Cangrejos Yacht Club (CYC), filed notice of an appeal with the Secretary of Commerce (Secretary), pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 et seq., and implementing regulations found at 15 CFR Part 930, Subpart H. The appeal is taken from an objection by the Puerto Rico Planning Board (PRPB) to CYC's certification of consistency of a proposed dredging project in the Boca de Cangrejos Channel in Carolina, Puerto Rico. The certification indicates that the project is consistent with Puerto Rico's Coastal Management Program. The project would affect the natural resources or land and water uses of Maryland's coastal zone. Notice of the appeal was published on March 12, 2014.

The CZMA requires that a notice be published in the **Federal Register** indicating the date on which the decision record has been closed. 16 U.S.C. 1465(b)(2). The decision record is to be closed within 160 days of the notice of the appeal; however, the Secretary of Commerce may stay the closure of the record, for a period not to exceed 60 days. 15 CFR 930.130(a). The Secretary must issue a decision no later than 60 days after closure of the decision record. 15 CFR 930.130(b).

Additional information about the Cangrejos Yacht Club appeal and the CZMA appeals process is available from the NOAA General Counsel CZMA appeals Web site: *http://coastalmanagement.noaa.gov/consistency/fcappealdecisions.html.*

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.)

Dated: August 14, 2014.

Jeffrey S. Dillen,

Acting Section Chief, Oceans and Coasts Section.

[FR Doc. 2014–19616 Filed 8–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC853

Marine Mammal Stock Assessment Reports

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

ACTION: Notice of availability; response to comments.

SUMMARY: As required by the Marine Mammal Protection Act (MMPA), NMFS has incorporated public comments into revisions of the 2013 marine mammal stock assessment reports (SARs).

ADDRESSES: Electronic copies of SARs are available on the Internet as regional compilations and individual reports at the following address: *http://www.nmfs.noaa.gov/pr/sars/.* You also may send requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments.

Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center, 7600 Sand Point Way, BIN 15700, Seattle, WA 98115.

Copies of the Atlantic Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, NMFS, 8604 La Jolla Shores Drive, La Jolla, CA 92037–1508.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov;* Dee Allen, Alaska Fisheries Science Center, 206–526–4048, *Dee.Allen@noaa.gov;* Gordon Waring, Northeast Fisheries Science Center, 508–495–2311, *Gordon.Waring@noaa.gov;* or Jim Carretta, Southwest Fisheries Science Center, 858–546–7171, *Jim.Carretta@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare SARs for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports contain information regarding the distribution and abundance of the stock, population growth rates and trends, the stock's Potential Biological Removal (PBR) level, estimates of annual human-caused M/SI from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every 3 years for non-strategic stocks. NMFS and FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in each of the three regions.

As required by the MMPA, NMFS updated SARs for 2013, and the revised reports were made available for public review and comment for 90 days (78 FR 66681, November 6, 2013, 2012). NMFS received comments on the draft SARs and has revised the reports as necessary. This notice announces the availability of the final 2013 reports for the 122 stocks that are currently finalized. These reports are available on NMFS' Web site (see **ADDRESSES**).

Comments and Responses

NMFS received letters containing comments on the draft 2013 SARs from the Marine Mammal Commission, the U.S. Navy (Pacific Fleet), the Makah Tribe, the Western Pacific Regional Fisheries Management Council, and six non-governmental organizations (The Humane Society of the United States, Center for Biological Diversity, Whale and Dolphin Conservation, Ocean Conservancy, Hawaii Longline Association, and Cascadia Research Collective).

Some comments recommended initiation or repetition of large data collection efforts, such as abundance surveys, observer programs, or other efforts to estimate mortality. Some comments recommending additional data collection (e.g., additional abundance surveys or observer programs) have been addressed in previous years. Although NMFS agrees that additional information may improve the SARs and inform conservation decisions, resources for surveys and observer programs are fully utilized, and no new large surveys or other programs may be initiated until additional resources are available. Such comments on the 2013 SARs and responses to them may not be included in the summary below because the responses have not changed. Comments on actions not related to the SARs are not included below. Comments suggesting editorial or minor clarifying changes were incorporated in the reports, but they are not included in the summary of comments and responses below.

In some cases, NMFS' responses state that comments would be considered or incorporated in future revisions of the SARs rather than being incorporated into the final 2013 SARs. These delays are due to the schedule of the review of the reports by the regional SRGs. NMFS provides preliminary copies of updated SARs to SRGs prior to release for public review and comment. If a comment on the draft SAR suggests a substantive change to the SAR, NMFS may discuss the comment and prospective change with the SRG at its next meeting.

Comments on National Issues

Comment 1: The Marine Mammal Commission (Commission) recommends that NMFS complete its review of the Guidelines for Assessing Marine Mammal Stocks (GAMMS) III Workshop recommendations and public comments received on those recommendations, and issue new stock assessment guidelines before conducting the 2015 stock assessments.

Response: NMFS is working to complete its review of the GAMMS III recommendations as well as the public comments received on those recommendations, and intends to issue updated stock assessment guidelines as expeditiously as possible.

Comment 2: The Commission recommends that NMFS make every effort to ensure that data collected on at-sea distribution and movements of pinnipeds are made available in a timely manner and to a broad audience.

Response: NMFS appreciates this comment and recognizes the value in disseminating the results of studies of pinniped distribution and movements. While most pinniped science on at-sea distribution and movements is conducted by scientists external to the agency, NMFS will encourage researchers to publish results of pinniped research peer-reviewed journals or reports that are broadly available in a timely manner.

Comment 3: The Humane Society of the United States, the Center for Biological Diversity, and Whale and Dolphin Conservation (Organizations) recommend that NMFS use the most recent data in the SARs to overcome the two-year lag.

Response: The marine mammal SARs are based upon the best available scientific information, and NMFS strives to update the SARs with as timely data as possible. In order to develop annual mortality and serious injury (M/SI) estimates, we do our best to ensure all records are accurately accounted for in that year. In some cases, this is contingent on such things as bycatch analysis, data entry, and assessment of available data to make determinations of severity of injury, confirmation of species based on morphological and/or molecular samples collected, etc. Additionally, the new serious injury determination policy now requires several phases of review, which can extend the process and time required to estimate bycatch. Reporting on incomplete annual M/SI estimates could result in underestimating actual levels. The MMPA requires us to report mean annual M/SI estimates, and we try to ensure that we are accounting for all available data before we summarize those data. With respect to abundance, in some cases we provide census rather than abundance estimates (such as North Atlantic right whales) and the accounting process to obtain the minimum number alive requires two years of sightings to get a stable count, after which the data are analyzed and entered into the SAR in the third year. All animals are not seen every year; waiting two years assures that greater than 90% of the animals still alive will be included in the count.

Comment 4: The Organizations recommend that NMFS discuss concerns related to altered ocean conditions caused by global climate change and concerns regarding the impacts of sonar and other training exercises in the Habitat Impacts sections.

Response: The MMPA requires for strategic stocks a consideration of other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey. The GAMMS II recommend that such issues should therefore be summarized in the Status section for all strategic stocks. If substantial issues (such as global climate change or impacts of sonar, for example) regarding the habitat of the stock are considered to impede recovery of a stock, a separate section titled ''Habitat Issues'' is used; if data exist that indicate a problem, they are summarized and included in the SAR.

Comment 5: The Organizations recommend that NMFS adhere to the GAMMS in cases where abundance data are aging and reduce the minimum abundance estimates annually until new abundance data are available. For example, the outdated N_{mins} for pygmy sperm whale and dwarf sperm whale should be reduced incrementally over time as per GAMMS.

Response: The proposed revisions to the GAMMS (i.e. GAMMS III)—which recommend incrementally increasing the uncertainty around the abundance estimate, thereby reducing the minimum abundance estimate (N_{min})

and associated PBR- have not yet been finalized or fully implemented by NMFS. NMFS is adhering to the guidance provided in GAMMS II until new guidance is finalized.

Comments on Pacific Regional Reports

Comment 6: The Makah Tribe recommends that NMFS update the gray whale SAR to include the most current information on the now 27 gray whale observations in the Western and Eastern North Pacific. The comment cites Urban *et al.* (2013) as an updated information source.

Response: Reference to the Urban *et al.* 2013 paper and information on movements between the Western and Eastern North Pacific will be included in the draft 2014 SAR.

Comment 7: The Makah Tribe recommends that NMFS replace the word ''residency'' with ''fidelity'' in the sentence that describes gray whales in the Pacific Northwest which reads: ''whales that frequently return to the area, display a high degree of intra-seasonal 'residency' and account for a majority of sightings between 1 June and 30 November.'' Additionally, the Makah Tribe recommends changing the phrase ''Pacific Coast Feeding Group gray whales'' to ''gray whales observed in the Pacific Coast Feeding Group range and season'' in the Fisheries Information and Other Mortality sections, as the referenced whales include whales that were identified as Pacific Coast Feeding Group (PCFG) whales solely because they were observed in one year in the geographic range and season for PCFG, while the formal definition for PCFG includes whales seen in at least two years in the range and season for PCFG.

Response: The word ''fidelity'' replaces the word ''residency'' and the phrase PCFG gray whales'' was changed to ''gray whales observed in the PCFG range and season'' in the final 2013 SAR as suggested.

Comment 8: The Makah Tribe recommends that the gray whale SAR should discuss whether the PCFG satisfies the statutory definition of a stock, and in particular whether the animals within the group interbreed when mature.

Response: The final 2013 SAR elaborates on 'interbreed when mature,' citing the gray whale stock identification workshop report of Weller *et al.* (2013). New text states: ''Further, given the lack of significant differences found in nuclear DNA markers between PCFG whales and other Eastern North Pacific (ENP) whales, the task force found no evidence to suggest that PCFG whales breed exclusively or primarily with each other, but interbreed with ENP whales, including potentially other PCFG whales.''

Comment 9: The Makah Tribe suggests that the recovery factor default value of 0.5 for PCFG gray whales is too low and recommends that NMFS instead use a recovery factor of 0.75 in the PCFG gray whale potential biological removal (PBR) calculation.

Response: The Pacific Scientific Review Group (SRG) was asked to review the use of the default recovery factor of 0.5 at their April 2014 meeting. They raised a concern about using a recovery factor of 0.75 as it had not been adequately reviewed. They recommended the SAR could contain a range of recovery factors, from 0.5 to 1.0. We concluded that using a range would not meet the statutory intent of calculating a PBR. Given a lack of specific guidance from the SRG on the recovery factor for PCFG, NMFS will continue to use the default of 0.5 for these animals. We will revisit the issue of the appropriate recovery factor in the 2014 SAR.

Comment 10: The Makah Tribe recommends that NMFS prorate the serious injury for the gray whale observed entangled on 21 July 2009, because it was re-sighted on 3 August 2009 as well as in 2010 and 2011 still trailing gear.

Response: This whale was seen again in 2013 and had shed all gear and was apparently in good health. This record has been updated with a non-serious injury designation in the final 2013 serious injury determination report.

Comment 11: The Makah Tribe recommends that NMFS remove the PCFG range assigned to the gray whale that was necropsied on 6 June 2011; because it was found south of the PCFG range, the whale may have been struck and killed before the PCFG season, and there is no photo-identification.

Response: NMFS has reclassified this whale as an ENP whale, based on its being south of the time/area range currently used for PCFG gray whales.

Comment 12: The Cascadia Research Collective (CRC) recommends that for the three newly recognized insular stocks of pantropical spotted dolphins in Hawaiian waters, NMFS should provide a range of likely abundance estimates and PBR values using density values for this species. The Organizations also recommend that NMFS consider using density estimates (e.g. false killer whales (FKW) around American Samoa and spotted dolphins around Palmyra) to produce a range of PBR and abundance estimates for pantropical spotted dolphins insular stocks. Further, the Commission recommends that NMFS make full use of information on abundance, density and/or stock ranges, and new analytic methods such as spatially explicit mark-recapture and line-transect models or Bayesian inference from similar cases, to provide bounds on possible abundance estimates and PBR levels for newly split stocks, whenever possible, as was done for pantropical spotted dolphins in waters surrounding Palmyra and for FKW around American Samoa in 2010.

Response: The suggested inclusion of density information from other regions to provide a range of likely abundance and PBR values needs to be evaluated more carefully within the context of small, range-restricted insular populations. NMFS will evaluate such an approach for the future, as well as alternative approaches for assessing abundance based on a range of available data for each of the new insular stocks.

Comment 13: The CRC recommends that NMFS incorporate alternative sources of information on fisheries interactions with melon-headed whales as there is no observer coverage in any nearshore fisheries and Aschettino (2010) documents signs of fishery interactions (bullet wounds and linear scars) in her photo-identification study. The CRC also recommends revising the ''no known fishery mortality'' language in the PBR section, again citing Aschettino (2010) as containing information inconsistent with that statement. And, the CRC notes that the melon-headed whale Kohala resident stock abundance estimate based upon Aschettino (2010) likely overestimates abundance by including both individuals that have died since 2002 and those that were born after 2002 but before 2009. The CRC further recommends that NMFS note that melon-headed whales are sensitive to impacts from anthropogenic sound, citing Southall *et al.* (2013), Southall *et al.* (2006) and Brownell *et al.* (2009) as information sources.

Response: The reference to potential fisheries injuries as evidenced by bullet holes and linear scars, discussed in Aschettino (2010) was added to the final SAR. Lack of observer coverage in all nearshore fisheries was already noted within the SAR. The section on Other Mortality was expanded to include discussion of the Southall *et al.* (2013) report, and the likely overestimation of abundance of Kohala Resident whales was noted in the section on Kohala Resident stock population size. The section on Other Mortality was expanded to include discussion of the Southall *et al.* (2013) report.

Comment 14: The CRC recommends that NMFS revise its language in the

pantropical spotted dolphin SAR (Hawaiian Islands Stock Complex) about photo identification catalogs available through the Collective for developing mark-recapture estimates. The comment notes that the O'ahu and 4-island stocks photos are limited and old and that the Hawai'i Island stock photos are not incorporated into a photo-identification catalog.

Response: The SAR contains language about the availability of photos and states that a photo identification catalog has not been developed. For the Oahu and 4-islands stocks, the text about the photo identification catalog was removed, while for the Hawaii Island stock, the text was clarified regarding the availability of a catalog.

Comment 15: The CRC recommends that NMFS update the pantropical spotted dolphin Status of Stock section to reflect work by Burgess *et al.* (2011) that documented vessel noise associated with directed fishing effort as a habitat issue in Hawaiian waters.

Response: NMFS will further evaluate the impacts of vessel noise on cetacean stocks in the region, but has not included the Burgess *et al.* (2011) reference in the SAR. The suggested study of Burgess *et al.* (coauthored by a SAR author) did not evaluate noise exposure levels or evaluate any responses from cetaceans. The main findings indicate that cetaceans are exposed to echosounder noise, but it is unknown if these sounds represent habitat threats.

Comment 16: The CRC clarifies that the ika-shibi fishery is a tuna fishery that catches squid for bait, not a squid fishery (see Hawai'i rough-toothed dolphin and bottlenose dolphin Fishery Information sections) and also clarifies that gillnet fishing in Hawaiian waters occurs in nearshore areas, making it unlikely that Hawai'i rough-toothed dolphin, striped dolphin, or Fraser's dolphin would interact with gillnets. The CRC recommends that NMFS revise the statement that total fishery-related M/SI can be considered to be insignificant and approaching zero in the Status of Stock section of the Hawai'i rough-toothed dolphin. Rough-toothed dolphins are known to take bait and catch from fishermen off of the island of Hawai'i in unobserved fisheries.

Response: Text in the Status of Stock section has been revised to reflect that insufficient data exist to assess whether fishery-related M/SI is insignificant and approaching zero.

Comment 17: The CRC recommends that NMFS rename the Hawai'i pelagic stock of Blainville's beaked whale to Hawai'i stock until two stocks are recognized. Further, Blainville's beaked whales in Hawaiian waters should be separated into two stocks: Island-associated and pelagic.

Response: The stock's name has been changed in the SAR. SAR text already includes discussion of possible insular and pelagic populations of this species and that splitting the stock may be warranted in the future. However, following recommendation of the SRG, NMFS is not splitting the stock at this time based upon lack of sufficient data.

Comment 18: The CRC recommends that NMFS modify the Status of Stock section for Risso's dolphin Hawai'i stock to reflect world-wide habitat issues. The current status reads: ''no habitat issues are known to be of concern for this species.''

Response: The SAR text reflects that no habitat issues are known for this stock of Risso's dolphin in U.S. waters. Habitat issues in other parts of the world for this species are not discussed in the SAR.

Comment 19: The CRC recommends that NMFS change the wording about the imprecision of the common bottlenose dolphin Hawai'i stock complex, O'ahu stock mark-recapture abundance estimate CV of 0.54, which is similar to the CV (0.59) for the pelagic stock.

Response: Language pertaining to the lack of precision in the O'ahu estimate has been deleted.

Comment 20: The CRC recommends that NMFS revise the fin whale, Hawaiian stock to reflect the potential for anthropogenic sounds to impact fin whale behavior as is done in the CA/OR/WA stock report.

Response: Such language has been added to the Status of Stock section of this report.

Comment 21: The Navy recommends that NMFS make several edits to the Pacific SARs for blue whale (ENP stock), humpback whale (CA/OR/WA stock), fin whale (CA/OR/WA stock), blue whale (CNP stock), and sei whale (Hawaiian stock) to reflect the speculative effects of anthropogenic sound on marine mammal behavior as supported by Goldbogen *et al.* (2013).

Response: NMFS has revised the language in the respective SARs to reflect the full range of behavioral responses reported by Goldbogen *et al.* (2013) for blue whales. For other species, NMFS has changed language to reflect that behavioral responses of other baleen whale species to such sounds may vary.

Comment 22: The Western Pacific Regional Fishery Management Council (Council) recommends that NMFS use a higher recovery factor for the pelagic stock of FKW as supported by Hilborn and Ishizaki (2013). The Hawai'i Longline Association (HLA) recommends that NMFS use a recovery factor greater than 0.5 for the PBR estimate for the pelagic stock of FKW, because all available data contradict any hypothesis that the abundance of FKW in the Hawai'i exclusive economic zone (EEZ) is decreasing.

Response: NMFS is working to obtain additional data to examine abundance trends in pelagic FKW; however, this does not change the conclusions of the Draft 2013 SAR or the Final 2012 SAR (see 78 FR 19446, April 1, 2013, comment 45) that trend analyses are inappropriate with only two data points, particularly given changes in group size estimation and analysis methods in 2010 and that the proportion of the population in the study area, and its variance over time, are not known. The Hilborn and Ishizaki (2013) report lacks sufficiently robust methods in a number of aspects and its conclusions and recommendations are not incorporated into the SAR. Their conclusion that there is an 83% chance that the population is increasing is faulty, as the growth estimate is dependent on many unverified assumptions, conditions, and parameter inputs. More specifically:

(1) The estimates of growth are strongly dependent on the inputs (priors) for the natural vital rate parameters, which are likely optimistic, because they are intended to represent optimal values and exponential growth (i.e., density dependence is ignored). If the population is depleted (low abundance relative to carrying capacity), then these vital rates may be appropriate, in which case, one might conclude that the population is growing from a depleted state toward some equilibrium with fishing mortality (i.e., population growth does not mean the population is at Optimum Sustainable Population (OSP) or otherwise healthy). The ''tuned'' birth rates are known to be far lower than that estimated for other populations of FKW, and the estimates of adult survival are likely too high.

(2) The pelagic stock is treated as a closed population within the Hawai'i EEZ boundary, an assumption known to be false and which would have a significant impact on estimation of population abundance and trend. Given an open population, it is unreasonable to try to estimate a population trend from two estimates, even if the estimates were derived using identical procedures (which they were not); the higher estimate for the more recent survey could simply mean that a greater proportion of the population was within the survey area. Multiple survey

estimates are needed to appropriately infer trends within the survey area, and even then, the trend for entire population would not be known.

(3) Precision of the realized rate for population growth rate (r) is overestimated because uncertainty is ignored for several important parameters, including the number of takes by the fishery (which may also be biased), the multiplier for juvenile survival (0.95 of adult survival), and oldest age of reproduction. A more valid distribution for current r (that more fully accounts for uncertainty in the population model structure, vital rates, and fishing mortality estimates) would likely suggest a more equivocal result for population growth.

In summary, the current status of pelagic FKW is unknown. This population may be depleted given fishing pressures within and outside of the EEZ over several decades. We could expect a depleted population to be growing, though this would not represent a healthy state.

Comment 23: The Council recommends that NMFS clarify that when citing Kobayashi and Kawamoto (1995), interaction rate refers to depredation events, not hookings and entanglements that result in mortality or injury. Additionally, the Council recommends that NMFS remove the Kobayashi and Kawamoto (1995) reference from the rough-toothed dolphin, Hawai'i stock SAR, as the paper only identifies bottlenose dolphins as the primary species causing depredation in the Northwestern Hawaiian Islands (NWHI).

Response: The definition of ''interaction'' in this context has been clarified in the bottlenose dolphin SAR, and the reference removed from the rough-toothed dolphin SAR.

Comment 24: The Council recommends that NMFS revise the Hawaiian Islands stock complex of pantropical spotted dolphins SAR to be consistent with the Proposed 2013 List of Fisheries (LOF), which acknowledges the lack of direct evidence of M/SI in the troll and charter vessel fisheries.

Response: The LOF is based on information from the SARs. The Proposed 2013 LOF (78 FR April 22, 2013) states that ''available information indicates that pantropical dolphins are incidentally injured in theses fisheries at low levels.'' The draft 2013 SAR cites the sources of that available information: Courbis *et al.* (2009), Rizzuto (2007), and Shallenberger (1981), which document observations of troll fishermen ''fishing'' off dolphins to catch tuna and Rizzuto (1997) describes anecdotal reports of hookings. The draft 2013 SAR does not overstate the available evidence of interactions with the Hawaiian Islands stock complex of spotted dolphins.

Comment 25: The Council recommends that NMFS update the number of American Samoa longline permit holders in the SAR Appendix. The draft SAR Appendix says the number is ''unknown;'' however, the comment cites that monthly updated values are available at: *http://www.fpir.noaa.gov/SFD/SFD_permits_index.html.* The Council also recommends that NMFS address the federal management (e.g. Hawai'i Archipelago Fishery Ecosystem Plan (FEP) and Pacific Pelagic FEP) that is in place for Hawai'i's nearshore fisheries that operate in federal waters. Further, the Council recommends that NMFS include information on the Hawai'i FEP annual catch limits in the Pacific SARs.

Response: NMFS appreciates Council's careful attention to the accurate and complete portrayal within the SAR Appendix of the management of Hawaii's nearshore fisheries. The requested changes have been addressed and all State fisheries descriptions have been checked, and if necessary, updated with assistance from NMFS Pacific Islands Regional Office (PIRO) Sustainable Fisheries and Protected Resources Division staff.

Comment 26: The HLA recommends that NMFS revise the pelagic stock of FKW SAR to reflect the discrepancy that takes cannot be at an unsustainable level since there is no evidence of a declining trend in abundance.

Response: This comment has been addressed previously (see 78 FR 19446, April 1, 2013, comments 45 and 51). The comment and included footnote continue to suggest that the pelagic stock of FKW is increasing or stable since 2002, and as such, deep-set fishery takes are not of concern, although serious injury and mortality have been above PBR for more than a decade. The commenter attributes this persistence of FKW despite high levels of fishery mortality to NMFS' improper assessment of the severity of injuries resulting from fisheries interactions, improper assessment of population abundance and trend, or both. Assessment of injury severity under the NMFS' Policy for Distinguishing Serious from Non-Serious Injuries of Marine Mammals has been discussed in previous comment responses, and is based on the best available science on whether a cetacean is likely to survive a particular type of injury. Further study of FKW would certainly better inform the assigned outcomes, but until better data become available, the standard established in the NMFS 2012 policy will stand.

The referenced 2002 and 2010 survey abundance estimates are not comparable in their published form, as the methodology for accurately enumerating FKW groups changed between surveys, significantly increasing the average group size of FKW, and therefore, the resulting abundance estimate. Further, because the entire stock range of pelagic FKW is unknown, but certainly extends beyond the Hawaii EEZ, the available abundance estimates do not reflect true population size. A robust assessment of population trend would require assessment of environmental variables that influence FKW distribution and the proportion of the population represented within the survey area during each survey period. Finally, many years of unsustainable take does not necessarily lead to a population decline. PBR was designed to provide a benchmark, in the face of great uncertainty about marine mammal populations, below which human-caused mortalities would not reduce the population beyond its OSP. (OSP is defined as the abundance where there is ''the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality''). The benchmark does not consider whether a population is declining, as this is very hard to prove, particularly for population abundance estimates with low precision.

Comment 27: The HLA recommends that NMFS revise the population trend information in the insular FKW stock SAR and repeats its comment that the high abundance in 1989 claim lacks good scientific backing and that the population has been stable since 2000.

Response: NMFS responded to a similar comment from the Council on the 2012 SARs (comment 52 in 78 FR 19446, April 1, 2013). NMFS has added language to the Final 2013 SAR clarifying the outcome of the Population Viability Analysis modelling effort—that some two-stage models did allow for a different growth rate around the year 2000—and that some of those models suggested a lower rate of decline in recent years.

Comment 28: The HLA maintains that the deep-set fishery does not interact with the insular FKW stock and objects to NMFS's allocation of a prorated portion of the ''blackfish'' deep-set fishery interaction to the insular stock. The best available science and information dictate that NMFS conclude in its final SAR that there are no

interactions between the deep-set fishery and the insular stock of FKW.

Response: NMFS has responded to these comments previously (see 78 FR 19446, April 1, 2013, Comment 52). The referenced 2011 take near the offshore boundary of the Main Hawaiian Island insular stock is still within the Main Hawaiian Island insular stock boundary and is appropriately treated within the established proration framework. The framework allocates a larger percentage of that take to the pelagic stock given its location. The majority of FKW interactions are not genetically sampled; and therefore, assignment to a specific stock is rarely possible. The GAMMS allows for proration of take based on density information (the current approach) or allocating take in an overlap zone to both stocks, which in this case would result in allocation to pelagic and Main Hawaiian Island insular FKW, as well as to Hawaii short-finned pilot whales given the ''blackfish'' identification.

Comment 29: The HLA disagrees with the conclusion in the insular FKW SAR that the annual M/SI from longline fisheries is ''not approaching zero mortality and serious injury rate because it exceeds 10% of PBR.''

Response: The MMPA mandates that commercial fisheries reduce incidental M/SI of marine mammals to insignificant levels approaching a zero M/SI rate (16 U.S.C. 1387(b)). NMFS has defined this ''insignificance threshold'' in regulation as 10% of PBR (50 CFR 229.2). Annual M/SI in longline fisheries exceed this level; and thus, the statement is warranted.

Comment 30: The HLA recommends that NMFS re-evaluate how it assigns fisheries interactions to FKW in the absence of data. The HLA cites two examples and suggests that prorated interactions were unfairly counted against the fisheries: An interaction was categorized as a serious injury based on little to no data and a ''blackfish'' interaction was assigned to FKW.

Response: Both proration approaches used—(1) for injury status when observer records are inadequate to determine whether an injury is serious or not, and (2) for allocation of blackfish, a category used to encompass interactions known to be short-finned pilot whales or FKW—are data based. The proportion of injuries categorized as serious versus non-serious is used to inform injury classification for those cases where injury severity is unclear. There is a clear record of the types of injuries that FKW typically suffer. Applicability of that information to inform those cases that are unclear due to the inability of the observer to completely view the animal, or accurately describe the degree of entanglement or location of hooking, is appropriate and supported within GAMMS. Similarly, when a species group such as ''blackfish'' is used to assign interactions in cases where species identification can only be resolved to within two species (short-finned pilot whales and FKW), it is appropriate to evaluate the interaction rates of each of those species to inform an appropriate proration scheme. Ignoring those interactions would create a bias in M/SI estimates, thereby under-representing total M/SI of each species. Both proration schemes are updated annually to reflect the most recent data on serious versus non-serious injury rates and the occurrence of pilot whale and FKW interactions.

Comment 31: The HLA recommends that NMFS re-evaluate its stock delineations of FKW and asserts that NMFS rushed judgment when declaring the NWHI stock, which has overlapping range with the insular and pelagic stocks.

Response: NMFS disagrees that the designation of new stocks is not scientifically justified. The separation of the NWHI stock and the Hawaii insular and pelagic stocks is sound and based on multiple lines of evidence, including genetic analyses indicating significant differentiation in both mtDNA and nucDNA, photo identification indicating separation from the tight social network of the Main Hawaiian Islands animals, and satellite telemetry data suggesting island and atoll association within the NWHI. The data on FKW stock structure, including the new NWHI stock, have been evaluated both for demographic independence, the benchmark for separation under the MMPA, and for evolutionary separation, the more stringent standard for separation under the ESA.

Comment 32: The HLA recommends that NMFS explain its rationale in prorating a serious injury of Hawai'i stock of sperm whales and the circumstance surrounding an interaction with the deep-set fishery. The comment states that in the absence of conclusive information, the interaction must be designated as ''non-serious.''

Response: The details of this and all other interactions are provided in the cited Bradford and Forney (2013), and the justification and rationale for use of 75% proration is discussed within NMFS' Policy for Distinguishing Serious from Non-Serious Injuries of Marine Mammals (NMFS 2012), which employed a data-based approach of assigning serious injury proration based on the known outcomes of individual whales suffering those injuries. This results in a more informed determination than the ''more likely than not'' standard used for other serious injury determinations when information on the survival of individuals suffering those types of injuries is unknown. The cited references provide the necessary detail. While NMFS does not believe it is necessary or practical to detail the circumstances of every injury within the text of the SAR, some additional information on this particular injury was added to the 2013 SAR.

Comment 33: The HLA recommends that NMFS remove the sentence: ''Large whales have been observed entangled in longline gear in the Hawai'i EEZ in the past (Forney 2010)'' from the blue whale (CNP stock), fin whale (Hawai'i stock), sei whale (Hawai'i stock), and minke whale (Hawai'i stock) SARs. The cited report does not document a single interaction between the longline fisheries (dating back to 1994) and any of the listed stocks.

Response: The statement was removed from each of the referenced SARs.

Comment 34: The HLA recommends that NMFS remove the statement in the Hawaiian monk seal SAR that reads: ''[l]ongline hooks have also been recovered from Hawaiian monk seals, but these were not observed during longline fishing operations.'' The HLA states that no interactions have been documented since 1991 when waters within 50 miles of the NWHI were closed to longline fishing. The statement in the SAR refers to pre-1991 amendment information and inaccurately implies that longline fisheries may interact with monk seals.

Response: This outdated text appears in the Description of U.S. Fisheries Appendix, not in the monk seal SAR. It has been removed. The existing SAR text reflects the current management plan implemented to protect monk seals.

Comment 35: The Organizations recommend that NMFS remove the sentence from the harbor seals, OR/WA coast stock that reads: ''[t]he stock is within its Optimum Sustainable Population (OSP) level,'' noting that more recent data are needed before that claim can be made. The Organizations also recommend that NMFS update abundance estimates for this stock and expressed frustration that despite numerous recent abundance surveys no published data are yet available.

Response: NMFS has updated the OSP language in this SAR (and in the WA state inner waters SARs) to reflect

that in the absence of recent abundance estimates, the status of this stock relative to OSP is unknown. NMFS will not reduce an outdated estimate of N_{min} at this time, as the proposed guidelines for applying such reductions in the absence of new abundance estimates have not been finalized. In addition, because abundance estimates are outdated, there is no valid estimate of N_{min} to reduce. The lack of recent abundance estimates is due to incomplete surveys within the range of these stocks, owing to both weather and funding challenges.

Comment 36: The Organizations noted that, as with the OR/WA coast stock of harbor seals, there is no recent published research available to update abundance and distribution information on the Washington inland waters stocks of harbor seals, despite ongoing research activities. Additionally, the fishermen self-reported deaths of harbor seals suggest that harbor seals are being killed in fishery interactions and NMFS should undertake an observer program.

Response: See response to Comment 35 regarding research activities. Observer programs exist for tribal gillnet fisheries in the region that self-report takes. Additional observer programs for fisheries that interact with harbor seals are detailed in the fishery tables of the respective SARs.

Comment 37: The Organizations recommend that NMFS include the threats posed by ciguatoxins and potent algal neurotoxins in the Hawaiian monk seal SAR.

Response: NMFS responded to this comment in the 2012 draft SAR public comment process. Regarding ciguatoxin, the Bottein *et al.* (2011) paper represents an advance in detection of these compounds. However, whether and to what degree they may influence monk seal mortality is not known.

Comment 38: The Organizations recommend that NMFS consider a limited observer program in the gillnet fishery to monitor for harbor porpoise (various stocks) interactions.

Response: Commercial gillnet fisheries in the range of these harbor porpoise stocks are largely limited to tribal fisheries that provide self-reporting of takes. NMFS agrees that additional observer programs are needed to better document gillnet bycatch, but funding for such observer programs is limited.

Comment 39: The Organizations recommend that NMFS obtain an incidental take statement (ITS) for scientific research trawls for sardines and rockfish because from 2007 to 2011, there were 26 mortalities and 4 serious injuries of Pacific white-sided dolphins in scientific research trawls. The ITS should address mitigation measures or gear modifications.

Response: The NMFS Southwest Fisheries Science Center (SWFSC) applied for a Letter of Authorization (LOA) under the MMPA in 2013 for takes that may occur incidental to its fisheries research surveys. In its application, SWFSC describes a suite of mitigation measures it has implemented with the aim of minimizing future takes. For threatened or endangered marine mammals, NMFS will conduct separate but parallel ESA section 7 consultations, which could result in authorized incidental take of threatened or endangered marine mammals, if warranted.

Comment 40: The Organizations recommend that NMFS re-evaluate the population trend for the Southern Resident killer whale using the 1987–2011 timeframe as in Velez-Espino (2012). Limiting the time frame results in a 0.91 per year declining trend. The Organizations also recommend that NMFS incorporate new evidence of winter habitat for Southern Resident killer whales from Hanson (2013).

Response: NMFS responded to the population trend and prey availability comments in the draft 2012 SAR public comment process. Since the first complete census of this stock in 1974 when 71 animals were identified, the number of Southern Resident killer whales has fluctuated annually. There have been periods of increases and declines over this time, and there is no justification in choosing any particular starting year in determining if this stock is declining or growing. The commenters state that only the time period 1987–2011 should be evaluated for trends in abundance. In 1987, the population count was 84 animals, which increased to 99 animals by 1995. In 2012, the count had declined to 85 animals, one animal more than was counted in 1987. Regarding prey availability, the SAR currently contains language and references regarding potential effects of limited prey availability on this population of killer whales. New information on the winter habitat of this population will be included in the draft 2014 report.

Comment 41: The Organizations recommend that NMFS add a vessel strike involving a sperm whale, CA/OR/WA stock from a 2007 observer report.

Response: NMFS did not revise the CA/OR/WA sperm whale SAR in 2013. However, the SAR will be revised in 2014 and will include updated information on vessel strikes.

Comment 42: The Marine Mammal Commission (Commission) recommended that the PBR for monk seal be zero.

Response: Appropriate treatment of PBR for Hawaiian monk seals has long been a controversial issue within the NMFS stock assessment community. Below is background and explanation of how NMFS arrived at ''undetermined'' PBR for monk seals. As the Commission noted, this issue was thoroughly discussed at the GAMMS III workshop. Some participants maintained that for consistency and compliance with the MMPA, the PBR equation should be calculated for all stocks, including the monk seal. They further made the point that PBR does not itself authorize take. Others maintained, consistent with the Commission's position, that PBR should be set to zero. This was not recommended in the GAMMS III workshop report. A PBR of zero using the PBR formula would require that either the Recovery Factor or R_{max} would be zero. Some thought that ''setting Fr to zero would require a change to the MMPA, and that it would be difficult to defend setting R_{max} to zero for any stock.''

Following the GAMMS III workshop, NMFS decided to continue reporting monk seal PBR as undetermined, consistent with what had been done since the issue was previously considered at GAMMS II. Reporting a PBR calculated using the PBR formula would not be consistent with the intent of PBR in that there is clearly no surplus production of monk seals that could be removed while allowing the population to return to OSP. While GAMMS III allows for PBR in such cases to be qualified by additional text, it seems ineffective to present a value then explain that it is not valid. Setting PBR to zero would contradict the current GAMMS III guidance and could be construed that either R_{max} or the Recovery Factor were zero, raising the complications noted above.

NMFS appreciates the Commission's concern that ''with PBR undetermined there is no reference point against which the magnitude of human-caused mortality and serious injury can be evaluated, which makes it difficult to focus management and public attention on eliminating human-caused mortality and serious injury.'' NMFS believes that in practice, the public and managers are more influenced by the monk seal's ESA status (and associated Recovery Plan and Critical Habitat designation), National Environmental Policy Act compliance and public outreach efforts of NOAA, partner agencies and NGOs, than by the PBR. As such, NMFS believes that an ''undetermined'' PBR poses no real risk to monk seal recovery.

Comment 43: The Commission noted that ''This section (of the monk seal SAR) describes the decline in population size in the Northwestern Hawaiian Islands as if it was monotonic at 3.4% per year. However, examination of the data points in Figure 1 suggests that the rate of decline was much faster from 2004 to 2008, and much slower, perhaps even near zero, from 2008 to 2011. We suggest that the report contain some discussion and evaluation of the possibility that the rate of decline has changed over time.''

Response: The monk seal trend is based on a regression fitted to the 10 most recent years' estimates. This is a compromise between precision (having enough years to obtain an estimate with low error) and accuracy. As the Commission noted, the monk seal decline appeared to cease during 2008–2011; however, it may have proven premature to include this in the text. Preliminary data from 2012–2013 indicate lower abundance estimates consistent with a continuing decline (demonstrating the potential pitfall of making strong inferences on just a few years' data).

On this same subject, NMFS has two main concerns about estimating monk seals trends. First, and this is noted in the SAR, the trend is based only on 6 NWHI sites, which excludes Necker, Nihoa and the MHI. NMFS is working to obtain reliable abundance estimates for these excluded sites, so that the analysis better reflects total stock trends. Second, in 2012–2013, budget shortfalls resulted in very short NWHI field seasons, so that the apparent drop in abundance in those years could be real or may simply reflect inadequate surveillance. Indications are that funding will allow for adequate surveillance in 2014. NMFS believes it is likely that the rate of decline has been reduced in the NWHI, but wishes to be more certain this is a sustained trend before reporting it in the SAR.

Comment 44: The Commission noted that in the Human-caused Mortality and Serious Injury section of the monk seal SAR the statement ''[t]his second decline . . . appear[s] to have been driven by . . . and by human disturbance from military or U.S. Coast Guard activities (Baker *et al.* 2012 . . .)'' was revised by deleting ''military or U.S. Coast Guard activities.'' While Baker *et al.* (2012) do dismiss the potential impact of military activities, they cite Gilmartin *et al.* (2011) as supporting the potential impact of Coast Guard activities.

Response: The monk seal SAR states that the decline apparently was driven both by variable oceanic productivity and human disturbance. The reference to human disturbance is meant to identify this generic cause regardless of whether the people involved were civilians, federal employees or members of any uniformed service.

Comment 45: The Commission suggested that some discussion of the risk to monk seals posed by Fukushima debris might be included in the SAR.

Response: Despite public concerns after the Fukushima disaster, no tsunami debris has been documented to have harmed or contacted a monk seal.

Comment 46: The Commission wanted to know why the trend figure in the Morro Bay harbor porpoise SAR was removed and noted it should be updated to include the 2012 survey estimate. The Commission asked why the finding that the population was increasing was deleted. An explanation, beyond simply noting the wide confidence limits on individual estimates, should be provided for why further analyses are required to establish if the population is increasing.

Response: The trend figure was removed because the most recent abundance estimates used different methods and results cannot directly be compared to past estimates. Thus, the figure would be misleading. A more sophisticated Bayesian trend analysis is planned in the future, and results will be included in the next revision of this SAR. This response applies to other harbor porpoise reports where current trend analyses are lacking.

Comment 47: The Commission noted that in the Current and Maximum Net Productivity Rates section of the harbor porpoise SARs, the statement that ''[t]his maximum theoretical rate [9.4% per year from Barlow and Boveng (1991)] may not be achievable for any real population.'' As it is not apparent how this conclusion was reached, the report should contain an explanation and justification for the statement. The Commission noted that this comment applies also to the other harbor porpoise stocks.

Response: This statement has been included in the harbor porpoise SARs since 1995 and is based on conclusions from the Barlow and Boveng (1991) paper. The 9.4% theoretical rate uses a human survivorship curve, which represents a maximum survival in a protected environment and is expected to be the absolute limit to the likely survivorship of any wild population. NMFS has modified the text to clarify this statement.

Comment 48: The Commission noted that the Ward (2012) reference used to justify the value of R_{max} used in the Southern Resident killer whale SAR was unpublished and not available to assess the suitability of the R_{max} value used in the SAR.

Response: An updated Ward (2013) reference is cited in the final 2013 SAR. Ward (2013) summarizes a distribution of growth rate estimates for Southern Resident killer whales (Figure 7), ranging from approximately 0.98 (a negative growth rate) to the value of 1.032 cited in the SAR. The value of R_{max} used in the SAR represents the best estimate of maximum population growth rate over the period 1979–2010, which is less than the default value used for most cetaceans.

Comment 49: The Commission recommended reducing the recovery factors for stocks of CA/OR/WA Cuvier's beaked whales and Mesoplodont beaked whales, given the observed declines for these stocks.

Response: NMFS used a default recovery factor of 0.5 for these two stocks, which have shown evidence of decline. The GAMMS allow for lowering default recovery factors when the precision of human-caused mortality levels (coefficient of variation or CV) is known. For example, recovery factors may be lowered from the 0.5 default to 0.4 for a stock of unknown status or a depleted stock when the human-caused mortality CV exceeds 0.8 (Wade and Angliss 1997). In the case of U.S. west coast stocks of Cuvier's beaked whale and Mesoplodont beaked whales, there are no estimates of human-caused mortality. Changes to default recovery factors for reasons other than adjustments related to mortality CV should be reviewed by regional SRGs. NMFS agrees that the recovery factors could be adjusted downward, but there is no justification for choosing any particular recovery factor value less than the default for these beaked whale stocks at present. NMFS will consult with the Pacific SRG regarding the recovery factors for these stocks prior to the next revision of these reports.

Comment 50: The Commission noted that ship strikes of unidentified large whales (such as Eastern North Pacific blue whales) were not prorated to species in the SARs, similar to what is done when unidentified blackfish are prorated in the FKW and short-finned pilot whale Pacific Islands reports.

Response: Proration of unidentified blackfish in the Pacific Islands SARs is based on a distance-from-shore model developed from observer program data and in consultation with the Pacific SRG. In contrast, no systematic proration scheme has been developed for U.S. west coast serious injury records of unidentified whales. NMFS has added text to the appropriate large

whale SARs indicating that some of the unidentified large whale serious injury records may represent the species at hand. NMFS will also consult with the Pacific SRG on developing proration schemes for unidentified whale records in future stock assessments.

Comment 51: The Commission suggested adding language to the OR/WA coast harbor seal SAR that acknowledges negative biases in bycatch and mortality estimates resulting from the failure of observers to detect all events.

Response: NMFS has added language to the SAR, acknowledging that bycatch mortality estimates likely represent minimum values, especially for fisheries where observer coverage is low and bycatch events are infrequent. For fisheries with adequate observer coverage (the definition of ''adequate'' will vary depending on the rate of bycatch and associated observer coverage), bycatch estimates should be unbiased if methods are sound and sample sizes are sufficient.

Comment 52: The Commission noted that mortality levels in the harbor seal OR/WA coast stock Status of Stock section attributed to unknown hook and line fisheries was 0.4 seal per year, but the value reported in the Fisheries Information section was 0.6.

Response: The two values represent different sources of mortality and injury. The 0.6 per year listed in Table 1 is from stranding data, excluding hook and line fishery interactions that may be from recreational fisheries, and is not included in commercial fishery cases listed in the Fisheries Information section and Table 1. The 0.4 mean annual mortality (from stranding data) caused by unknown hook and line fisheries is not listed in Table 1 or included in the calculation of mean annual commercial fishery mortality because it is not known if these deaths were caused by commercial or recreational fisheries. However, this mortality is included in the calculation of total mean annual human-caused mortality.

Comment 53: In the OR/WA coast harbor seal SAR (and for other west coast harbor seal SARs), the Commission noted that text states ''[t]he stock is within its Optimum Sustainable Population (OSP) level'' and provides two supporting references. Given that recovering and maintaining populations at OSP is a primary goal of the MMPA, a summary of the findings of those references should be provided.

Response: OSP for the Oregon/Washington Coast stock of harbor seals is discussed in the Population Size section of the SAR, under the Current Population Trend heading, and illustrated in Figure 2. The SAR text states: ''The population remained relatively low during the 1960s, but since the termination of the harbor seal bounty program and with the protection provided by the passage of the MMPA in 1972, harbor seal counts for this stock have increased from 6,389 in 1977 to 16,165 in 1999 (Jeffries *et al.* 2003; ODFW, unpublished data). Based on the analyses of Jeffries *et al.* (2003) and Brown *et al.* (2005), both the Washington and Oregon portions of this stock have reached carrying capacity and are no longer increasing (Fig. 2).'' However, the abundance surveys from which the OSP statements were based in the draft SAR are from abundance surveys that are outdated. Also, no formal OSP designation was ever made for these stocks by NMFS. NMFS has added text to the Status of Stock section as follows: ''The stock was previously reported to be within its OSP range (Jeffries *et al.* 2003, Brown *et al.* 2005), but in the absence of recent abundance estimates, this stock's status relative to OSP is unknown.''

Comment 54: The Commission suggested adding/clarifying text in the California northern fur seal SAR related to correction factors, trends, recovery, maximum net productivity rates, carrying capacity and OSP.

Response: NMFS appreciates this suggestion and has added clarifying text to the California northern fur seal SAR.

Comments on Alaska Regional Reports

Comment 55: The Organizations recommend that NMFS update the estimates of Alaska Native harvest. Many SARs (e.g. bearded seals and ringed seals) note that subsistence harvest data have not been collected since 2009, and the Organizations would like to see this remedied.

Response: NMFS responded to this comment previously in 78 FR 19446, April 1, 2013, Comments 56, 63, and 74. NMFS continues to work with its Alaska Native Organization (ANO) co-management partners on prioritizing harvest monitoring programs within the annual ANO co-management funding program.

Comment 56: The Organizations recommend that NMFS consider management of sub-stocks within the Western stock of Steller sea lions to better manage portions of the range that are still in decline.

Response: Stocks serve as the unit for management of species of marine mammals managed by NMFS. NMFS will continue to monitor the trends in portions of this stock throughout the range in order to make appropriate management decisions for the conservation of the stock of western Steller sea lions.

Comment 57: The Organizations recommend that NMFS start an observer program to monitor gillnet interactions with the Western stock of Steller sea lions. Additionally, the Cook Inlet drift gillnet fishery has data from 1999 that are stated in a footnote to be ''preliminary,'' however they are 15 years old.

Response: NMFS is not operating the Alaska Marine Mammal Observer Program in 2014 due to a lack of available resources, and its future is uncertain. The footnote regarding ''preliminary'' Cook Inlet data from 1999 is erroneous and appears to be an inadvertent carryover from 2001 when the data were first inserted into the table. The data are not preliminary and are the best available. NMFS has modified the SAR accordingly.

Comment 58: The Organizations recommend that NMFS revise the Eastern stock of Steller sea lion SAR to account for immigration from the Western stock.

Response: NMFS is updating the draft 2014 SAR to better address movements and colonization of western Steller sea lions into the northern portion of the range of the eastern distinct population segment (DPS). The observations of marked sea lion movements corroborate extensive genetics research findings suggesting a strong separation between the two currently recognized stocks. Permanent movements between the western and eastern Steller sea lion stocks represent a very small percentage of the total count of sea lions in either stock and would have a negligible impact on non-pup trend estimates for either stock.

Comment 59: The Organizations recommend that NMFS better account for the decline in the California portion of the eastern stock of Steller sea lions' range.

Response: NMFS has noted a decline in the numbers of Steller sea lions in California, the southern portion of the Steller sea lion's range. However, the eastern stock is increasing throughout the northern portion of its range (Southeast Alaska and British Columbia) and is stable or increasing slowly in the central portion (Oregon through central California). These trends are summarized in the Habitat Concerns section of the SAR, and it is suggested that environmental changes, particularly warmer temperatures, may not be favorable for Steller sea lions in the southern portion of the Steller sea lion's range. There has been no known increase in human-caused or natural

mortality of Steller sea lions in the southern portion of their range.

Comment 60: The Organizations recommend that NMFS revise the SAR for the Eastern stock of Steller sea lions to include up-to-date management information (e.g. status review and de-listing notice).

Response: The final rule to delist the eastern Distinct Population Segment of Steller sea lion under the Endangered Species Act was released 04 November 2013, subsequent to SRG review and release of the SARs for public comment. This rule became effective 04 December 2013. NMFS will revise the draft 2014 eastern Steller sea lion SAR to reflect this decision and update the information provided in the SARs.

Comment 61: The Organizations recommend that NMFS lower the recovery factor in the PBR estimate for most of the harbor seal stocks.

Response: Some of the estimates that are cited in the SAR do not include information from the most recent survey as those data have not yet been fully analyzed. NMFS is in the process of analyzing an extensive data set from recent surveys of harbor seals throughout their range in Alaska, including the significant extensions of statistical theory and methods. As soon this analysis can be completed, the abundance, trends, and appropriate recovery factors will be updated in the SAR.

Comment 62: The Organizations recommend that NMFS remove the citation Bengtson *et al.* (2010) from the ringed seal SAR because the data used in the abundance estimate in that paper are 15 years old. It is not appropriate to generate ''new'' estimates of abundance based on this paper.

Response: There is no citation of ''Bengtson *et al.* (2010)'' in the ringed seal SAR. The section on population size acknowledges that current, comprehensive, and reliable abundance estimates or trends for the Alaska stock are not available. All appropriate sections have been modified to indicate that the estimates are unavailable given the age of the survey data.

Comment 63: The Organizations recommend that NMFS highlight acoustic threats to Cook Inlet beluga whales in the Habitat Impacts section. The Organizations applaud NMFS for being cautionary and for not making a PBR estimate for this stock.

Response: NMFS updated the Habitat Concerns section of the Cook Inlet beluga SAR with a statement regarding the consideration of acoustics threats in the NMFS Recovery Plan for Cook Inlet Beluga Whales. This section will be updated, as appropriate, once the Recovery Plan is available. Furthermore, NMFS, in collaboration with the Alaska Department of Fish and Game and Scripps Institution of Oceanography, is currently completing a study to characterize the background noise, including anthropogenic sources, in Cook Inlet and its potential displacement effect on Cook Inlet belugas. A final report of this study will be available in summer of 2014, and the SAR will be updated as appropriate.

Comment 64: The Organizations recommend that NMFS observe gillnet interactions with harbor porpoises in other portions of their range outside Southeast Alaska.

Response: NMFS is not operating the Alaska Marine Mammal Observer Program in 2014 due to a lack of available resources, and its future is uncertain. NMFS acknowledges that the observations of the 1990–1991 Prince William Sound, 1991 Aleutian Islands, 2002 and 2005 Kodiak and 1999–2000 Cook Inlet salmon set and drift gillnet fisheries are dated and reflect between 0.16 and 6 percent observer coverage. The mean annual mortality rate incidental to all U.S. commercial fisheries is 71.4. Incidental take of the Bering Sea stock of harbor porpoise could occur in the Aleutian Islands set and drift gillnet fisheries. The set gillnet fishery has not been observed. The drift gillnet fishery was observed in 1991. In 1992, two interactions were reported in logbooks in the Alaska Peninsula/Aleutian Island salmon set gillnet fishery, resulting in an estimated annual mortality of 0.5. Allen *et al.* (2014) report one harbor porpoise from the Gulf of Alaska stock taken in either the Cook Inlet set or drift gillnet fishery in 2008 and one mother and one calf from the Bering Sea stock taken in the Norton Sound Salmon set gillnet subsistence fishery in 2007.

Comment 65: The Organizations recommend that NMFS add clarity to the statements in the harbor porpoise, Southeast Alaska stock SAR. The statement: ''[t]he estimated minimum mean annual mortality of harbor porpoises in Southeast Alaska based on incidental catch reported to the stranding network is 0.6 for the 5-year period from 2007–2012.'' And the statement: ''[t]he average minimum annual human-caused mortality and serious injury of Southeast Alaska harbor porpoises based on unconfirmed incidental catch and other human-caused activity reported to the stranding network is 0.2 for the 5-year period from 2007–2011.'' The discrepancy between these two statements requires further explanation as to why there are 2 separate estimates.

Response: NMFS has clarified the language to reflect that one estimate is the summary of confirmed incidental take reports from stranding records and thus summarized in the Fisheries Information section of the SAR, whereas the other estimate is a summary of unconfirmed (but likely) incidental take reports that are certainly human-caused M/SI, and therefore reported in the Other Mortality section of the SAR.

Comment 66: The Organizations recommend that NMFS consider how to apportion the mortality to the Southeast Alaska/Northern British Columbia, Aleutian Islands, and Gulf of Alaska management units of the CNP stock of humpback whales.

Response: NMFS estimates the annual human-caused M/SI of marine mammal stocks by source as required under the MMPA. The Southeast Alaska/Northern British Columbia, Aleutian Islands, and Gulf of Alaska humpback whales are feeding aggregations and not considered management units at this time. The central North Pacific stock is the management unit for this stock of humpback whales. The status and population structure of humpback whales in the North Pacific and elsewhere is currently under review by NMFS as part of a global status review of the species. If this result in any changes to existing management units, M/SI data for stocks will be apportioned to align with any new units.

Comment 67: The Organizations recommend that NMFS make a precautionary abundance estimate for fin whales based on known minimums within the range and/or prioritize additional effort to ascertaining abundance.

Response: The stock assessment report for fin whales reports the best information available on fin whales. Given that this estimate derives from data gathered from only part of the likely range of this stock, it is likely to represent a very conservative minimum.

Comment 68: The Organizations recommend that NMFS classify the Iliamna Lake seal as a separate stock of harbor seals.

Response: The analysis of genetic and other information that supports the discreteness of harbor seals in Iliamna Lake was completed in late autumn, 2013, which was too late for incorporation into the current SAR. NMFS will determine whether those seals should be designated as a stock under the MMPA through the appropriate process, including consultation under its co-management agreement with the Alaska Native Harbor Seal Commission.

Comment 69: To improve stock assessment efforts in Alaska, the Commission recommends that NMFS provide an explanation as to why the 2014 priority activities recommended in the recovery plan for the critically endangered eastern population of the North Pacific right whale were not considered an agency priority for funding, and indicate when the agency expects to allocate the roughly $2.5M in funding required to implement the first two years of the recovery plan activities.

Response: NMFS is currently seeking modest funding for small projects from outside sources (including the Commission) to analyze acoustic data to examine the occurrence of right whales in the Bering Sea. However, because of the remote nature of right whale habitats in the North Pacific, conducting surveys or any other field work requires considerably more resources than are available.

Comments on Atlantic Regional Reports

Comment 70: The Ocean Conservancy recommends that NMFS fund a restoration project to use high-definition video to assess marine mammal, sea turtle, and pelagic bird abundance in the Gulf of Mexico.

Response: NMFS is one of the Federal and state partners that are involved in recommending restoration projects as part of the follow-up to the 2010 BP oil spill in the Gulf of Mexico. Currently NMFS does not use high-definition video as one of its standard tools for assessing marine mammals and sea turtles in the Gulf of Mexico. The role of high-definition video in future NMFS assessments in the Gulf of Mexico is being evaluated, and it could be considered as part of restoration if it is appropriate.

Comment 71: Organizations recommend updating some of the citations regarding sightings of large whales. They also recommend that NMFS add Gulf of Mexico sightings of North Atlantic right whales from the New England Aquarium's report card to the SAR, and add Jordan Basin as a major habitat for North Atlantic right whales.

Response: Following advice from the reviewer, NMFS has added a reference to Cole *et al.* (2013), as well as inserting mention of sightings in the Gulf of Mexico and the 2013 calving in Cape Cod Bay.

Comment 72: The Organizations recommend that NMFS re-calculate the PBR estimate for North Atlantic right whales using a 2.8% growth rate instead of the 4% default R_{max}.

Response: R_{max} is not the same as the observed population growth. In theoretical demographic models, R_{max} is the maximum that a population could grow (birth and survival are largely unconstrained by carrying capacity pressures). Although we have no definitive data to suggest that North Atlantic right whales have in their evolutionary history ever achieved the 4% default value, we do know that the extant population suffers considerable mortality (largely from anthropogenic sources) that has nothing to do with forage limitations or social conflicts. Therefore, it is highly unlikely that the observed growth rate of 2.8% is R_{max}.

Comment 73: The Organizations recommend that NMFS revise Table 2 in the North Atlantic right whale SAR. The old format was clearer and information has been omitted. The 01 February 2011 mortality was left off the new table. A gear type was not assigned to the 31 March 2007 entanglement mortality despite it being documented at U.S. origin.

Response: It was our intention that the SAR table would be a summary of the detailed information presented in the Serious Injury and Mortality reports. However, at the request of the reviewer, NMFS has reinstated the comments column. The 01 February 2011 event was not omitted. It is the animal originally sighted alive and entangled on 25 December 2010 (Eg #3911). In the 2007–2011 reports, we classified this animal as a Serious Injury due to entanglement because the cause of death was technically exsanguination due to shark predation. So, it was included in the Cole and Henry Serious Injury report (and counts as 1 against PBR; Cole, T. V. N., and A. G. Henry 2013). We acknowledge that this is confusing and it will be corrected to and reported as a morality with proximate cause of death = entanglement and ultimate cause of death = shark predation in the 2008–2012 mortality report.

The Serious Injury and Mortality reports detail how an event is attributed to a country even without recovered gear. The 31 March 2007 event was determined to be a U.S. event based on the fact that it was a 2–3 month old calf and most likely encountered the entanglement between Florida and North Carolina.

Comment 74: The Organizations recommend that NMFS add that there are a notable number of entanglements of minke whales in gillnets to the Fisheries Interaction section of the SAR.

Response: Text has been added in the Other Fisheries section to mention the prevalence of gillnet entanglements.

Comment 75: The Organizations recommend that NMFS revise the 2008 sperm whale, Gulf of Mexico oceanic stock longline interaction to include an extrapolated serious injury to the calf that was with the mother that was entangled.

Response: Section 117 of the MMPA directed that strategic stocks be reviewed every year, and updated if there is any significant new information. There is no significant new information in this case. Based on the limited information on the 2008 sperm whale entanglement case, even if the serious injury determination changed for this animal and its calf, the conclusion about the status of this stock does not change. For this reason, NMFS will defer the update and will likely be revising this SAR for 2015 drafts to include any published conclusions about the impacts of the Deepwater Horizon oil spill on sperm whales.

Comment 76: The Organizations recommend that NMFS develop distinct text for the dwarf sperm whales and pygmy sperm whales as they are separate SARs.

Response: Dwarf and pygmy sperm whales can be difficult to differentiate at sea and in much of the limited literature on at-sea distributions, they are treated as a group. Based on stranding locations of the two species, the distributions of the two species are very similar. The text in the SARs reflects this lack of distinct knowledge of each species. For future SARs, NMFS will review the recent literature on dwarf and pygmy sperm whales to determine whether text specific to each species is now appropriate. Recent work by Staudinger *et al.* (2013) reported that feeding ecologies are similar for both species, and both species occupy equivalent trophic niches in the U.S. mid-Atlantic.

Comment 77: The Organizations recommend that NMFS not lump the undifferentiated complex of beaked whales (Ziphius and Mosoplodon spp.) in the Atlantic Ocean. The stocks have been separated with individual SARs, yet most assessments remain lumped. They also strongly urge NMFS to insert text similar to that in the Pacific SARs acknowledging challenges to stocks of beaked whales and other acoustically sensitive species from the expected increase in impacts from intense sound sources.

Response: Beaked whale species are hard to differentiate at sea so separate abundance estimates and bycatch estimates for each species are not feasible. As a result, for bycatch of undifferentiated beaked whales we have been applying the risk-averse strategy recommended by Atlantic SRG assuming that any beaked whale stock which occurred in the U.S. Atlantic EEZ might have been subject to the observed

fishery-related mortality and serious injury. We have added the following text from the Pacific SAR to the Status of Stock section: ''. . . questions have been raised regarding potential effects of human-made sounds on deep-diving cetacean species, such as [species] beaked whales (Richardson *et al.* 1995).''

Comment 78: The Organizations recommend that NMFS not combine mortality reports for long-finned and short-finned pilot whales.

Response: Mortality reports for cetaceans including long-finned and short-finned pilot whales from the pelagic longline fishery were not combined. The draft 2014 SARs will address breakdowns for additional fisheries.

Comment 79: The Organizations recommend that NMFS expand the bycatch estimates for 2011 for pilot whales.

Response: Trawl estimates were delayed due to issues with stock separation. In the 2014 draft SARs the estimates will be provided and the species differentiated.

Comment 80: The Organizations recommend that NMFS clarify when data from beyond the most recent five-year period (e.g. 2011 for the 2013 SARs) will be used, as the harbor porpoise SAR includes information about a 2013 Take Reduction Team meeting, which seems superfluous. They also recommend NMFS work with Canadian authorities to better define gillnet impacts in Canada.

Response: NMFS has contacted Canadian officials and received information on sink gillnet effort in the Bay of Fundy. While this fishery is less active in the area than in the past, and there is no observed reporting of harbor porpoise bycatch, NMFS believes it is still more conservative to use the outdated estimates of interactions than to assume no interactions are happening. Text describing the TRT meeting has been removed.

Comment 81: The Organizations recommend that NMFS include information about the harbor seal Unusual Mortality Event from 2011 that some of the animals tested positive for a virus (Influenza A H3N8). The Organizations applaud NMFS for using 2012 survey information in the harbor seal SAR.

Response: Text has been added to indicate that some of the seals tested positive for influenza.

Comment 82: The Organizations recommend that NMFS consider adding that a Unusual Mortality Event was declared in 2013 for common bottlenose dolphins on the Atlantic coast.

Response: The 2013 draft SARs cover the time period 2007–2011, and they were drafted during 2012. NMFS believes it is appropriate to use consistent time periods for reporting in each of the SARs. The cut-off point for including information under Annual Human-Caused Mortality and Serious Injury for the 2013 SAR was the end of 2011. Other information that is available and pertinent at the time of drafting will be included.

Comment 83: The Organizations recommend that NMFS remove the ''pre- and post-Take Reduction Plan (TRP)'' table of mortality from the Atlantic common bottlenose dolphin SARs since it only goes through 2006.

Response: The table includes information through 2008, so it is appropriate to include the ''pre- and post-TRP'' table in the 2013 SAR. The most recent five-year period included in the 2013 SAR is 2007–2011.

Comment 84: The Organizations recommend that NMFS update the Gulf of Mexico bottlenose dolphin stocks with the significant new information from Deepwater Horizon research and Unusual Mortality Event strandings.

Response: Information that is available and pertinent at the time of drafting will be included. The 2013 draft SARs cover the time period 2007–2011.

Comment 85: The Commission recommends that NMFS include in the North Atlantic right whale stock assessment report: (1) An evaluation of the current population size relative to the carrying capacity of the environment, (2) a discussion of the possible reasons for the low population growth rate relative to that estimated for southern right whale populations, and (3) the reasons why the recent estimate of net population growth rate was rejected in favor of the default rate.

Response: With existing data, and given our limited understanding of the structure and dynamics of the current ecosystem, it is not possible to reliably estimate carrying capacity for right whales. Given the early and largely undocumented history of whaling on this species in the North Atlantic (including off the coast of North America), it is impossible to derive a reliable (i.e. precise), baseline for pre-exploitation population size, and anyway use of such a number as a proxy for carrying capacity relies upon various assumptions, the validity of which is debatable. Likewise, genetic-based estimates of pristine population size are not currently available, and even if they were these usually represent a harmonic mean over evolutionary time which has little or no relevance to the situation and to management today; this is particularly true in light of the extensive perturbations introduced into the marine environment by human overfishing, which may well have rendered the current ecosystem (and thus carrying capacity) radically different from one in a pristine state.

Use of the default rate for the maximum productivity rate (R_{max}) in calculation of PBR for the North Atlantic right whale stock is in accordance with GAMMS guidelines. We attempted to use the maximum observed growth rate in a previous stock assessment, arguing that the population is low and therefore not likely under ''abundance pressure.'' We argued that this was the highest rate ever documented for this species, and it represents the capacity to rebound from additional human caused mortality (very risk averse). However, the Atlantic SRG noted that this variance was without precedence, and that we should revert back to the default value. In total, it matters little because the calculated PBR is <1 for both the maximum observed (depressed) and default values of R_{max}.

Comment 86: The Commission recommends that NMFS make every effort to identify pilot whale serious injury and mortality data that can be apportioned to one or the other species, and, in the stock-assessment reports, attribute serious injury and mortality data to one of the two species, but only to an ''unidentified pilot whale'' category if the former cannot be achieved.

Response: In the 2013 SARs pilot whale mortality for the Atlantic pelagic longline fishery, the fishery with the highest observed interaction rate with pilot whales was apportioned to species. All of the pilot whales involved with longline interactions were determined to be short-finned pilot whales, and therefore, the estimate for longline bycatch was only attributed to short-finned pilot whales. The draft 2014 SARs will apportion to species pilot whale interactions with the other fisheries with observed pilot whale takes.

Dated: August 13, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–19623 Filed 8–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of Membership Solicitation for Hydrographic Services Review Panel.

SUMMARY: In accordance with the Hydrographic Service Improvements Act of 1998, as amended (33 U.S.C. 892 *et seq.*), the National Oceanic and Atmospheric Administration (NOAA) is soliciting nominations for membership on its Hydrographic Services Review Panel (HSRP). The HSRP, a Federal advisory committee, advises the Administrator on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act and such other appropriate matters as the Administrator refers to the Panel for review and advice. Those responsibilities and authorities include, but are not limited to: Acquiring and disseminating hydrographic data and providing hydrographic services, as those terms are defined in the Act; promulgating standards for hydrographic data and services; ensuring comprehensive geographic coverage of hydrographic services; and testing, developing, and operating vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services. The Act states that ''voting members of the Panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator.'' As such, the NOAA Administrator welcomes applications from individuals with expertise in marine navigation; port administration; marine shipping or other intermodal transportation industries; cartography and geographic information systems; geodesy; physical oceanography; coastal resource management, including coastal resilience and emergency response; and other related fields. To apply for membership on the Panel, applicants are asked to provide: (1) A cover letter that includes responses to the ''Short Response Questions'' listed below, and (2) a current resume to the address specified below. NOAA is an equal opportunity employer.

Short Response Questions

(1) What area(s) of expertise, as listed above, would you best represent on this panel?

(2) Which geographic region(s) of the country do you primarily associate your expertise?

(3) Describe your leadership or professional experiences which you believe will contribute to the effectiveness of this panel.

(4) Generally describe the breadth and scope of stakeholders, users, or other groups whose views and input you believe you can represent on the panel.

DATES: Cover letter, responses, and current resume materials should be sent to the address, email, or fax specified. All materials must be received by October 10, 2014.

ADDRESSES: Submit to Lynne Mersfelder-Lewis via mail, fax, or email. Mail: Lynne Mersfelder-Lewis, NOAA National Ocean Service, Office of Coast Survey, NOAA (N/CS), 1315 East-West Highway, SSMC3 Rm. 6864, Silver Spring, MD 20910; Fax: 301–713–4019; or Email: *Lynne.Mersfelder@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Lynne Mersfelder-Lewis, NOAA National Ocean Service, Office of Coast Survey, NOAA (N/CS), 1315 East-West Highway, SSMC3 Rm. 6126, Silver Spring, Maryland 20910; Telephone: 301–713–2702 x199, Fax: 301–713–4019; Email: *lynne.mersfelder@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under 33 U.S.C. 883a, *et seq.,* NOAA's National Ocean Service (NOS) is responsible for providing nautical charts and related information for safe navigation. NOS collects and compiles hydrographic, tidal and current, geodetic, and a variety of other data in order to fulfill this responsibility. The HSRP provides advice on current and emerging oceanographic and marine science technologies relating to operations, research and development; and dissemination of data pertaining to:

(a) Hydrographic surveying;
(b) shoreline surveying;
(c) nautical charting;
(d) water level measurements;
(e) current measurements;
(f) geodetic measurements;
(g) geospatial measurements;
(h) geomagnetic measurements; and
(i) other oceanographic/marine related sciences.

The Panel has fifteen voting members appointed by the NOAA Administrator in accordance with 33 U.S.C. 892c. Members are selected on a standardized basis, in accordance with applicable Department of Commerce guidance. In addition, there are four non-voting members that serve on the Panel: the Co-Directors of the NOAA-University of New Hampshire Joint Hydrographic Center/Center for Coastal and Ocean Mapping, and the Directors of NOAA's Office of National Geodetic Survey and NOAA's Center for Operational Oceanographic Products and Services. The Director, NOAA Office of Coast Survey, serves as the Designated Federal Official (DFO).

This solicitation requests applications to fill six (6) voting member vacancies on the Panel as of January 1, 2015. Additional appointments may be made to fill vacancies left by any members who choose to resign during 2015. Some voting members whose terms expire January 1, 2015, may be reappointed for another full term if eligible. Full-time officers or employees of the United States may not be appointed as a voting member. Any voting member of the Panel who is an applicant for, or beneficiary of (as determined by the Administrator) any assistance under 33 U.S.C. 892c shall disclose to the Panel that relationship, and may not vote on any matter pertaining to that assistance. Voting members of the Panel serve a four-year term, except that vacancy appointments are for the remainder of the unexpired term of the vacancy. Members serve at the discretion of the Administrator and are subject to government ethics standards. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may continue to serve until his or her successor has taken office. The Panel selects one voting member to serve as the Chair and another to serve as the Vice Chair. Meetings occur at least twice a year, and at the call of the Chair or upon the request of a majority of the voting members or of the Administrator. Voting members receive compensation at a rate established by the Administrator, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when engaged in performing duties for the Panel. Members are reimbursed for actual and reasonable expenses incurred in performing such duties.

Individuals Selected for Panel Membership

Upon selection and agreement to serve on the HSRP, individuals who are

appointed will become Special Government Employees (SGE) of the United States Government. According to 18 U.S.C. 202(a), an SGE is an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a fulltime or intermittent basis. Please be advised that applicants selected to serve on the Panel must complete the following actions before they can be appointed as a Panel member:

(a) Background Security Check and fingerprinting conducted through NOAA Workforce Management; and

(b) Confidential Financial Disclosure Report—As an SGE, you are required to file a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. You may find the Confidential Financial Disclosure Report at the following Web site. *http://www.usoge.gov/forms/form_450.aspx.*

Dated: August 8, 2014.

Gerd F. Glang,

Rear Admiral, Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2014–19606 Filed 8–18–14; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Board of Visitors, National Defense University (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed in accordance with the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act''), and 41 CFR 102–3.50(d).

The Board is a discretionary Federal advisory committee that provides the Secretary of Defense and/or the Deputy Secretary of Defense, through the Chairman of the Joint Chiefs of Staff and the President of the National Defense University, independent advice and recommendations on the overall management and governance of the National Defense University in achieving its mission to support the joint warfighter by providing rigorous Joint Professional Military Education to members of the U.S. Armed Forces and select others in order to develop leaders who have the ability to operate and creatively think in an unpredictable and complex world.

The DoD, through the Office of the Chairman of the Joint Chiefs of Staff and the President of the National Defense University and the University Office of Academic Affairs, provides the necessary support for the performance of the Board's functions and ensures compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) (''the Sunshine Act''), governing Federal statutes and regulations, and established DoD policies and procedures.

The Board shall be comprised of no more than 12 members, who are appointed by the Secretary of Defense. The members are eminent authorities in the fields of defense, management, leadership, academia, national military strategy or joint planning at all levels of war, joint doctrine, joint command and control, or joint requirements and development.

The Secretary of Defense or the Deputy Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall select the Board's Chair and Co-Chair from the approved Board membership. The leadership appointments shall not exceed the individual member's approved term of service.

Board members, who are not full-time or permanent part-time Federal officers or employees, shall be appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee (SGE) members. Board members who are full-time or permanent part-time Federal employees shall be appointed, pursuant to 41 CFR 102–3.130(a), to serve as regular government employee (RGE) members.

Each Board member is appointed to provide advice to the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest. With the exception of reimbursement for official Board-related travel and per diem, Board members shall serve without compensation.

The Secretary of Defense, or the Deputy Secretary of Defense, may approve the appointment of Board members for one-to-four year terms of service with annual renewals. However, no member, unless authorized by the Secretary of Defense or the Deputy Secretary of Defense, may serve more than two consecutive terms of service. This same term of service limitation also applies to any DoD authorized subcommittees.

In addition, the Chairman of the Joint Chiefs of Staff, pursuant to DoD policies and procedures, may appoint, as deemed necessary, non-voting consultants as subject matter experts (SMEs) to provide special expertise to the Board. These SMEs, if not full-time or part-time government employees, shall be appointed, pursuant to 5 U.S.C. 3109, on an intermittent basis to work specific Board-related efforts, shall have no voting rights whatsoever on the Board or any of its subcommittees, shall not participate in the Board's deliberations, and shall not count toward the Board's total membership. All experts and consultants shall serve terms of appointments as determined by the Chairman of the Joint Chiefs of Staff, and those appointments may be renewed, as appropriate.

DoD, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Chairman of the Joint Chiefs of Staff, as the DoD sponsor.

Such subcommittees shall not work independently of the Board and shall report all of their recommendations and advice solely to the Board for full and open deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or its members can update or report, verbally or in writing, on behalf of the Board, directly to the DoD or to any Federal officer or employee.

The Secretary of Defense or the Deputy Secretary of Defense will appoint subcommittee members to a term of service of one-to-four years, with annual renewals, even if the member in question is already a member of the Board. Subcommittee members shall not serve more than two consecutive terms of service unless authorized by the Secretary of Defense or the Deputy Secretary of Defense.

Subcommittee members, if not full-time or part-time Federal officers or employees, shall be appointed as experts and consultants, pursuant to 5 U.S.C. 3109, to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal officers or employees will serve as RGE members, pursuant to 41 CFR 102–3.130(a). With the exception of reimbursement for official Board-related travel and per diem, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures. The estimated number of Board meetings is two per year. The Board's Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee appointed in accordance with governing DoD policies and procedures.

The Board's DFO is required to be in attendance at all meetings of the Board and any of its subcommittees for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to established DoD policies and procedures, shall attend the entire duration of the Board or any subcommittee meeting.

The DFO, or the Alternate DFO, shall call all meetings of the Board and its subcommittees; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Board of Visitors, National Defense University membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board of Visitors, National Defense University.

All written statements shall be submitted to the DFO for the Board of Visitors, National Defense University, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Board of Visitors, National Defense University DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.*

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Board of Visitors, National Defense University. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: August 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–19631 Filed 8–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Secretary of Defense, Reserve Forces Policy Board, DoD.

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Reserve Forces Policy Board (RFPB) will take place.

DATES: Wednesday, September 10, 2014 from 8:25 a.m. to 4:15 p.m.

ADDRESSES: The address for the meeting is the Army Navy Country Club, 1700 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Sabol, Designated Federal Officer, (703) 681–0577 (Voice), (703) 681–0002 (Facsimile), Email—*Alexander.J.Sabol.Civ@Mail.Mil.* Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://rfpb.defense.gov/.* The most up-to-date changes to the meeting can be found on the RFPB's Web site.

SUPPLEMENTARY INFORMATION: This meeting notice is being published under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to obtain, review and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components. Additionally, the Board will review its work from the past year and determine what matters to include in the annual report required by law to be transmitted to the President and the Congress by the Secretary of Defense.

Agenda: The RFPB will hold a meeting from 8:25 a.m. until 4:15 p.m. The meeting will be open to the public and will consist of remarks to the RFPB from invited speakers that include the RFPB Fellows Society to discuss their views regarding strategies, policies and practices affecting the Reserve Components; Commander, U.S. Cyber Command to discuss the increased emphasis placed on cyber security and logical mission fit for Reserve Component members; and the Chief, National Guard Bureau to discuss the National Guard's challenges and opportunities with future military strategy, resources and structure of America's Armed Forces. There will also be two panels: A ''Reserve Component Chief's'' Panel with participants that include the Chief, Navy Reserve; Chief, Army Reserve; Commander, Marine Forces Reserve; Acting Director, Army National Guard; Chief, Air Force Reserve; Director, Air National Guard; and Acting Director, Coast Guard Reserve to discuss top challenges and opportunities for each of the Reserve Components and the implications of diminishing resources future strategies for Reserve Component use and the future Reserve Component budgets: And a ''Think Tank'' Panel with participants from the Center for Strategic and Budgetary Assessments, the American Enterprise Institute Marilyn Ware Center for Security Studies, and the Center for a New American Security to exchange views on rising defense costs; diminishing resources; and the implications for Active-Reserve Component force structure, readiness, and relations. Additionally, the three RFPB subcommittee chairs will provide updates on the work of their respective subcommittee. The Enhancing DoD's Role in the Homeland Subcommittee plans to update on subcommittee issues concerning Defense Support of Civil Authorities and FEMA requirements and discuss Homeland issues under consideration for further research and analysis as possible RFPB matters of interest. The Supporting & Sustaining Reserve Component Personnel Subcommittee plans to provide an overview of available programs that provide confidential assistance and support to Service members and their families to manage stress, and build resilience. The subcommittee will also update the progress on the Survivor Benefits Program and Duty Status recommendations to the Secretary of

Defense. The Ensuring a Ready, Capable, Available and Sustainable Operational Reserve Subcommittee plans to provide updates on previous discussion on the examination of Reserve Components ancillary training issues, medical readiness, and enlisted and junior officer perspectives as revealed by Defense Manpower Data Center's Status of Forces Survey of the Reserve Components data.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public from 8:25 a.m. to 4:15 p.m. Seating is based on a first-come, first-served basis. All members of the public who wish to attend the public meeting must contact Mr. Alex Sabol, the Designated Federal Officer, not later than 12 p.m. on Thursday, September 4, 2014, as listed in the **FOR FURTHER INFORMATION CONTACT.**

Written Statements: Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the FACA, interested persons may submit written statements to the RFPB at any time about its approved agenda or at any time on the Board's mission. Written statements should be submitted to the RFPB's Designated Federal Officer at the address or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the RFPB until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice. Please note that since the RFPB operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the RFPB's Web site.

Dated: August 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–19608 Filed 8–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Scientific Advisory Board Notice of Meeting

AGENCY: U.S. Air Force Scientific Advisory Board, Department of the Air Force.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the United States Air Force Scientific Advisory Board (SAB) meeting will take place 3–4 September, 2014, at the Secretary of the Air Force Technical and Analytical Support Conference Center, 1550 Crystal Drive, Arlington, VA 22202. The meeting will be from 1 p.m.–4:30 p.m. Wednesday, 3 September 2014, and 8 a.m.–4:30 p.m. on Thursday, 4 September, 2014. The sessions from 1 p.m.–2 p.m. on Wednesday, 3 September, 2014, will be open to the public.

The purpose of this Air Force Scientific Advisory Board quarterly meeting is to receive briefings from Air Force leadership and plan for the FY15 SAB studies. In accordance with 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, some sessions of the United States Air Force Scientific Advisory Board meeting will be closed to the public because they will discuss information and matters covered by section 5 U.S.C. 552b(c)(1) and (2).

Any member of the public wishing to attend this meeting or provide input to the United States Air Force Scientific Advisory Board must contact the Designated Federal Officer at the address detailed below at least five days prior to the meeting date. Submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the United States Air Force Scientific Advisory Board until its next meeting. The Designated Federal Officer will review all timely submissions with the United States Air Force Scientific Advisory Board Chairperson and ensure they are provided to members of the United States Air Force Scientific Advisory Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: The United States Air Force Scientific Advisory Board Deputy Executive Director and Alternate Designated Federal Officer, Lt Col Darren M. Edmonds, United States Air Force Scientific Advisory Board, 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762, *Darren.M.Edmonds.mil@mail.mil* or 240–612–5503.

Mario Edmundo Bryant,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2014–19568 Filed 8–18–14; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors Meeting

ACTION: Notice of Meeting of the Air University Board of Visitors.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Air University Board of Visitors' fall meeting will take place on Monday, November 17th, 2014, from 8:00 a.m. to approximately 4:30 p.m. and Tuesday, November 18th, 2014, from 8:00 a.m. to approximately 4:30 p.m. The meeting will be held at the Air Force Research Institute (AFRI) located at 155 North Twining Street, Maxwell Air Force Base Alabama. The purpose of this meeting is to provide independent advice and recommendations on matters pertaining to the educational, doctrinal, and research policies and activities of Air University. The agenda will include topics relating to the policies, programs, and initiatives of Air University educational programs.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155 all sessions of the Air University Board of Visitors' meeting will be open to the public. Any member of the public wishing to provide input to the Air University Board of Visitors should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal

Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Air University Board of Visitors until its next meeting. The Designated Federal Officer will review all timely submissions with the Air University Board of Visitors' Board Chairperson and ensure they are provided to members of the Board before the meeting that is the subject of this notice. Additionally, any member of the public wishing to attend this meeting should contact the person listed below at least five calendar days prior to the meeting for information and base entry passes.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Arnold, Designated Federal Officer, Air University Headquarters, 55 LeMay Plaza South, Maxwell Air Force Base, Alabama 36112–6335, telephone (334) 953–2989.

Mario Edmundo Bryant,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2014–19624 Filed 8–18–14; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0102]

Agency Information Collection Activities; Comment Request; Generic Application Package for Departmental Generic Grant Programs

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 20, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0102 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–245–6110.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Generic Application Package for Department Generic Grant Programs.

OMB Control Number: 1894–0006.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 9,861.

Total Estimated Number of Annual Burden Hours: 447,089.

Abstract: The Department is requesting an extension of the approval for the Generic Application Package that numerous ED generic grant programs use to provide to applicants the forms and information needed to apply for new grants under those grant program competitions. The Department will use this Generic Application package to (1) use the standard ED or Federal-wide grant applications forms that have been cleared separately through OMB and (2) use selection criteria from the Education Department General Administrative Regulations (EDGAR); statutory selection criteria or a combination of EDGAR and statutory selection criteria authorized under EDGAR, 34 CFR 75.200. The use of the standard ED grant application forms and the use of EDGAR and/or statutory selection criteria promote the standardization and streamlining of ED generic grant application packages.

Dated: August 14, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–19630 Filed 8–18–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0123]

Agency Information Collection Activities; Comment Request; Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 20, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0123 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept

comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jo-Anne Cheatom, 202–377–3730.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2).

OMB Control Number: 1845–0089.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 732.

Total Estimated Number of Annual Burden Hours: 3,660.

Abstract: The purpose of the form is to gather financial information from the institution in order to process claims for payment. ED Payment Analysts compare data on the form with disbursement records in the Common Origination and Disbursement system to determine what amount will be paid to the institution under the restricted method of payments. Data and signatures are collected from the institution on these forms. The data collected is in regards to the Title IV program funds that are requested and certified by the institution in the President/Owner/Chief Executive Officer and the Financial Aid Director/Third Party Servicer section of the form. The forms are signed by the institution official and submitted when requesting payment for Reimbursement or Heightened Cash Monitoring 2 claims.

Dated: August 14, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–19629 Filed 8–18–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Rehabilitation Training: Job-Driven Vocational Rehabilitation Technical Assistance Center

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information

Rehabilitation Training: Job-Driven Vocational Rehabilitation Technical Assistance Center; Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.264A.

DATES:

Applications Available: August 19, 2014.

Date of Pre-Application Webinar: August 21, 2014.

Deadline for Transmittal of Applications: September 18, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of the Program: Under the Rehabilitation Act of 1973, as amended (the Rehabilitation Act), the Rehabilitation Services Administration (RSA) makes grants to States and public or nonprofit agencies and organizations (including institutions of higher education) to support projects that provide training, traineeships, and technical assistance designed to increase the numbers, and improve the skills, of qualified personnel (especially rehabilitation counselors) who are trained to: Provide vocational, medical, social, and psychological rehabilitation services to individuals with disabilities; assist individuals with communication and related disorders; and provide other services authorized under the Rehabilitation Act.

Priority: This notice contains one absolute priority. This absolute priority is from the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this absolute priority.

This priority is: *Job-Driven Vocational Rehabilitation Technical Assistance Center.*

Note: The full text of this priority is included in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, and in the application package for this competition.

Program Authority: 29 U.S.C. 772(a)(1).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations in 34 CFR part 385. (d) The notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: $3,000,000.

Maximum Award: We will reject any application that proposes a budget exceeding $3,000,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Project Period: Up to 36 months.

Note: The Department is not bound by any estimates in this notice.

III. Eligibility Information

1. *Eligible Applicants:* States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher educations.

2. *Cost Sharing or Matching:* Cost sharing of at least 10 percent of the total cost of the project is required of the grant recipient. Any program income that may be incurred during the period of performance may only be directed towards advancing activities in the approved grant application and may not be used towards the 10 percent match requirement. The Secretary may waive part of the non-Federal share of the cost of the project after negotiations if the applicant demonstrates that it does not have sufficient resources to contribute the entire match (34 CFR 386.30).

Note: Under 34 CFR 75.562(c), an indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. Indirect costs in excess of the limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.264A.

To obtain a copy from the program office, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 75 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit of 75 pages applies to all of the application narrative section, Part III. We will reject your application if you exceed the page limit for Part III.

However, the page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page double-spaced abstract.

If you submit optional materials such as resumes, a bibliography, or letters of support, please limit these materials to a total of no more than 50 pages.

3. *Submission Dates and Times:*

Applications Available: August 19, 2014.

Date of Pre-Application Webinar: Interested parties are invited to participate in a pre-application Webinar. The date of the pre-application Webinar with staff from the Department will take place on Thursday, August 21, 2014. The Webinar will be recorded. For further information about the pre-application Webinar, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Deadline for Transmittal of Applications: September 18, 2014.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2014.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at SAM.gov. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html*.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html*.

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Rehabilitation Training: Job-Driven Vocational Rehabilitation Technical Assistance Center, CFDA number 84.264A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the Rehabilitation Training: Job-Driven Vocational Rehabilitation Technical Assistance Center competition at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.264, not 84.264A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov*.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues With the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following

business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Jerry Elliott, U.S. Department of Education, 400 Maryland Avenue SW., Room 5042, Potomac Center Plaza (PCP), Washington, DC 20202–2800. FAX: (202) 245–7591.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.264A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.264A), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Government Performance and Results Act of 1993 (GPRA) directs Federal departments and agencies to improve the effectiveness of programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The purpose of this proposed priority is to fund a cooperative agreement with the goal of establishing a Job-Driven Vocational Rehabilitation Technical Assistance Center (JDVRTAC) to achieve, at a minimum, the following outcomes: (a) Improve the ability of State VR agencies to work with employers and providers of training to ensure equal access to and greater opportunities for individuals with disabilities to engage in competitive employment or training; (b) Increase the number and quality of employment outcomes in competitive, integrated settings for VR-eligible individuals with disabilities, including broadening the range of occupations for such individuals in such settings, that result from job-driven strategies; and (c) Increase the number of VR-eligible individuals with disabilities in employer-driven job training programs.

The Cooperative Agreement will specify the short-term and long-term measures that will be used to assess the grantee's performance against the goals and objectives of the project and the outcomes listed in the preceding paragraph.

In its annual and final performance report to the Department, the grant recipient will be expected to report the data outlined in the Cooperative Agreement that is needed to assess its performance.

The Cooperative Agreement and annual report will be reviewed by RSA and the grant recipient between the third and fourth quarter of each project period. Adjustments will be made to the project accordingly in order to ensure demonstrated progress towards meeting the goal and outcomes of the project.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Jerry Elliott, U.S. Department of Education, 400 Maryland Avenue SW., Room 5042, PCP, Washington, DC 20202–2800. Telephone: (202) 245–7335 or by email: *jerry.elliott@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 13, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–19587 Filed 8–18–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Committee on Foreign Medical Education and Accreditation

AGENCY: Office of the Secretary, White House Liaison, National Committee on Foreign Medical Education and Accreditation (NCFMEA), Department of Education.

ACTION: Request for Nominations to Serve on the National Committee on Foreign Medical Education and Accreditation (NCFMEA).

SUMMARY: At this time, the Secretary of Education invites interested parties to submit nomination(s) for individuals to serve on the National Committee on Foreign Medical Education and Accreditation (NCFMEA).

SUPPLEMENTARY INFORMATION: The NCFMEA was established by the Secretary of Education under Section 102 of the Higher Education Act of 1965, as amended. The Committee shall consist of eleven (11) members appointed to a three year term (staggered one year, two year, or three year term, as determined by the Secretary of Education), one of whom shall be a student at the time of appointment, enrolled in an accredited medical school.

Upon request from a foreign country, the NCFMEA evaluates the standards of accreditation applied to applicant foreign medical schools in that country

and determines the comparability of these standards to standards for accreditation applied to medical schools in the United States. Medical schools located in foreign countries that lack an NCFMEA finding of comparability of their accrediting standards are not eligible to have their U.S. students receive Federal student aid funds under Title IV of the HEA.

Nomination Process: Any interested person or organization may nominate one or more qualified individuals. If you would like to nominate an individual or yourself for appointment to the NCFMEA, please submit the following information to the U.S. Department of Education's White House Liaison Office.

- A cover letter addressed to the Secretary of Education as follows: Honorable Arne Duncan, Secretary of Education, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202. In the letter, please state your reason(s) for nominating the individual or yourself;
- A copy of the nominee's or your current resume or curriculum vitae.
- Contact information for the nominee (name, title, business address, business phone, fax number, and business email address).

In addition, the cover letter must include a statement affirming that the nominee (if you are nominating someone other than yourself) has agreed to be nominated and is willing to serve on the Committee if selected. Nominees should be broadly knowledgeable about foreign medical education and accreditation, respected in the educational community, and representative of the relevant constituencies.

DATES: Nominations for the NCFMEA must be received no later than 12:00 noon Eastern Standard Time, Tuesday, September 2, 2014.

ADDRESSES: You may submit nominations, including attachments via email to: *whitehouseliaison@ed.gov* (specify in the email subject line ''NCFMEA Nomination'').

For questions, please contact the U. S. Department of Education White House Liaison Office at (202) 453–5737.

Electronic Access to this Document: The official version of this document is published in the **Federal Register.** Free Internet access to the official version of this notice in the **Federal Register** and the applicable Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 14, 2014.

Sam Myers, Jr.,

White House Liaison, U.S. Department of Education.

[FR Doc. 2014–19633 Filed 8–18–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and Request for Comments.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The Department of Energy (DOE), Office of Science (SC) has chosen to leverage the use of Government, Off-the-Shelf (GOTS) software capabilities to implement a new consolidated system called Portfolio Analysis and Management System (PAMS). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. This notice is being republished due to the time lapsed from original publication.

DATES: Comments regarding this proposed information collection must be received on or before October 20, 2014. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Portfolio Analysis and Management System (PAMS) Information Collection Request (ICR) by email at *pams-irc-comments@science.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Marina Amoroso by email at *marina.amoroso@science.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* New.

(2) *Information Collection Request Title:* Information Collection Request Title: Portfolio Analysis and Management System (PAMS) Submissions for Letter of Intent (LOI), Pre-proposals, Interagency Proposals, and DOE National Laboratory Proposals; System Registration by External Users.

(3) *Type of Request:* New.

(4) *Purpose:* This new system is based on the Health Resources and Services Administration (HRSA) Electronic Handbooks software. Discretionary financial assistance proposals continue to be collected using Grants.gov but are imported into PAMS for use by the program offices. Under the proposed information collection, an external interface will be implemented in PAMS to allow two other types of proposal submission: DOE National Laboratories will be able to submit proposals for technical work authorizations directly into PAMS, while other Federal Agencies will be able to submit Proposals for interagency awards directly into PAMS. External users from all institution types will be able to submit Solicitation Letters of Intent and Pre-proposals directly into PAMS. All applicants, whether they submitted through Grants.gov or PAMS, will be able to register with PAMS to view the proposals that were submitted. They will also be able to maintain a minimal amount of information in their personal profile. The proposed collection will automate and streamline the submission, tracking, and correspondence portions of financial award pre-review processes. The information collected will be used by DOE to select applicants and projects for financial awards.

(5) *Annual Estimated Number of Respondents:* The following numbers are calculated using the average of the number of financial assistance proposals received in fiscal year 2006 through fiscal year 2010. 9,920 PAMS registrants, who are to include 8,000 submitters of lab proposals, interagency proposals, pre-proposals, and Letters Of

Intent (LOI) (assuming one person per estimated submission) and 1,920 reviewers of proposals submitted through Grants.gov.

(6) *Annual Estimated Number of Total Responses:* Annual Estimated Number of Total Responses: The Office of Science receives about 1,000 DOE national laboratory and interagency proposals per year, based on an average of estimated submission numbers (fiscal year 2006 through fiscal year 2014) and about 7,000 pre-proposals and letters of intent per year, based on an estimate of about 200 per solicitation and the number of solicitations per year (about 35, based on an average between fiscal year 2006 and fiscal year 2014).

(7) *Annual Estimated Number of Burden Hours:* The time it takes to complete a form depends upon the type of form being completed. External users will need to register with PAMS in order to access the system. It takes approximately 30 minutes for external users to complete the forms required to become a registered PAMS user. Both LOI and pre-proposal forms take 15 minutes each, whereas completing a lab/interagency proposal will take about 2 hours. The reviewers require about 1 hour of analysis, per submission. Based on the annual estimated number of responses, broken down by DOE national laboratory, letter of intent and pre-proposal, the annual estimated time required for reviewers to complete analysis or responses and the time required for external users to register with PAMS, the estimated annual number of burden hours is 10,630.

Total number of unduplicated respondents: 9,920.

Reports filed per person: 1.

Total annual responses: 9,920.

Total annual burden hours: 10,630.

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0.

Statutory Authority: Section 641 of the Department of Energy Organization Act, codified at 42 U.S.C. 7251.

Issued in Washington, DC, on August 12, 2014.

Marina Amoroso,

Deputy Project Manager for Information Technology and Services Office of Science.

[FR Doc. 2014–19676 Filed 8–18–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Electric Transmission Congestion Study

AGENCY: Department of Energy.

ACTION: Notice of Public Comment.

SUMMARY: The Department of Energy (Department) invites public comment on the draft National Electric Transmission Congestion Study.

DATES: Comments must be received on or before October 20, 2014.

ADDRESSES: The draft study is available for review at *http://www.energy.gov/node/942311.* Written comments may be submitted electronically to *Congestionstudy.comments@hq.doe.gov.* Written comments may also be delivered by conventional mail to David Meyer, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585. Commenters are cautioned, however, that all conventional mail to the Department is subject to an automatic security screening process that may take up to three weeks and sometimes renders mailed material illegible.

FOR FURTHER INFORMATION CONTACT: David Meyer, at *David.Meyer@hq.doe.gov,* or telephone 202–586–1411.

SUPPLEMENTARY INFORMATION: Section 1221(a) of the Energy Policy Act of 2005, codified at 16 U.S.C. 824p(a), directs the Secretary of Energy to conduct an electric transmission congestion study every three years, and to prepare it in consultation with affected states and regional reliability organizations. In the study, the Department seeks to provide information about transmission congestion by focusing on specific indications of transmission constraints and congestion and their consequences. The study focuses on a specific time frame—i.e., historical trends over the past few years, and looking forward three to five years. The study is based entirely on publicly available data and transmission-related documents.

The draft study is available for review at *http://www.energy.gov/node/942311.* All comments received will be made publicly available on *http://www.energy.gov/node/942311.* After reviewing and considering the public comments, the Department will prepare and release a final version of the study.

Issued at Washington, DC, on August 14, 2014.

Patricia A. Hoffman,

Assistant Secretary, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–19690 Filed 8–18–14; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9915–14–OARM; EPA–HQ–OEI–2012–0836]

Notification of a New System of Records Notice for the EPA Personnel Access and Security System (EPASS)

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Office of Administration and Resource Management, Office of Administration, Security Management Division is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). The EPA Personnel Access and Security System (EPASS) is being created to comply with the Homeland Security Presidential Directive-12 (HSPD–12), which was issued on August 12, 2004 and signed on August 27, 2004. HSPD–12 mandates a government-wide federal standard for ensuring that identification cards issued to government employees and contractors are reliable and secure. EPASS complies with the federal requirements and will enhance security, increase efficiency, reduce identity fraud, and protect personal privacy.

DATES: Persons wishing to comment on this new system of records notice must do so by September 29, 2014.

ADDRESS: Submit your comments, identified by Docket ID No. EPA–HQ–2012–0836, by mail:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: oei.docket@epa.gov.*
- *Fax:* 202–566–1752.
- *Mail:* OEI Docket, Environmental Protection Agency, Mail code: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* OEI Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2012–0836. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information

claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* 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 *http://www.epa.gov/epahome/dockets.htm.*

Docket: All 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 for which disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1745.

FOR FURTHER INFORMATION CONTACT: Kelly Glazier, Security Management Division (SMD) Acting Director, (202) 564–0351.

SUPPLEMENTARY INFORMATION:

General Information

The U.S. Environmental Protection Agency (EPA) plans to create a Privacy Act system of records for the EPA Personnel Access and Security System (EPASS). This system is being created for the purpose of issuing credentials to EPA employees and its contractors that meet the requirements of Homeland Security Presidential Directive 12 (HSPD–12) issued on August 12, 2004. The Directive requires the development of a mandatory, government-wide standard for issuing secure and reliable forms of identification to executive branch employees and federal contractors for access to federally controlled facilities and networks.

The National Institute of Standards and Technology (NIST) further defined the issuance standards in Federal Information Processing (FIP) Standards Publication 201which describes the minimum requirements for a federal personal identification verification (PIV) system. EPA's identification system, EPASS, complies with all HSPD–12 requirements. It is designed to link a person's identity to an identification credential and link the credential to a person's ability to physically and logically access federally-controlled buildings and information systems.

EPASS will contain information on all Agency employees, contractors, consultants, volunteers and other workers who require long-term, regular access, as required by their position, to federal facilities, systems and networks. The personal information collected in the personnel enrollment process consists of data elements necessary to verify the identity of the individual and to perform background or other investigations. EPASS will collect the applicant's name, date of birth, Social Security Number, organizational affiliations, fingerprints, work email address and phone number(s), other verification and demographic information, and the applicant's photograph.

Dated: June 24, 2014.

Renee P. Wynn,

Acting Assistant Administrator, and Acting Chief Information Officer.

EPA–62

SYSTEM NAME:

EPA Personnel Access and Security System (EPASS)

SYSTEM LOCATION:

Environmental Protection Agency, Office of Administration and Resource Management (OARM), Office of Administration (OA), Ariel Rios Building, MC3201A, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The System will collect and maintain information on individuals who require long-term, regular access as required by their position, to EPA-controlled facilities and information technology systems, including federal employees, contractors, grantees, students, interns, volunteers, other non-federal employees and individuals formerly in any of these positions. The System does not collect information on occasional visitors or short-term guests to whom the Agency may issue temporary identification.

CATEGORIES OF RECORDS IN THE SYSTEM:

Enrollment records: full name and history of name changes, social security number, applicant ID number, date of birth, gender, race, height, weight, hair color, eye color, digital color photograph, fingerprints, biometric template (two fingerprints), employee affiliation, work email address, work telephone number(s), office location and organizational unit, employee status, foreign national status, federal emergency response official status, National Agency Check with Inquiries (NACI) status (permanent or provisional), citizenship status, government agency code, computer login name/user principal name (UPN), and personal identification verification (PIV) card issuance location. Records in EPASS's Identity Management System (IDMS) and Card Management System (CMS) are needed for credential management of enrolled individuals and include PIV card serial number, digital certificate serial number, PIV card issuance and expiration dates, PIV card personal identification number (PIN), cardholder unique identifier (CHUID), and card management keys. All sponsored individuals enrolled within EPASS may be issued a PIV card. The PIV card contains the following mandatory information: name, photograph, individual's affiliation, organizational affiliation, PIV card expiration date, Agency card serial number, and color-coding for employee affiliation. The card also contains an integrated circuit chip which is encoded with the following data elements: cardholder unique identifier (CHUID), PIV authentication digital certificate, and two fingerprint biometric minutiae templates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Government Organization and Employees (5 U.S.C. 301); Public Buildings under the control of Administrator of General Services (40 U.S.C. 3101); Federal Information Security Management Act of 2002 (44 U.S.C. 3541); E-Government Act of 2002 (44 U.S.C. 101); Paperwork Reduction Act of 1995 (44 U.S.C. 3501); Executive Order 9347 (Nov. 22, 1943); and

Homeland Security Presidential Directive 12 (HSPD–12) (August 27, 2004).

PURPOSE(S):

The primary purposes of the System are to: (1) Ensure the safety and security of Federal facilities, systems, or information, and of facility occupants and users; (2) provide for interoperability and trust in allowing physical access to individuals entering Federal facilities; and (3) allow logical access to Federal information systems, networks, and resources on a government-wide basis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D E, F, G, H, I, J, K, and L apply to this System.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

• Storage: Records are stored on a secure server within the EPASS sub-system Fingerprint Transmission System (FTS) and can be accessed over the Web using encryption software. The records are kept for 120 days and are either manually or automatically deleted.

• Retrievability: Records can only be retrieved within the System database, which requires authorized user login/password credentials and administrative privileges to retrieve personal data within a Web instance of the system by using a combination of first name and last name.

• Safeguards: Consistent with the requirements of the Federal Information Security Management Act and associated OMB policies, standards and guidance from the National Institute of Standards and Technology, EPA protects all records from unauthorized access through appropriate administrative, physical, and technical safeguards. Buildings have security guards and secured doors. All entrances are monitored through electronic surveillance equipment. Physical security controls include indoor and outdoor security monitoring and surveillance, badge and picture ID access screening and biometric access screening. Personally identifiable information (PII) is safeguarded and protected in conformance with all Federal statutes and Office of Management and Budget (OMB) requirements. All access has role-based restrictions. Individuals granted access privileges must be screened for proper credentials. EPA maintains an audit trail and performs random periodic reviews to identify any unauthorized access. Persons given roles in the EPASS HSPD–12 process must be screened and complete training specific to their roles to ensure they are knowledgeable about how to protect PII.

• Retention and Disposal: Records are retained and disposed of in accordance with EPA's records schedule 089.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration and Resources Management (OARM), Office of Administration (OA), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this System of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the EPA FOIA Office, Attn: Privacy Act Officer, MC2822T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

RECORD ACCESS PROCEDURE:

Requests for access must be made in accordance with the procedures described in EPA's Privacy Act regulations at 40 CFR part 16. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

RECORD SOURCE CATEGORIES:

The sources for information in the system are the individuals about whom, the records are maintained, the supervisors of those individuals, existing EPA systems, the sponsoring agency, the former sponsoring agency, other Federal agencies, the contract employer, the former contract employer and the U.S. Office of Personnel Management (OPM).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2014–19689 Filed 8–18–14; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2014–0040]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP088876XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

DATES: Comments must be received on or before September 15, 2014 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2014–0040 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2014–0040 on any attached document.

Reference: AP088876XX.

Purpose and Use

Brief description of the purpose of the transaction:

To support the export of U.S.-manufactured commercial aircraft to Colombia.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used by Avianca for passenger transport between Colombia and other countries in Latin America, North America and Europe.

To the extent that Ex-Im Bank is reasonably aware, the items being exported may produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties

Principal Supplier: The Boeing Company.

Obligor: Avianca Holdings S.A.

Guarantor(s): Avianca S.A., TACA International Airlines, S.A.

Description of Items Being Exported

Boeing 787 aircraft.

Information On Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/*.

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Lloyd Ellis,

Program Specialist, Office of the General Counsel.

[FR Doc. 2014–19574 Filed 8–18–14; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

Privacy Act System of Records Notice; EIB 14–01 Financial Management System—Next Generation (FMS_NG)

ACTION: Notice of new electronic System of Records—EIB 14–01 Financial Management System—Next Generation (FMS_NG).

SUMMARY: Ex-Im Bank proposes to add a new electronic System of Records, Financial Management System—Next Generation (FMS_NG), subject to the Privacy Act of 1974 (5 U.S.C. 522a), as amended. This notice is necessary to meet the requirements of the Privacy Act which is to publish in the **Federal Register** a notice of the existence and character of records maintained by the agency (5 U.S.C. 522s(e)(4)). Included in this notice is the System of Records Notice (SORN) for FMS–NG The system will become operational in the next 60 days.

DATES: This action will be effective without further notice on October 1, 2014 unless comments are received that would result in a contrary determination.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to John Lowry, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION: The Financial Management System—Next Generation (FMS–NG) supports flexible financial accounting, control and disbursement of funds, management accounting, and financial report processes.

Kalesha Malloy, Agency Clearance Officer

System of Records Notice

EIB 14–01 Financial Management System—Next Generation (FMS_NG)

1. SYSTEM IDENTIFIER: EXIM/FMS–NG

2. SYSTEM NAME: EIB 14–01 FINANCIAL MANAGEMENT SYSTEM—NEXT GENERATION

3. SECURITY CLASSIFICATION:

Unclassified

4. SYSTEM LOCATION:

This electronic system will be used via a web interface by the Export-Import Bank staff from the Headquarters of the Export-Import Bank of the United States, 811 Vermont Avenue NW., Washington, DC 20571. The physical location and technical operation of the system is at the Oracle's Managed Cloud Services' (MCS) facility in Austin, Texas.

5. CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

The FMS–NG system will contain information on Ex-Im Bank customers, employees, contractors, vendors, and invitational travelers who have been asked to speak at or attend a function at the request of Ex-Im Bank and who are seeking reimbursements for expenses incurred.

6. CATEGORIES OF RECORDS IN THE SYSTEM:

FMS–NG will contain customer information related to the financial obligations of the Bank to and from individuals and corporate entities from the point of obligation through the point of final disbursement and provides complete loan and guarantee servicing over the entire life of a credit. The FMS–NG system will contain Personally Identifiable Information (PII) on Ex-Im Bank employees and public individuals that incurred expenses pre-authorized for reimbursement, Ex-Im product applicants, contracted suppliers, and other business partners.

The following Table 1, Categories of Records in the FMS–NG System lists significant data categories contained in the system. Only the Administrative categories may contain PII data. The Category of Bank Products is normally used by larger corporate entities and is unlikely to contain PII for sole proprietors of businesses or other individuals.

TABLE 1—CATEGORIES OF RECORDS IN THE FMS–NG SYSTEM

Bank products
Rescheduled Loan
Project Finance Loan
Aircraft Financing Loan
Tied Aid Loan
Renewable Express Loan
Global Credit Express
Letter of Credit for a Direct Loan
Working Capital Guarantee
Standard Guarantee
Credit Guarantee Facility
Finance Lease Guarantee
Project Finance Guarantee
Aircraft Finance Guarantee
Co-Financing Guarantee
Renewable Express Guarantee
Supply Chain Guarantee
Administrative records
Budget based on object class and fund segment.
Procurement purchase order
Inter-Agency Agreements
Payments to Administrative Suppliers
Procurement Card
Travel purchase order
Payment Vouchers
Refunds
Sponsored Travel
Petty Cash
Employee Debt
Conference fee collections
General Ledger

TABLE 2—REPRESENTATIVE PII DATA ELEMENTS WITHIN ADMINISTRATIVE RECORDS

PII Data elements
ACCOUNT_HOLDER_NAME
ACCTTYPEID
ADDRESSID
BANK_ACCOUNT_NAME
BANKACCOUNTID
BANKSWIFTCODE
BRANCHID
BRANCHNAME
CHECK_DIGITS
PARENT_VENDOR_ID
PARENT_VENDOR_NAME
TAX_ID
VENDOR_ID
VENDOR_NAME
VENDOR_NAME_ALT
VENDOR_NUMBER

7. AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Export-Import Bank requests the information in this application under the following authorizations:

Authority of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635 *et seq.*), Executive Order 9397 as amended by Executive Order 13478 signed by President George W. Bush on November 18, 2008, relating to Federal agency use of Social Security numbers.

8. PURPOSE:

The Financial Management System-Next Generation (FMS–NG) is a custom configured Commercial off the Shelf (COTS) solution, which supports flexible financial accounting, control and disbursement of funds, management accounting, loan and guarantee servicing, and financial report processes. More specifically, the FMS–NG maintains the Ex-Im Bank's spending budget, supports buying of goods and services, vendor payments, records general ledger entries, reports to Department of Treasury and the Office of Management and Budget (OMB), verifies data accuracy, properly clears and closes ledgers and journals, and provides complete loan and guarantee servicing over the entire life of a credit.

FMS–NG is comprised of the following functional modules:

- Budget execution,
- accounts payable,
- accounts receivable,
- general ledger,
- purchasing, and
- processing of loans and guarantees related financial data

9. ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM; INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures that are generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside Ex-Im Bank as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. For the Bank employees to support buying of goods and services;

b. For the Bank employees to support vendor payments;

c. To disclose information for audits and oversight purposes performed by Export-Import Bank employees, report to the Department of Treasury and the Office of Management and Budget in Monthly, Quarterly, Semi-annual, and Annual reporting;

d. To provide information to a Congressional Office from the record of an individual in response to an inquiry from that Office;

e. Sharing data with contractors, grantees, and experts to perform OPM-authorized activities, including performing and monitoring of select business transactions;

f. For investigations of potential violations of law;

g. By Export-Import Bank employees to collect information from third parties including credit reporting agencies and to collect credit scores to establish credit worthiness of applicants;

h. To disclose information to Export-Import Bank contractors in support of Export-Import Bank authorized activities;

i. For litigation;

j. By National Archives and Records Administration for record management inspections in its role as Archivist;

k. For data breach and mitigation response.

l. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or another purpose, when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations.

10. DISCLOSURE TO CONSUMER REPORTING AGENCIES.

Export-Import Bank may report its credit experience to the applicable commercial consumer reporting agencies (credit bureaus), such as: Dun & Bradstreet, FICO, and TransUnion.

11. STORAGE.

The records reside in the data tables of the FMS–NG System implemented in the Oracle® U.S. Federal Financials Release 12, a COTS integrated financial management application from Oracle Corporation.

12. RETRIEVABILITY:

Information may be retrieved by transaction number, business entity or individual name, EIN or SSN, D&B number.

13. SAFEGUARDS:

Information will be stored in electronic format within the FMS–NG. FMS–NG has configurable Responsibilities-based (processes and data) user access rules. User access is granted only to the authorized internal users. The authorized FMS–NG users will have restricted access only to the data subset necessary to perform their job function. This access is managed via Oracle Applications System Administration, User and Responsibility security functions. FMS–NG underlying application—Oracle Federal Financials, is compliant with the Federal Risk and Authorization Management Program (FedRAMP). The PII information in FMS–NG will be stored encrypted in place. Https protocol is employed in accessing FMS–NG.

14. RETENTION AND DISPOSAL:

Retention and disposition handling of the records contained in the FMS–NG will comply with the Export-Import Bank's Record Schedule for FMS–NG Electronic Records System DAA–0275–2014–0002. The schedule has been proposed for approval by the Ex-Im Bank in the Electronic Records Archives (ERA) system of the National Archives and Records Administration (NARA).

15. SYSTEM MANAGER AND ADDRESS:

Vice President—Controller Office of the CFO, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

16. NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to:

Vice President—Controller Office of the CFO, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

And provide the following information:

1. Name.

2. Employer Identification Number (EIN) or Social Security Number, as applicable.

3. Type of information requested.

4. Address to which the information should be sent.

5. Signature.

17. RECORD ACCESS PROCEDURE:

Individuals wishing to make an amendment of records about them should write to:

Vice President—Controller Office of the CFO, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

And provide the following information:

1. Name.

2. Employer Identification Number (EIN) or Social Security Number, as applicable.

3. Type of information requested.

4. Signature.

18. CONTESTING RECORD PROCEDURES:

Individuals wishing to contest records about them should write to:

Vice President—Controller Office of the CFO, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

And provide the following information:

1. Name.

2. Employer Identification Number (EIN) or Social Security Number, as applicable.

3. Signature.

4. Precise identification of the information to be amended.

19. RECORD SOURCE CATEGORIES:

The record information contained in the FMS–NG is obtained using one of three methods: manual entry, direct

database connection to supply the required information, and through consumption of source flat files imported using PLSQL procedural upload to the FMS–NG database.

20. EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2014–19571 Filed 8–18–14; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before September 18, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the ''Supplementary Information'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1039.

Title: Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act—Review Process, WT Docket No. 03–128.

Form No.: FCC Form 620 and 62, TCNS E-filing.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 47,250 respondents and 47,250 responses.

Estimated Time per Response: 1–5 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 1, 4(i), 303(q), 303(r), 309(a), 309(j) and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(q), 303(r), 309(a), 309(j) and 319, Sections 101(d)(6) and 106 of the National Historic Preservation Act (NHPA) of 1966, 16 U.S.C. 470a(d)(6) and 470f, and Section 800.14(b) of the rules of the Advisory Council on Historic Preservation, 36 CFR 800.14(b).

Total Annual Burden: 97,929 hours.

Annual Cost Burden: $13,087,425.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: FCC staff, State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO) and the Advisory Council of Historic Preservation (ACHP) use the data to take such action as may be necessary to ascertain whether a proposed action may affect sites of cultural significance to tribal nations and historic properties that are listed or eligible for listing on the National Register as directed by Section 106 of the National Historic Preservation Act (NHPA) and the Commission's rules.

FCC Form 620, New Tower (NT) Submission Packet is to be completed by or on behalf of applicants to construct new antenna support structures by or for the use of licensees of the FCC. The form is to be submitted to the State Historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under Section 106 of the NHPA prior to beginning construction may violate Section 110(k) of the NHPA and the Commission's rules.

FCC Form 621, Collocation (CO) Submission Packet is to be completed by or on behalf of applicants who wish to collocate an antenna or antennas on an existing communications tower or non-tower structure by or for the use of licensees of the FCC. The form is to be submitted to the State historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under Section 106 of the NHPA prior to beginning construction or other installation activities may violate Section 110(k) of the NHPA and the Commission's rules.

The Tower Construction Notification System (TCNS) is used by or on behalf of Applicants proposing to construct new antenna support structures, and some collocations, to ensure that Tribal

Nations have the requisite opportunity to participate in review prior to construction. To facilitate this coordination, Tribal Nations have designated areas of geographic preference, and they receive automated notifications based on the site coordinates provided in the filing. Applicants complete TCNS before filing a 620 or 621 and all the relevant data is pre-populated on the 620 and 621 when the forms are filed electronically.

OMB Control Number: 3060–xxxx.

Title: Section 79.107 User Interfaces Provided by Digital Apparatus; Section 79.108 Video Programming Guides and Menus Provided by Navigation Devices; Section 79.110 Complaint Procedures for User Interfaces, Menus and Guides, and Activating Accessibility Features on Digital Apparatus and Navigation Devices.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities; individuals or households; not-for-profit institutions; and State, local, or tribal Governments.

Number of Respondents and Responses: 4,245 respondents; 509,484 responses.

Estimated Time per Response: 0.0167 to 5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Obligation to Respond: Voluntary. The statutory authority for this information collection is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g).

Total Annual Burden: 22,198 hours.

Total Annual Cost: $70,500.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries,'' which became effective on January 25, 2010. The Commission believes that it provides sufficient safeguards to protect the privacy of individuals who file complaints under 47 CFR 79.110.

Privacy Impact Assessment: The Privacy Impact Assessment (PIA) for Informal Complaints and Inquiries was completed on June 28, 2007. It may be reviewed at *http://www.fcc.gov/omd/privacyact/Privacy-Impact-Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: On October 29, 2013, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, MB Docket Nos. 12–108, 12–107, FCC 13–138 (the Report and Order) adopting rules implementing portions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (the CVAA) related to the accessibility of digital apparatus and navigation devices used to view video programming. These rules are codified at 47 CFR 79.107, 79.108, 79.109 and 79.110. Pursuant to Section 204 of the CVAA, the Report and Order requires the user interfaces, text menus and guides of digital apparatus to be accessible and requires that the activation mechanisms for closed captioning and video description be reasonably comparable to a button, key or icon. Pursuant to Section 205 of the CVAA, the Report and Order requires the user text menus and guides of navigation devices be made audibly accessibly upon request and requires that the activation mechanism for closed captioning be reasonably comparable to a button, key or icon.

The following rule sections and other requirements contain new and revised information collection requirements for which the Commission is seeking approval from the Office of Management and Budget (OMB):

(a) Requests for Commission determination of achievability for the accessibility requirements for the user interfaces, text menus and guides of digital apparatus.

Section 204 of the CVAA provides that ''if achievable (as defined by section 716) . . . digital apparatus designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, be designed, developed, and fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired.'' Pursuant to 47 CFR 79.107, manufacturers of digital apparatus must comply with the section's provisions ''only if achievable as defined in § 79.107(c)(2).''

Pursuant to 47 CFR 79.107(c)(1), manufacturers of digital apparatus may petition the Commission, pursuant to 47 CFR 1.41, for a full or partial exemption from the requirements of 47 CFR 79.107 before manufacturing or importing the apparatus. Alternatively, manufacturers may assert that a particular digital apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements of section 79.107 are not achievable. Pursuant to 47 CFR 79.107(c)(2), such a petition for exemption or a response to a complaint must be supported with sufficient evidence to demonstrate that compliance with the requirements is not achievable (meaning with reasonable effort or expense), and the Commission will consider four specific factors when making such a determination. In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557, 14607–19,)) 119–48 (2011) (''ACS Order'').

(b) Requests for Commission determination of achievability for the accessibility requirements for the text menus and guides of navigation devices.

Section 205 of the CVAA provides that ''if achievable (as defined by section 716)'' ''the on-screen text menus and guides provided by navigation devices (as such term is defined in section 76.1200 of title 47, Code of Federal Regulations) for the display or selection of multichannel video programming are audibly accessible in real-time upon request by individuals who are blind or visually impaired.'' Pursuant to 47 CFR 79.108, MVPDs and manufacturers of navigation devices must comply with the section's provisions ''only if achievable as defined in § 79.108(c)(2).''

Pursuant to 47 CFR 79.108(c)(1), MVPDs and manufacturers of navigation devices may petition the Commission, pursuant to 47 CFR 1.41, for a full or partial exemption from the requirements of 47 CFR 79.108 before manufacturing or importing the navigation device. Alternatively, manufacturers may assert that a particular digital apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements of section 79.108 are not achievable. Pursuant to 47 CFR 79.108(c)(2), such a petition for exemption or a response to a complaint must be supported with sufficient evidence to demonstrate that compliance with the requirements is not

achievable (meaning with reasonable effort or expense), and the Commission will consider four specific factors when making such a determination. In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the ACS Order.

(c) Requests to MVPDs and navigation device manufacturers for accessible equipment.

Pursuant to 47 CFR 79.108(a)(5), manufacturers of navigation devices and MVPDs must permit blind or visually impaired individuals to request accessible navigation devices through any means that such covered entities generally use to make available navigation devices to other consumers. Such requests could require navigation device manufacturers and MVPDs to collect information from consumers and require consumers to provide information to navigation device manufacturers and/or MVPDs to obtain a benefit.

(d) Notifications by MVPDs regarding the availability of accessible equipment.

Pursuant to 47 CFR 79.108(d), MVPDs must notify consumers that navigation devices with the required accessibility features are available upon request to consumers who are blind or visually impaired. MVPDs must clearly and conspicuously inform consumers about the availability of accessible navigation devices when providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues. In addition, MVPDs must provide prominent notice on their official Web sites about the availability of accessible navigation devices in a manner accessible to people with disabilities.

(e) Contact information for the receipt and handling of user interface accessibility complaints.

Pursuant to 47 CFR 79.110(b), covered entities must make their contact information available for the receipt and handling of complaints regarding the requirements of 47 CFR 79.107–79.109. The contact information required must include the name of a person with primary responsibility for accessibility compliance issues. This contact information must also include that person's title or office, telephone number, fax number, postal mailing address, and email address. A covered entity must keep this information current and update it within 10 business days of any change.

(f) Submission and review of verification of consumer eligibility in connection with accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public.

Pursuant to 47 CFR 79.108(e), covered entities may require consumers to provide verification of eligibility as an individual who is blind or visually impaired to the extent a covered entity chooses to rely on an accessibility solution that involves providing the consumer with sophisticated equipment and/or services at a price that is lower than that offered to the general public. In these situations, covered entities must allow a consumer to provide a wide array of documentation to verify eligibility for the accessibility solution provided and must comply with the requirements of 47 U.S.C. 338(i)(4)(A) and 47 U.S.C. 631(c)(1) to protect personal information gathered from consumers through verification procedures.

(g) Complaints alleging violations of the digital apparatus and navigation device accessibility rules.

The Report and Order adopts procedures for consumers to file complaints alleging violations of the rules requiring the accessibility of user interfaces, text menus and guides of digital apparatus and navigation devices requirements.

Pursuant to 47 CFR 79.110(a)(1), a complaint alleging a violation of the requirements of 47 CFR 79.107, 79.108, or 79.109 must be filed with the Commission or with the covered entity within 60 days after the date the complainant experiences a problem relating to compliance with the requirements of 47 CFR 79.107, 79.108, or 79.109. A complaint filed with the Commission may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter, facsimile, telephone (voice/TRS/TTY), email, or some other method that would best accommodate the complainant's disability. (Because some of the rules we are adopting are intended to make apparatus or navigation devices accessible to individuals who are blind or visually impaired, and therefore complainants may themselves be blind or visually impaired, if a complainant calls the Commission for assistance in preparing a complaint, Commission staff will document the complaint in writing for the consumer).

Pursuant to 47 CFR 79.110(a)(2), complaints should include the following information:

(i) The complainant's name, address, and other contact information, such as telephone number and email address;

(ii) The name and contact information of the covered entity;

(iii) Information sufficient to identify the software or digital apparatus/navigation device used;

(iv) The date or dates on which the complainant purchased, acquired, or used, or tried to purchase, acquire, or use the digital apparatus/navigation device;

(v) A statement of facts sufficient to show that the covered entity has violated, or is violating, the Commission's rules;

(vi) The specific relief or satisfaction sought by the complainant;

(vii) The complainant's preferred format or method of response to the complaint; and

(viii) If a complaint pursuant to § 79.108 of this part, the date that the complainant requested an accessible navigation device and the person or entity to whom that request was directed.

Pursuant to 47 CFR 79.110(a)(3), if a complaint is filed first with the Commission, the Commission will forward a complaint satisfying the above requirements to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity or entities must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

Pursuant to 47 CFR 79.110(a)(4), if a complaint is filed first with the covered entity, the covered entity must respond in writing to the complainant within 30 days after receipt of a complaint. If the covered entity fails to respond to the complainant within 30 days, or the response does not satisfy the consumer, the complainant may file the complaint with the Commission within 30 days after the time allotted for the covered entity to respond. If the consumer subsequently files the complaint with the Commission (after filing with the covered entity) and the complaint satisfies the requirements, the Commission will forward the complaint to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity must then respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

Pursuant to 47 CFR 79.110(a)(5), in response to a complaint, the covered entity must file with the Commission sufficient records and documentation to prove that it was (and remains) in compliance with the Commission's rules. Conclusory or insufficiently supported assertions of compliance will not carry the covered entity's burden of

proof. If the covered entity admits that it was not, or is not, in compliance with the Commission's rules, it must file with the Commission sufficient records and documentation to explain the reasons for its noncompliance, show what remedial steps it has taken or will take, and show why such steps have been or will be sufficient to remediate the problem.

Pursuant to 47 CFR 79.110(a)(6), the Commission will review all relevant information provided by the complainant and the covered entity, as well as any additional information the Commission deems relevant from its files or public sources. The Commission may request additional information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies.

OMB Control No.: 3060–1161.

Title: Construction requirements; Interim reports—Sections 27.14(g)-(l).

Form No.: N/A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,118 respondents; 1,118 responses.

Estimated Time per Response: 5 to 15 hours.

Frequency of Response: Third party disclosure requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is 47 U.S.C. 154, 301, 302(a), 303, 309, 332, 336, and 337 unless otherwise noted.

Total Annual Burden: 11,260 hours.

Annual Cost Burden: $1,893,700.00.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On October 29, 2013, the Commission issued a Report and Order and Order of Proposed Modification in WT Docket No. 12–69 and WT Docket No. 12–332, FCC 13–136 (700 MHz Interoperability Order), in which it revised certain technical rules and extended or waived construction deadlines for certain licenses in order to resolve issues resulting from the lack of interoperability in the Lower 700 MHz Band. The Report and Order did not revise any of the information collection requirements that are contained in this collection. It simply waived or revised the dates on which the information collection requirements are required.

The information collected will be used by the Commission to determine the progress made by licensees to meet specific performance requirements, and the manner in which their spectrum is being utilized, and to determine whether licensees have complied with the Commission's performance benchmarks. The Commission will also use the information to evaluate whether further assessment of the rules or other actions are necessary in the event spectrum is being stockpiled or warehoused, or if it is otherwise not being made available despite existing demand.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison.

[FR Doc. 2014–19626 Filed 8–18–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502—3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB Control Number.

DATES: Written PRA comments should be submitted on or before September 18, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, please send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), at 202–418–0217, or via the Internet at: *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0741.

Title: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96–98, *Second Report and Order and Memorandum Opinion and Order; Second Order on Reconsideration;* CC Docket No. 99–273, *First Report and Order.*

Form Number: N/A.

Type of Review: Reinstatement without change of a previously approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 5,907 respondents; 573,767 responses. (The respondents are now more likely to be using advanced IT software, automation, and standardized business practices to respond to a request for the sharing of directory listings, which accounts for their ability to provide a greater number of responses each year with a reduced incremental burden.)

Estimated Time per Response: 1 hour to 547,500 hours.

Frequency of Response: Annual, on occasion, and one time reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 153, 154, 201, 222 and 251.

Total Annual Burden: 574,448 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests that carriers or providers submit information which they believe is confidential, the carriers or providers may request confidential treatment of their information under 47 CFR Section 0.459 of the Commission's rules.

Needs and Uses: In April 1996, the Commission issued a *Notice of Proposed Rulemaking (NPRM)* concerning certain provisions in the Telecommunications Act of 1996 (''the Act''), including section 251. Section 251 is designed to accelerate private sector development and deployment of telecommunications technologies and services by spurring competition. The Commission adopted rules and regulations designed to implement certain provisions of section 251, and to eliminate operational barriers to competition in the telecommunications services markets.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison.

[FR Doc. 2014–19628 Filed 8–18–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before October 20, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0737.

Title: Disclosure Requirements for Information Services Provided Under a Presubscription or Comparable Arrangement.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,000 respondents; 1,000 responses.

Estimated Time per Response: 4.5 hours.

Frequency of Response: Annual and on occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Voluntary. The statutory authority for this collection is contained in 47 U.S.C. 228.

Total Annual Burden: 4,500 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Section 64.1501(b) of the Commission's rules defines a presubscription or comparable arrangement as a contractual agreement in which an information service provider makes specified disclosures to consumers when offering ''presubscribed'' information services.

The disclosures are intended to ensure that consumers receive information regarding the terms and conditions associated with these services before they enter into contracts to subscribe to them.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison.

[FR Doc. 2014–19627 Filed 8–18–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the

PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before September 18, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Improving 9–1–1 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies.

Form Number: N/A (annual on-line certification).

Type of Review: New information collection.

Respondents: Business or for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 1,000 respondents, 1,000 responses.

Estimated Time per Response: Varies by respondent. Average of 170 hours per annual certification.

Total Annual Burden: 169,982 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Mandatory. The statutory authority for the collection of this information is contained in sections 1, 4(i), 4(j), 4(o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a-1, and 615c of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-(j) & (o), 201(b), 214(d), 218, 251(e)(3),301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a-1, and 615c.

Total Annual Cost: $0.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission does not consider the fact of filing a certification to be confidential or the responses provided on the face of the certification. The Commission will treat as presumptively confidential and exempt from routine public disclosure under the federal Freedom of Information Act: (1) Descriptions and documentation of alternative measures to mitigate the risks of nonconformance with certification standards; (2) information detailing specific corrective actions taken; and (3) supplemental information requested by the Commission or Bureau with respect to a certification.

Needs and Uses: This information collection is necessary to ensure that all Americans have access to reliable and resilient 911 communications, particularly in times of emergency, by requiring certain 911 service providers to certify implementation of key best practices or reasonable alternative measures. The information will be collected in the form of an electronically-filed, annual certification from each Covered 911 Service Provider, as defined in the Commission's Report and Order, FCC 13–158, in which the provider will indicate whether it has implemented certain industry-backed best practices. Providers that are able to respond in the affirmative to all elements of the certification will be deemed to satisfy the ''reasonable measures'' requirement in Section 12.4(b) of the Commission's rules. If a provider does not certify in the affirmative with respect to one or more elements of the certification, it must provide a brief explanation of what alternative measures it has taken, in light of the provider's particular facts and circumstances, to ensure reliable 911 service with respect to that element(s). Similarly, a service provider may also respond by demonstrating that a particular certification element is not applicable to its networks and must include a brief explanation of why the element(s) does not apply.

The information will be collected by the Public Safety and Homeland Security Bureau, FCC, for review and analysis, to verify that Covered 911 Service Providers are taking reasonable measures to maintain reliable 911 service. In certain cases, based on the information included in the certifications and subsequent coordination with the provider, the Commission may require remedial action to correct vulnerabilities in a service provider's 911 network if it determines that (a) the service provider has not, in fact, adhered to the best practices incorporated in the FCC's rules, or (b) in the case of providers employing alternative measures, that those measures were not reasonably sufficient to mitigate the associated risks of failure in these key areas. The Commission delegated authority to the Bureau to review certification information and follow up with service providers as appropriate to address deficiencies revealed by the certification process.

The purpose of the collection of this information is to verify that Covered 911 Service Providers are taking reasonable measures such that their networks comply with accepted best practices, and that, in the event they are not able to certify adherence to specific best practices, that they are taking reasonable alternative measures. The Commission adopted these rules in light of widespread 911 outages during the June 2012 derecho storm in the Midwest and Mid-Atlantic states, which revealed that multiple service providers did not take adequate precautions to maintain reliable service.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison.

[FR Doc. 2014–19625 Filed 8–18–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2014–19075) published on page 47460 of the issue for Wednesday, August 13, 2014.

In the second column, under the Federal Reserve Bank of Atlanta heading, the entry for Trevor R. Burgess, St. Petersburg, Florida, Marcio Camargo, São Paulo, Brazil, Marcelo Lima, São Paulo, Brazil, Erwin Russel, São Paulo, Brazil, CBM Holdings Qualified Family, L.P. Toronto, Ontario, Canada, the General Partner of which is Marcelo Lima, and Amazonite Family Limited Partnership, Ontario, Canada, the

General Partner of which is Erwin Russel, and the Amazonite Family Limited Partnership, is revised to read as follows:

1. *Trevor R. Burgess, St. Petersburg, Florida; Marcio Camargo, Marcelo Lima, Erwin Russel, all of São Paulo, Brazil; CBM Holdings Qualified Family, L.P. Toronto, Ontario, Canada, with Marcelo Lima as general partner, and C1 Financial Holdings Qualified Family, L.P., Toronto, Ontario, Canada, with Erwin Russel as general partner;* to acquire voting shares of C1 Financial, Inc., and thereby indirectly acquire voting shares of C1 Bank, both in St. Petersburg, Florida.

Comments on this application must be received by August 25, 2014.

Board of Governors of the Federal Reserve System, August 14, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–19619 Filed 8–18–14; 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 September 12, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Midwest Bancorp, Inc.,* Itasca, Illinois; to merge with Great Lakes Financial Resources, Bancorp, Inc., Matteson, Illinois, and thereby indirectly acquire Great Lakes Bank, N.A, Blue Island, Illinois.

B. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Catahoula Holding Company,* Jonesville, Louisiana; to acquire 100 percent of the voting shares of JBI Financial Corporation, and thereby indirectly acquire voting shares of Bank of Jena, both in Jena, Louisiana.

Board of Governors of the Federal Reserve System, August 14, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–19620 Filed 8–18–14; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–00XX; Docket No. 2014–0001; Sequence No. 7]

Submission for OMB Review; MyUSA

AGENCY: Office of Citizen Services and Innovative Technologies (OCSIT), General Services Administration (GSA).

ACTION: Notice of request for comments regarding a request for a new information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request for a new information collection concerning MyUSA.

DATES: Submit comments on or before September 18, 2014.

ADDRESSES: Submit comments identified by Information Collection 3090–00XX; MyUSA by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090–00XX. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–00XX; MyUSA''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–00XX; MyUSA'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001. ATTN: IC 3090–00XX; MyUSA.

Instructions: Please submit comments only and cite Information Collection 3090–00XX; MyUSA, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Joseph Polastre, Innovation Specialist, 1800 F Street NW., Washington, DC 20405–0001, telephone 202–317–0077 For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

MyUSA (*https://my.usa.gov*) provides an account to users that gives them control over their interactions with government agencies and how government uses and accesses their personal information. Users have the option of creating a personal profile that can be reused across government to personalize interactions and streamline common tasks such as filling out forms. Government agencies can build applications that can request permission from the user to access their MyUSA Account and read their personal profile.

The information in the system is contributed voluntarily by the user and cannot be accessed by the government without explicit consent of the user; information is not shared between government agencies, except when the user gives explicit consent to share his or her information, and as detailed in the MyUSA System of Records Notice (SORN) (*http://www.gpo.gov/fdsys/pkg/FR-2013-07-05/pdf/2013-16124.pdf*).

The information collected is basic profile information, and may include: name, email address, home address, phone number, date of birth, gender, marital status and basic demographic information such as whether the individual is married, a veteran, a small business owner, a parent or a student.

Use of the system, and contribution of personal information, is completely voluntary. A notice was published November 29, 2013. No comments were received.

B. Public Comments

Public comments are particularly invited on: Whether this collection of

information is necessary for the proper performance of functions of the Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

C. Annual Reporting Burden

Respondents: 10,000.
Responses per Respondent: 1.
Total annual responses: 10,000.
Hours per Response: .05.
Total Burden Hours: 500.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001, telephone 202–501–4755. Please cite OMB Control No. 3090–00XX, MyUSA, in all correspondence.

Dated: August 13, 2014.

Sonny Hashmi,

Chief Information Officer, Office of the Chief Information Officer.

[FR Doc. 2014–19604 Filed 8–18–14; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0012]

Clinical Studies of Safety and Effectiveness of Orphan Products Research Project Grant (R01)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of grant funds for the support of FDA's Office of Orphan Products Development grant program. The goal of FDA's Orphan Products Development (OPD) grant program is to support the clinical development of products for use in rare diseases or conditions where no current therapy exists or where the proposed product will be superior to the existing therapy. FDA provides grants for clinical studies on safety and/or effectiveness that will either result in, or substantially contribute to, market approval of these products. Applicants must include in the application's Background and Significance section documentation to support the assertion that the product to be studied meets the statutory criteria to qualify for the grant and an explanation of how the proposed study will either help support product approval or provide essential data needed for product development.

DATES: Important dates are as follows:

1. The application due dates are February 4, 2015; February 3, 2016; February 1, 2017; and February 7, 2018.

The resubmission due dates are October 15, 2015; October 14, 2016; October 16, 2017; and October 15, 2018.

2. The anticipated start dates are November 2015; November 2016; November 2017; and November 2018.

3. The opening date is December 4, 2014.

4. The expiration dates are February 8, 2018, and October 16, 2018, (resubmission).

ADDRESSES: Submit electronic applications to: *http://www.grants.gov.* For more information, see section III of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION AND ADDITIONAL REQUIREMENTS CONTACT: Katherine Needleman, Director, Orphan Products Grants Program, Office of Orphan Products Development, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5295, Silver Spring, MD 20993–0002, 301–796–8660, *katherine.needleman@fda.hhs.gov;* or Vieda Hubbard, Grants Management Specialist, Division of Acquisition Support and Grants, Office of Acquisitions & Grant Services, 5630 Fishers Lane, Rockville, MD 20857, 240–402–7588, *vieda.hubbard@fda.hhs.gov.*

For more information on this funding opportunity announcement (FOA) and to obtain detailed requirements, please refer to the full FOA located at *http://grants.nih.gov/grants/guide* (select the ''Request for Applications'' link), *http://www.grants.gov* (see ''For Applicants'' section), and *http://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/WhomtoContactaboutOrphanProductDevelopment/ucm134580.htm.*

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

RFA–FD–15–001
93.103

A. Background

The OPD was created to identify and promote the development of orphan products. Orphan products are drugs, biologics, medical devices, and medical foods that are indicated for a rare disease or condition. The term ''rare disease or condition'' is defined in section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360ee). FDA generally considers drugs, devices, and medical foods potentially eligible for grants under the OPD grant program if they are indicated for a disease or condition that has a prevalence, not incidence, of fewer than 200,000 people in the United States. Diagnostics and vaccines are considered potentially eligible for such grants only if the U.S. population to whom they will be administered is fewer than 200,000 people in the United States per year.

B. Research Objectives

The goal of FDA's OPD grant program is to support the clinical development of products for use in rare diseases or conditions where no current therapy exists or where the proposed product will be superior to the existing therapy. FDA provides grants for clinical studies on safety and/or effectiveness that will either result in, or substantially contribute to, market approval of these products. Applicants must include in the application's Background and Significance section documentation to support the assertion that the product to be studied meets the statutory criteria to qualify for the grant and an explanation of how the proposed study will either help support product approval or provide essential data needed for product development.

C. Eligibility Information

The grants are available to any foreign or domestic, public or private, for-profit or nonprofit entity (including State and local units of government). Federal Agencies that are not part of the Department of Health and Human Services (HHS) may apply. Agencies that are part of HHS may not apply. For-profit entities must commit to excluding fees or profit in their request for support to receive grant awards. Organizations that engage in lobbying activities, as described in section 501(c)(4) of the Internal Revenue Code of 1968, are not eligible to receive grant awards.

II. Award Information/Funds Available

A. Award Amount

Of the estimated Fiscal Year (FY) 2016 funding ($14.1 million), approximately $10 million will fund noncompeting continuation awards, and

approximately $4.1 million will fund 5 to 10 new awards, subject to availability of funds. It is anticipated that funding for the number of noncompeting continuation awards and new awards in FY 2017, FY 2018, and FY 2019 will be similar to FY 2016. Phase 1 studies are eligible for grants of up to $250,000 per year for up to 3 years. Phase 2 and 3 studies are eligible for grants of up to $500,000 per year for up to 4 years. Please note that the dollar limitation will apply to total costs (direct plus indirect). Budgets for each year of requested support may not exceed the $250,000 or $500,000 total cost limit, whichever is applicable.

B. Length of Support

The length of support will depend on the nature of the study. For those studies with an expected duration of more than 1 year, a second, third, or fourth year of noncompetitive continuation of support will depend on the following factors: (1) Performance during the preceding year, (2) compliance with regulatory requirements of investigational new drug/investigational device exemption, and (3) availability of Federal funds.

III. Electronic Application, Registration, and Submission

Only electronic applications will be accepted. To submit an electronic application in response to this FOA, applicants should first review the full announcement located at *http://grants.nih.gov/grants/guide.* (FDA has verified the Web site addresses throughout this document but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register.**) For all electronically submitted applications, the following steps are required.

- *Step 1:* Obtain a Dun and Bradstreet (DUNS) Number
- *Step 2:* Register With System for Award Management (SAM) (formerly Central Contractor Registration (CCR))
- *Step 3:* Obtain Username & Password on Grants.gov
- *Step 4:* Authorized Organization Representative (AOR) Authorization
- *Step 5:* Track AOR Status
- *Step 6:* Register With Electronic Research Administration (eRA) Commons

Steps 1 through 5, in detail, can be found at *http://www07.grants.gov/applicants/organization_registration.jsp.* Step 6, in detail, can be found at *https://commons.era.nih.gov/commons/registration/registrationInstructions.jsp.* After you have followed these steps, submit electronic applications to: *http://www.grants.gov.*

Dated: August 13, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–19600 Filed 8–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0790]

Food and Drug Administration Decisions for Investigational Device Exemption Clinical Investigations: Guidance for Sponsors, Clinical Investigators, Institutional Review Boards, and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''FDA Decisions for Investigational Device Exemption (IDE) Clinical Investigations.'' This guidance document was developed to promote the initiation of clinical investigations to evaluate medical devices under FDA's IDE regulations. The guidance is intended to provide clarification regarding the regulatory implications of the decisions that FDA may render based on review of an IDE and to provide a general explanation of the reasons for those decisions.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''FDA Decisions for Investigational Device Exemption Clinical Investigations'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Owen Faris, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1522, Silver Spring, MD 20993–0002, 301–796–6210; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA seeks to encourage medical device research and innovation to address important clinical needs and improve patient care. In many cases, device development and evaluation include clinical investigation. This guidance document has been developed to facilitate the initiation of clinical investigations to evaluate medical devices under FDA's IDE regulations, part 812 (21 CFR part 812).

FDA approval of an IDE submission allows the initiation of subject enrollment in a significant risk clinical investigation of a medical device. This guidance is intended to provide clarification regarding the regulatory implications of the decisions that FDA may render based on review of an IDE and to provide a general explanation of the reasons for those decisions.

In an effort to promote timely initiation of subject enrollment in clinical investigations in a manner that protects study subjects, FDA has developed methods to allow a clinical investigation of a device to begin under certain circumstances, even when outstanding issues regarding the IDE submission remain. These mechanisms, including Approval with Conditions, Staged Approval, and communication of outstanding issues related to the IDE through Study Design Considerations and Future Considerations, are described in this guidance.

FDA's decision-making process for IDEs was modified with passage of the

Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144). Section 601 of FDASIA amended section 520(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360j(g)) to specify certain situations in which FDA cannot disapprove an IDE. Section 520(g)(4)(C) of the FD&C Act states that, consistent with section 520(g)(1), FDA shall not disapprove an IDE because: (1) The investigation may not support a substantial equivalence or de novo classification determination or approval of the device; (2) the investigation may not meet a requirement, including a data requirement, relating to the approval or clearance of a device; or (3) an additional or different investigation may be necessary to support clearance or approval of the device. However, the Agency recognizes that some IDE sponsors may wish to ensure that a pivotal study's design may support a marketing application if it is successfully executed, meets its stated endpoints, and does not raise unforeseen safety concerns. FDA is interested in working interactively with sponsors to assist in addressing important limitations with such a study that might impair its ability to support a future marketing application.

In the draft guidance, issued on June 14, 2013 (78 FR 35937), FDA specifically sought public comment on three questions. Based on its consideration of that feedback, the Agency has revised the guidance as discussed further in this document.

A. Inclusion of Study Design Considerations in FDA's Decision Letters

If FDA believes that modifications to the study design unrelated to the safety, rights, or welfare of study subject are needed to enable a sponsor to rely on the study as primary clinical support for a future marketing approval or clearance, those modifications will be noted as ''study design considerations'' (SDCs). Sponsors are not required to modify the investigational plan to address SDCs. However, if these considerations are not addressed, the study design may not support the study goals (e.g., a future marketing application). The draft guidance proposed that SDCs be included in a section of the IDE decision letter.

FDA received comments from several stakeholders proposing that FDA provide SDCs and its assessment of the study design in a communication separate from the decision letter. Other stakeholders expressed support for inclusion of SDCs in the letter. Still others focused on ensuring that the decision letter clearly conveys whether FDA believes the study design is adequate to support its goals, even if the actual SDCs are conveyed separately from the letter.

Based on the comments received, FDA believes that sponsors and other stakeholders may misinterpret SDCs included in the body of a decision letter as issues that are required to be addressed. Therefore, FDA intends to convey SDCs in a separate attachment included with the decision letter, rather than in the body of the letter. The decision letter itself will state whether FDA believes that the study design is adequate to support the study goals or whether FDA recommends study design considerations to enable it to do so. If FDA recommends SDCs, FDA's letter will note the following: ''These recommendations do not relate to the safety, rights or welfare of study subjects, and they do not need to be addressed in order for you to conduct your study.'' FDA will continue to engage with stakeholders on this issue and may make modifications to this approach in the future.

B. Inclusion of Future Considerations in FDA's Decision Letters

Future considerations are issues and recommendations that FDA believes the sponsor should consider in preparing for a marketing application or a future clinical investigation. Future considerations are intended to provide helpful, non-binding advice to sponsors regarding important elements of the future application that the IDE may not specifically address. FDA sought comment on whether future considerations should be communicated in its IDE decision letters or whether they should be sent to the sponsor in a separate communication. FDA received comments proposing that the Agency provide future considerations as a separate communication and not in the decision letter. Based on the comments received, FDA intends to convey future considerations in a separate attachment included with the decision letter rather than in the body of the letter.

C. Utility of the Proposed Pre-Decisional IDE Process

The draft guidance proposed a new mechanism for review and interaction for pivotal IDEs called the Pre-Decisional IDE. The process included a comprehensive FDA review of a draft IDE prior to formal IDE submission, followed by written feedback from FDA and an interactive discussion between FDA and the sponsor. The goal of the Pre-Decisional IDE was to facilitate the development of an improved IDE submission more likely to be approved as well as a study design adequate to support a future marketing application.

FDA specifically sought comment on the expected utility of the Pre-Decisional IDE process. Some commenters expressed support for the proposal and felt that it might shorten the time to full approval of pivotal IDE studies. Other commenters expressed concern that the Pre-Decisional IDE process itself might be too time-consuming or require extensive FDA resources that could be better allocated elsewhere. Based on the comments received and FDA's consideration of the points raised, FDA will not pursue the Pre-Decisional IDE at the present time.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on decisions for IDE clinical investigations. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.* Persons unable to download an electronic copy of ''Decisions for Investigational Device Exemption Clinical Investigations,'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1783 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 812 have been approved under OMB control number 0910–0078.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: August 13, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–19577 Filed 8–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Food Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Food Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 16–17, 2014, from 8:30 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Karen Strambler, Center for Food Safety and Applied Nutrition (HFS–024), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2589 or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

If you are unable to attend in person, FDA encourages you to watch the free Web cast. Visit the Food Advisory Committee Web site at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/FoodAdvisoryCommittee/default.htm.* The link will become active shortly before the open session begins on December 16, 2014, at 8:30 a.m.

Agenda: The committee will discuss science issues surrounding susceptible life stages or populations and the circumstances under which FDA might decide to conduct a separate risk assessment for these populations. Also, FDA is requesting advice from the Food Advisory Committee on how to integrate concern for susceptible populations into its risk assessment procedures and methodologies including under what conditions a separate risk assessment should be conducted.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before December 8, 2014. Oral presentations from the public will be scheduled for December 17, 2014, between approximately 11 a.m. to 12 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 25, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by December 1, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Karen Strambler at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 13, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–19601 Filed 8–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1130]

Brain-Computer Interface Devices for Patients With Paralysis and Amputation; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

The Food and Drug Administration (FDA) is announcing the following public workshop entitled ''Brain-

Computer Interface (BCI) Devices for Patients With Paralysis and Amputation.'' BCI devices include neuroprostheses that interface with the central or peripheral nervous system to restore lost motor or sensory capabilities in paralyzed and amputee patients. The purpose of this workshop is to obtain public feedback on scientific, clinical, and regulatory considerations associated with BCI devices. Ideas and suggestions generated during this workshop may facilitate development of draft guidance to provide our initial thoughts regarding the content of premarket submissions for emerging BCI technologies to help speed development and approval of future submissions.

Dates and Times: The public workshop will be held on November 21, 2014, from 8:30 a.m. to 5:30 p.m.

Location: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to: *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Contact Person: Hilda Scharen, Center for Devices and Radiological Health, Food and Drug Administration, Bldg. 66, rm. 3625, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–6815, email: *Hilda.Scharen@fda.hhs.gov.*

Registration: Registration is free and available on a first-come, first-served basis. Persons interested in attending this public workshop must register online by November 12, 2014, by 4 p.m. Early registration is recommended because facilities are limited and, therefore, FDA may limit the number of participants from each organization. If time and space permits, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m.

If you need special accommodations due to a disability, please contact Susan Monahan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4321, Silver Spring, MD 20993–0002, 301–796–5661, email: *susan.monahan@fda.hhs.gov* no later than November 7, 2014.

To register for the public workshop, please visit FDA's Medical Devices News & Events—Workshops & Conferences calendar at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm.* (Select this meeting/public workshop from the posted events list.) Please provide complete contact information for each attendee, including name, title, affiliation, email, and telephone number. If you are unable to register online, please contact Susan Monahan (see *Registration.*) Registrants will receive confirmation after they have been accepted and will be notified if they are on a waiting list.

Streaming Webcast of the Public Workshop: This public workshop will also be Webcast. Persons interested in viewing the Webcast must register online by Wednesday, November 12, 2014, by 4 p.m. Early registration is recommended because Webcast connections are limited. Organizations are requested to register all participants, but to view using one connection per location. Webcast participants will be sent technical system requirements after registration and will be sent connection access information after November 14, 2014. If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *http://www.adobe.com/go/connectpro_overview.* (FDA has verified the Web site addresses in this document, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

Comments: FDA is holding this public workshop to obtain information on the technical challenges of BCI devices. In order to permit the widest possible opportunity to obtain public comment, FDA is soliciting either electronic or written comments on all aspects of the public workshop topics. The deadline for submitting comments related to this public workshop is December 22, 2014.

Regardless of attendance at the public workshop, interested persons may submit either electronic comments to *http://www.regulations.gov* or written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Please identify comments with the docket number found in brackets in the heading of this document. In addition, when responding to specific questions as outlined in section II, please identify the question you are addressing. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. A link to the transcripts will also be available approximately 45 days after the public workshop on the Internet at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm.* (Select this public workshop from the posted events list.)

SUPPLEMENTARY INFORMATION:

I. Background

BCI devices have the potential to restore functional movement and sensory capabilities to individuals disabled by paralysis or amputation. BCI devices interface with the central and/or peripheral nervous system to detect neural control commands for real or virtual prosthetic or assistive devices. Investigational studies of BCI devices have revealed both device potential effectiveness and implementation challenges. Advancement of BCI devices from the laboratory to patients may be impeded by gaps in scientific and clinical data regarding long-term device reliability and safety; uncertainty in the regulatory, reimbursement, and commercialization pathways; and the need for increased patient input in the device development process.

The workshop seeks to involve industry and academia in addressing the challenges in the development of BCI devices. By bringing together relevant stakeholders, which include scientists, patient advocates, clinicians, researchers, industry representatives, and regulators, to this workshop, we hope to facilitate the improvement of this rapidly evolving product area.

II. Topics for Discussion at the Public Workshop

This workshop is aimed to address the scientific, clinical, and regulatory considerations associated with these devices, including but not limited to, the following topic areas:

1. Challenges, needs, and benefit/risk profiles for target patient populations.

2. Device interoperability for complex, multi-component systems.

3. Technological metrics for invasive and non-invasive neural interfaces (i.e., reliability, biocompatibility, electromagnetic compatibility, software evaluation, and safety).

4. For different stages of device development, considerations regarding appropriate selection of preclinical (bench and animal) testing methods, and patient-centered outcome metrics in clinical and ''real world'' use settings.

Dated: August 13, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–19576 Filed 8–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications/contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Contract Proposal-Discovering Control Variables for Maladaptive Drinking Behavior.

Date: August 28, 2014.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIAAA, 5635 Fishers Lane; Room 2098, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5365 Fishers Lane; Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Review of RFP NIH–NIAAA–2014–04; Biomarkers for Alcohol and ALD.

Date: September 3, 2014.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, 5635 Fishers Lane, Rockville, MD 20852, Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5365 Fishers Lane; Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 92.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Supports Awards, National Institutes of Health, HHS)

Dated: *August 13, 2014.*

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19598 Filed 8–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Clinical Trial Implementation and Planning Grants-Program Project Grant.

Date: September 30–October 1, 2014.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3121, 6700 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Paul A. Amstad, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–7098, *pamstad@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 13, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19596 Filed 8–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, September 30, 2014, 08:00 a.m. to October 01, 2014, 05:00 p.m., Hilton Rockville Hotel, Rockville, MD, 20852 which was published in the **Federal Register** on July 17, 2014, 79 FR 41701.

Meeting location has been changed to the Doubletree Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814. The meeting is closed to the public.

Dated: August 13, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19597 Filed 8–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

AGENCY: National Institute of Mental Health (NIMH), HHS.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the NIH Reform Act of 2006 (42 U.S.C. 281(d)(4)), notice is hereby given that the National Institute of Mental Health (NIMH) will host a meeting to enable public discussion of the Institute's proposal to merge the Division of Adult Translational Research with the Division of Translational Research. The proposal seeks to capitalize on emerging scientific opportunities, while reducing

barriers to scientific and interdisciplinary collaboration.

This public meeting will take place on August 28, 2014. Information is available on the Institute's Web site, *http://www.nimh.nih.gov/index.shtml,* where links to an agenda and any additional information for the meeting will be posted when available.

DATES: The public hearing will be available to view on August 28, 2014.

ADDRESSES: The public hearing will be recorded at the Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. To access the agenda and overview of the organizational change, please go to the following Web site: *http://www.nimh.nih.gov/index.shtml.* To comment or ask a question about the reorganization, please go to the following Web site: *NIMH OrgChangeComment@mail.nih.gov.* To view the webinar, which will be posted on YouTube on August 28, 2014, go to the following Web site: *www.nimh.nih.gov/TransResOrgChange.*

FOR FURTHER INFORMATION CONTACT: Martha Canning, National Institute of Mental Health, NIH, MASB/ORM, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, at *NIMHOrgChangeComment@mail.nih.gov.*

Members of the public wishing to have their questions or comments addressed related to this presentation on the reorganization need to send them to the following email address by September 3, 2014: *NIMHOrgChangeComment@mail.nih.gov.* Individuals will be able to watch the presentation via a YouTube webinar. Please go to the following link to view the webinar: *www.nimh.nih.gov/TransResOrgChange.*

Any interested person may file written comments by sending an email to the following email address: *NIMHOrgChangeComment@mail.nih.gov,* by September 3, 2014. The statement should include the individual's name and, when applicable, professional affiliation. Responses will be sent by September 5.

SUPPLEMENTARY INFORMATION: The agenda of the public meeting will enable public discussion on the proposed reorganization plans for NIMH. This meeting will be in the form of a webinar posted on YouTube on August 28, 2014. 508 Compliance Note: All training or informational video and multimedia productions made available to the public must be captioned (user selects the captioning to be turned on so that the words appear on the screen) for persons who are hard of hearing or deaf, and the audio described (spoken words) for persons who are blind or have low vision. The following email address has been established to receive questions and/or comments on the reorganization: *NIMHOrgChangeComment@mail.nih.gov.* It will remain available, through September 3, to the public for comments after the YouTube webinar has been aired. To watch the webinar on YouTube, go to: *www.nimh.nih.gov/TransResOrgChange* to view/access the presentation.

Dated: August 13, 2014.

Ann D. Huston,

Acting Executive Officer, National Institute of Mental Health, National Institutes of Health.

[FR Doc. 2014–19636 Filed 8–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, National Institutes of Health, September 5, 2014, 3:00 p.m. to 4:00 p.m., that was published in the **Federal Register** on Monday, August 11, 2014, 79 FR 46843–46844.

This meeting is open to the public but is being held by teleconference only. No physical meeting location is provided for any interested individuals to listen to and/or participate in the meeting. Any individual interested in listening to the meeting discussions must call: 800–779–9082 and use Passcode: ACD Teleconference, for access to the meeting.

In addition, any individual or organization interested in filing comments with the committee must submit their comments electronically to the Contact Person at *woodgs@od.nih.gov.*

Dated: August 13, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19599 Filed 8–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment, Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet August 27, 2014, 11 a.m.—12 p.m. in a closed teleconference meeting.

The meeting will include discussions and evaluations of grant applications reviewed by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and (c)(9)(B) and 5 U.S.C. App. 2, Section 10(d).

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee Web site at *http://beta.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council* or by contacting the CSAT National Advisory Council Designated Federal Officer, Ms. Cynthia Graham (see contact information below).

Committee Name: SAMHSA's Center for Substance Abuse Treatment National Advisory Council.

Date/Time/Type: August 27, 2014, 11:00 a.m.–12:00 p.m. CLOSED.

Place: SAMHSA Building, 1 Choke Cherry Road, Rockville, Maryland 20857.

Contact: Cynthia Graham, M.S., Designated Federal Officer, SAMHSA CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1035, Rockville, Maryland 20857, Telephone: (240) 276–1692, Fax: (240) 276–1690, Email: *cynthia.graham@samhsa.hhs.gov.*

Cathy J. Friedman,

Public Health Analyst, SAMHSA.

[FR Doc. 2014–19618 Filed 8–18–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–1078]

National Offshore Safety Advisory Committee; September 2014 Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of teleconference meeting.

SUMMARY: The National Offshore Safety Advisory Committee will meet via teleconference to receive a final report from the Subcommittee on Marine Casualty Reporting on the Outer Continental Shelf. This meeting will be open to the public.

DATES: The teleconference will take place on Wednesday, September 24, 2014, from 2 p.m. to 4 p.m. EDT. This meeting may close early if all business is finished. If you wish to make oral comments at the teleconference, notify Mr. Scott E. Hartley before the teleconference, as specified in the **FOR FURTHER INFORMATION CONTACT** section, or designated Coast Guard staff at the meeting. If you wish to submit written comments or make a presentation, submit your comments or request to make a presentation by September 17, 2014. Also, if you want to come to the teleconference host location in person, you must request building access by September 17, 2014.

ADDRESSES: The Committee will meet via teleconference. To participate by phone, please contact Mr. Scott E. Hartley listed below in the **FOR FURTHER INFORMATION CONTACT** section to obtain teleconference information. Note the number of teleconference lines is limited and will be available on a first-come, first-served basis. To come to the host location in person and join those participating in this teleconference from U.S. Coast Guard Headquarters, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7509, please contact Mr. Scott E. Hartley listed in the **FOR FURTHER INFORMATION CONTACT** section to request directions and building access. You must request building access by September 17, 2014, and present a valid, government-issued photo identification to gain entrance to the Coast Guard Headquarters building.

For information on facilities or services for individuals with disabilities or to request special assistance at the teleconference, contact Mr. Scott E. Hartley listed in the **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

If you want to make a presentation, send your request by September 17, 2014, to Mr. Scott E. Hartley listed in the **FOR FURTHER INFORMATION CONTACT** section. To facilitate public participation we are inviting public comment on the issues to be considered by the Committee as listed in the ''Agenda'' section below. You may submit a written comment on or before September 17, 2014, or make an oral comment during the public comment portion of the teleconference.

To submit a comment in writing, use one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Scott.E.Hartley@uscg.mil.* Include the docket number (USCG–2013–1078) on the subject line of the message.
- *Fax:* (202) 372–8382. Include the docket number (USCG–2013–1078) on the subject line of the fax.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
- To avoid duplication, please use only one of these methods.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this notice. All comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this Notice, go to *http://www.regulations.gov,* insert USCG–2013–1078 in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Scott E. Hartley, Alternate Designated Federal Official of the National Offshore Safety Advisory Committee, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1437, fax (202) 372–8382 or Mr. Dennis Fahr, Alternate Designated Federal Official of the National Offshore Safety Advisory Committee, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1427, fax (202) 372–8382. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix, Public Law 92–463, 86 Statute 770, as amended. The National Offshore Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction.

Agenda of Meeting

The agenda for the September 24, 2014, teleconference includes:

(1) Receive a final report from the Subcommittee on Marine Casualty Reporting on the Outer Continental Shelf.

(a) There will be a presentation of the report followed by a comment period for National Offshore Safety Advisory Committee members and the public.

(b) After the comment period the Committee will formulate recommendations for the Department's consideration.

(2) National Offshore Safety Advisory Committee member comments.

(3) Public comments.

A copy of the draft final report and the agenda will be available at *https://homeport.uscg.mil/nosac.*

During the September 24, 2014, teleconference, a public comment period will be held from approximately 3:45 p.m. to 4 p.m. Speakers are requested to limit their comments to three minutes. Please note that this public comment period may start before 3:45 p.m. if all other agenda items have been covered and may end before 4 p.m. if all of those wishing to comment have done so. Please contact Mr. Scott E. Hartley, listed in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Minutes

Minutes from the meeting will be available for public review and copying within 90 days following the meeting at *https://homeport.uscg.mil/nosac.*

Notice of Future 2014 National Offshore Safety Advisory Committee Meetings

To receive automatic email notices of future National Offshore Safety Advisory Committee meetings in 2014,

go to the online docket, USCG–2013–1078 (*http://www.regulations.gov/#!docketDetail;D=USCG–2013–1078*), and select the sign-up-for-email-alerts option. We plan to use the same docket number for all National Offshore Safety Advisory Committee meeting notices in 2014, so when the next meeting notice is published you will receive an email alert from *http://www.regulations.gov* when the notice appears in this docket.

Dated: August 14, 2014.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–19591 Filed 8–18–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 5748–N–02]

Notice of HUD-Held Multifamily Healthcare Loan Sales

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

ACTION: Notice of sale of three (3) multifamily mortgage notes and one (1) healthcare mortgage note.

SUMMARY: This notice announces HUD's intention to sell three (3) unsubsidized multifamily mortgage loans and one (1) healthcare mortgage note, without Federal Housing Administration (FHA) insurance, in a competitive auction on September 17, 2014 (MHLS 2014–2). This notice also describes generally the bidding process for the sale and certain persons who are ineligible to bid.

DATES: A Bidder's Information Package (BIP) will be made available on or about August 20th, 2014. Bids for the loan must be submitted on the bid date of September 17, 2014. HUD anticipates that the award will be made on, or shortly after bid day September 17, 2014. Closing is expected to take place between September 23rd and September 25th, 2014.

ADDRESSES: To become a qualified bidder and receive the BIP, prospective bidders must complete, execute, and submit a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Both documents will be available on the HUD Web site at *www.hud.gov/fhaloansales.* Please mail and fax executed documents to JS Watkins Realty Partners, LLC:

J.S. Watkins Realty Partners, LLC,
c/o The Debt Exchange,
133 Federal Street, 10th Floor,
Boston, MA 02111,
Attention: MHLS 2014–2 Sale Coordinator,
Fax: 1–978–967–8607.

FOR FURTHER INFORMATION CONTACT: John Lucey, Director, Asset Sales Office, Room 3136, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000; telephone 202–708–2625, extension 3927. Hearing- or speech-impaired individuals may call 202–708–4594 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: HUD announces its intention to sell, in MHLS 2014–2, three (3) unsubsidized multifamily mortgage loans secured by three (3) multifamily properties located in St. Louis, Missouri, Little Rock and North Little Rock, Arkansas and one (1) healthcare mortgage secured by one (1) healthcare property located in Denton, Texas. The four loans being offered for sale are referred to herein as the ''Mortgage Loan(s)''. The Mortgage Loans are non-performing mortgage loans. A listing of the Mortgage Loans is included in the BIP. The Mortgage Loans will be sold without FHA insurance and with servicing released. HUD will offer qualified bidders an opportunity to bid competitively on the Mortgage Loans.

Qualified bidders may submit bids on the Mortgage Loans. A mortgagor who is a qualified bidder may submit an individual bid on its own Mortgage Loan. Interested Mortgagors should review the Qualification Statement to determine whether they may also be eligible to qualify to submit a bid.

The Bidding Process

The BIP describes in detail the procedure for bidding in MHLS 2014–2. The BIP also includes a standardized non-negotiable loan sale agreement (Loan Sale Agreement).

As part of its bid, each bidder must submit a minimum deposit of an amount equal to the greater of One Hundred Thousand Dollars ($100,000) or ten percent (10%) of the Aggregate Bid Prices for all of such Bidder's Bids. HUD will evaluate the bids submitted and determine the successful bids in its sole and absolute discretion. If a bidder is successful, the bidder's deposit will be non-refundable and will be applied toward the purchase price. Deposits will be returned to unsuccessful bidders. Closings are expected to take place between September 23 and 25, 2014.

These are the essential terms of sale. The BIP and the Loan Sale Agreement, which will be included in the BIP, contains additional terms and details. To ensure a competitive bidding process, the terms of the bidding process and the Loan Sale Agreement are not subject to negotiation.

Due Diligence Review

The BIP describes the due diligence process for reviewing the loan file in MHLS 2014–2. Qualified bidders will be able to access loan information remotely via a high-speed Internet connection. Further information on performing due diligence review of any Mortgage Loan is provided in the BIP.

Mortgage Loan Sale Policy

HUD reserves the right to add Mortgage Loans to or delete Mortgage Loans from MHLS 2014–2 at any time prior to the award date. HUD also reserves the right to reject any and all bids, in whole or in part, without prejudice to HUD's right to include the Mortgage Loans in a later sale. The Mortgage Loans will not be withdrawn after the award date except as is specifically provided in the Loan Sale Agreement.

This is a sale of unsubsidized mortgage loans, pursuant to Section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1997, (12 U.S.C. 1715z–11a(a)).

Mortgage Loan Sale Procedure

HUD selected a competitive sale as the method to sell the Mortgage Loan. This method of sale optimizes HUD's return on the sale of the Mortgage Loan, affords the greatest opportunity for all qualified bidders to bid on the Mortgage Loan, and provides the quickest and most efficient vehicle for HUD to dispose of the Mortgage Loan.

Bidder Eligibility

In order to bid in the sale, a prospective bidder must complete, execute and submit both a Confidentiality Agreement and a Qualification Statement acceptable to HUD. The following individuals and entities are ineligible to bid on the Mortgage Loan included in the MHLS 2014–2:

1. Any employee of HUD, a member of such employee's household, or an entity owned or controlled by any such employee or member of such an employee's household;

2. Any individual or entity that is debarred, suspended, or excluded from doing business with HUD pursuant to Title 24 of the Code of Federal Regulations, Part 24, and Title 2 of the Code of Federal Regulations, Part 24;

3. Any contractor, subcontractor and/or consultant or advisor (including any

agent, employee, partner, director, principal or affiliate of any of the foregoing) who performed services for, or on behalf of, HUD in connection with MHLS 2014–2;

4. Any individual who was a principal, partner, director, agent or employee of any entity or individual described in subparagraph 3 above, at any time during which the entity or individual performed services for or on behalf of HUD in connection with MHLS 2014–2;

5. Any individual or entity that uses the services, directly or indirectly, of any person or entity ineligible under subparagraphs 1 through 4 above to assist in preparing any of its bids on the Mortgage Loan;

6. Any individual or entity which employs or uses the services of an employee of HUD (other than in such employee's official capacity) who is involved in MHLS 2014–2;

7. Any affiliate, principal or employee of any person or entity that, within the two-year period prior to September 1, 2014, serviced the Mortgage Loan or performed other services for or on behalf of HUD;

8. Any contractor or subcontractor to HUD that otherwise had access to information concerning the Mortgage Loan on behalf of HUD or provided services to any person or entity which, within the two-year period prior to September 1, 2014 had access to information with respect to the Mortgage Loan on behalf of HUD;

9. Any employee, officer, director or any other person that provides or will provide services to the potential bidder with respect to such Mortgage Loan during any warranty period established for the Loan Sale, that serviced the Mortgage Loan or performed other services for or on behalf of HUD or within the two-year period prior to September 1, 2014 or that provided services to any person or entity which serviced, performed services or otherwise had access to information with respect to the Mortgage Loan for or on behalf of HUD;

10. Any mortgagor or operator that failed to submit to HUD on or before March 31, 2014 audited financial statements for fiscal years 2011 through 2013 (for such time as the project has been in operation or the prospective bidder served as operator, if less than three (3) years) for a project securing a Mortgage Loan;

11. Any individual or entity, and any Related Party (as such term is defined in the Qualification Statement) of such individual or entity, that is a mortgagor in any of HUD's multifamily and/or healthcare housing programs and that is in default under such mortgage loan or is in violation of any regulatory or business agreements with HUD and fails to cure such default or violation by no later than September 3, 2014.

The Qualification Statement provides further details pertaining to eligibility requirements. Prospective bidders should carefully review the Qualification Statement to determine whether they are eligible to submit bids on the Mortgage Loans in this offering of MHLS 2014–2.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding MHLS 2014–2, including, but not limited to, the identity of any successful bidder and its bid price or bid percentage for any individual loan, upon the closing of the sale of the Mortgage Loan. Even if HUD elects not to publicly disclose any information relating to MHLS 2014–2, HUD will have the right to disclose any information that HUD is obligated to disclose as required by federal law, including but not limited to, the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to MHLS 2014–2 and does not establish HUD's policy for the sale of other mortgage loans.

Dated: August 13, 2014.

Laura Marin,

Associate General Deputy Assistant, Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2014–19649 Filed 8–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMP01400 17110000.FU0000 LVRDNM210000]

Establishment of New Fees for the Rob Jaggers Camping Area in the Fort Stanton-Snowy River Cave National Conservation Area, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Lands Recreation Enhancement Act (REA), the Bureau of Land Management (BLM) Roswell Field Office has established expanded amenity fees for services provided at the Rob Jaggers Camping Area within the Fort Stanton-Snowy River Cave National Conservation Area (NCA) in New Mexico.

DATES: Effective July 1, 2014, the BLM began collecting expanded amenity fees for the Rob Jaggers Camping Area.

ADDRESSES: Mail: Roswell Field Office, 2909 West 2nd Street, Roswell, New Mexico 88201 or email: *qfranzoy@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Quinton Franzoy, Law Enforcement Ranger, Roswell Field Office, 2909 West 2nd Street, Roswell, NM 88201 or *qfranzoy@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question with the above individual. The FIRS is available 24 hours a day, seven days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Pursuant to the REA (16 U.S.C 6802 (g)), the Secretary may charge an expanded amenity recreation fee for services including, but not limited to: Use of hookups for electricity, cable, or sewer, use of sanitary dump stations, and use of reservation services. In February of 2013, the Roswell Field Office prepared the Rob Jaggers Camping Area Business Plan which was brought before the Pecos District Resource Advisory Committee (RAC) during its development, as required by the REA. Notice was published in the **Federal Register** on August 1, 2013 (78 FR 46598) and the Business Plan was available for a 6-month comment period. After the comment period closed on March 12, 2014, the RAC unanimously approved the proposed expanded amenity fee schedule. Under the schedule, there is a $5 fee for water hookup, a $5 fee for electric hookup, a $15 fee for using the dump station, and a $25 fee for reserving the group shelter. Overnight camping will remain free of charge. Fee amounts will be posted at a pay station kiosk at the NCA and on the BLM Roswell Field Office Web site.

Authority: The Federal Lands Recreation Enhancement Act 2005 as authorized under 16 U.S.C. 6801–6814.

Aden L. Seidlitz,

Associate State Director, New Mexico.

[FR Doc. 2014–19613 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14X L1109AF LLUTG02100 L14300000 EU0000; UTU–89282]

Notice of Realty Action: Proposed Non-Competitive (Direct) Sale of Public Land in Carbon County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing a non-competitive (direct) sale of 280 acres of public land in Carbon County, Utah, to Hunt Consolidated, Inc., under the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, at not less than the fair market value of $196,000.

DATES: Comments regarding the proposed sale must be received by the BLM on or before October 3, 2014. The land will not be offered for sale until at least 60 days after publication of this notice.

ADDRESSES: You may submit comments concerning this notice to the BLM Price Field Office, Attn: Patricia A. Clabaugh, 125 South 600 West, Price, UT 84501.

FOR FURTHER INFORMATION CONTACT: Connie Leschin, Realty Specialist, 435–636–3610, at the above address or email to *cleschin@blm.gov.* Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The following described public lands in Carbon County, Utah, are proposed for direct sale, subject to the applicable provisions of Sections 203 and 209 of FLPMA and 43 CFR parts 2711 and 2720:

Salt Lake Meridian, Utah

T. 14 S., R. 15 E.,
Sec. 8, SE1/4SE1/4;
Sec. 28, E1/2NE1/4;
Sec. 33, SE1/4SW1/4, N1/2SE1/4 and SW1/4SE1/4.

The areas described aggregate 280 acres.

These parcels are small isolated tracts that are difficult to manage as they are surrounded entirely by land owned by Hunt Consolidated, Inc. The proposed sale is in conformance with the BLM Price Field Office Resource Management Plan, approved in October 2008, which has designated the parcels for disposal. The BLM will offer the lands to Hunt Consolidated, Inc., on a non-competitive basis pursuant to 43 CFR 2711.3–3(a)(4) because the ownership pattern adjoining the parcels indicates that a direct sale would be appropriate. The lands are not suitable for management by other Federal agencies. A mineral report concluded that the parcels have known mineral values; therefore, the mineral estate will be reserved to the United States pursuant to 43 CFR 2720.0–6. Conveyance of the identified public land would be subject to valid existing rights of record and the following terms, conditions, and reservations:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation of all minerals to the United States, and the right to prospect for, mine, and remove the minerals under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

On February 5, 2013, the lands were segregated from the public land laws, including the mining laws, except for the sale provisions of FLPMA (78 FR 8188). Detailed information concerning the proposed land sale including the appraisal report, environmental assessment, and mineral report are available for review at the BLM Price Field Office.

Public comments regarding the proposed sale may be submitted in writing to the Field Manager (see the **ADDRESSES** Section) on or before October 3, 2014. Email will also be accepted and should be sent to: *BLM_UT_PR_Comments@blm.gov* with ''Public Land Sale'' inserted in the subject line. Any comments regarding the proposed sale will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior not less than 60 days after August 19, 2014.

Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR parts 2710, 2711 and 2720.

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–19610 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[XXXL8069TF LLUTC03000.L71220000.EU0000.LVTFJ0995850; UTU–87604 et al.]

Notice of Realty Action: Competitive Sale of Public Lands in Washington County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer six parcels of public land totaling 191 acres in Washington County, Utah, by competitive, sealed bid followed by a live oral auction, at not less than the appraised fair market value (FMV). The sale parcels will be offered pursuant to Section 203 and Section 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), and the applicable BLM land-sale regulations.

DATES: Interested parties may submit written comments regarding the proposed sale until October 3, 2014. Only written comments will be accepted. Comments may be mailed, hand delivered, or faxed to 435–688–3252. Emails will not be accepted. The public sale will not be held prior to October 20, 2014. The period to submit sealed bids and the sale date will be published in local and online media at least 30 days prior to the sale.

ADDRESSES: Submit written comments on the proposed sale to the BLM, St. George Field Office, Field Manager, 345 E. Riverside Drive, St. George, UT 84790.

FOR FURTHER INFORMATION CONTACT: Teresa Burke by email: *tsburke@blm.gov,* or by telephone: 435–688–3326. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM proposes to offer the following described parcels of public land in the St. George area for competitive sale:

Salt Lake Meridian, Utah

Parcel 1, Green Valley, UTU–87603

T. 42 S., R. 16 W.,
Sec. 35, lot 2, E½NW¼SE¼NW¼.

The area described contains 12.47 acres.

Parcel 2, Coral Canyon, UTU–87605

T. 42 S., R. 15 W.,
Sec. 13, lots 2, 5, 8.

The area described contains 8.74 acres.

Parcel 3, Washington Dome, UTU–87600

T. 42 S., R. 15 W.,
Sec. 25, lots 1, 4, 6, 7, SW¼NE¼, E½SE¼NW¼, N½NW¼SE¼NW¼.

The area described contains 145.01 acres.

Parcel 4, Sand Hollow East, UTU–87604

T. 42 S., R. 13 W.,
Sec. 18, S½SE¼SE¼SE¼.

The area described contains 5 acres.

Parcel 5, Mesa Palms, UTU–87602

T. 43 S., R. 16 W.,
Sec. 1, lot 16.

The area described contains 10 acres.

Parcel 6, Santa Clara, UTU–89024

T. 42 S., R. 16 W.,
Sec. 15, a portion of the NW¼NW¼ as described in the quit claim deed to the United States recorded in Washington County on February 21, 2008, as document No. 2008007148; 8.008 acres; and, a portion of lot 3 as described in the quit claim deed to the United States recorded in Washington County on February 21, 2008, as document No. 2008007147; 1.848 acres.

The area described contains 9.856 acres more or less.

The parcels described above aggregate approximately 191 acres. Information specific to each sale parcel including parcel number, legal description, encumbrances of record, acreage, and appraised FMV are provided on a sales matrix available on BLM's Web site at *http://blm.gov/hdld.* The Santa Clara Parcel involves lands that have revested with the United States pursuant to provisions of the Recreation and Public Purposes Act under 43 U.S.C. 869–1(a). Publication of this notice serves to open the lands to operation of the public land and mineral laws. If sold, the Santa Clara Parcel will be conveyed by a quit claim deed rather than a Federal patent.

The conveyance documents for the parcels identified above will contain the following, terms, conditions, and reservations:

1. A right-of-way reservation for ditches or canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

2. The conveyance will be subject to all valid existing rights of records.

3. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or occupations on the patented land.

All parcels identified for sale have no known mineral values and the proposed sale would include the conveyance of both the surface and minerals interests of the United States. A bid to purchase the land will constitute an application for conveyance of the mineral interest. In conjunction with the final payment, the applicant will be required to pay a $50 non-refundable filing fee for processing the conveyance of the mineral interest. No warranty of any kind, express or implied, is given by the United States as to the title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of any parcel will not be on a contingency basis. However, to the extent required by law, the parcel is subject to the requirements of Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

The parcels are subject to limitations prescribed by law and regulation, and certain encumbrances in favor of third parties. In accordance with 43 CFR 2807.15 and 43 CFR 2886.15, all valid existing right-of-way holders of record are in receipt of notification of their ability to convert their compliant right-of-way to a perpetual right-of-way or easement.

This proposed competitive land sale is in conformance with the BLM, St. George Resource Management Plan (RMP) approved in March 1999. Parcels 1–5 are identified as suitable for disposal in the RMP, and Parcel 6, includes lands reconveyed to the United States, is identified for disposal in the Record of Plan Maintenance, dated December 20, 2007. The proposed sale has been analyzed in a site specific Environmental Assessment (DOI–BLM–UT–C030–2011–0005–EA), and the sale will be in compliance with Sections 203 and 209 of FLPMA. The six parcels at issue were segregated for a 2-year period from appropriation under the public land and mining laws on August 7, 2012, (77 FR 47090). An extension of this segregation period was determined to be necessary by the State Director in writing on July 1, 2014, in order to provide sufficient time to complete the proposed sale. Publication of this notice serves to extend the segregation for an additional 2 years, ending on August 6, 2016, in accordance with 43 CFR 2711.1–3(d). This one-time 2-year extension of the existing segregation does not affect valid existing rights authorized or acquired prior to the original segregation.

Sale Procedures: Upon announcement of the sale date, sealed bids must be submitted for the sale parcels described above prior to or on the day of the sale. Sealed-bid envelopes must be clearly marked on the front lower left corner with ''Competitive Sealed-Bid Land Sale'' and the parcel number. A separate bid must be submitted for each parcel, and each sealed bid must include a certified check, postal money order, bank draft, or cashier's check made payable in United States dollars to the ''Department of Interior-Bureau of Land Management'' in an amount not less than 20 percent of the total amount bid. The BLM will not accept personal or company checks. The sealed-bid envelope must also contain a signed ''Certificate of Eligibility'' form stating the name, mailing address, and telephone number of the entity or person submitting the bid. Certificate of Eligibility forms are available at the BLM, St. George Field Office at the address listed in the **ADDRESSES** section and on the BLM Web site at *http://blm.gov/hdld.* All sealed bids will be opened on the day of the sale, to be followed by oral bidding. The highest sealed bid for each parcel will establish the minimum starting bid amount for each parcel. Bids for less than the federally approved FMV will not be accepted. The high bidders will be declared on the day of the sale, and each will receive a high bidder letter within 30 days following the sale that will provide detailed information for making full payment. The successful bidders will be allowed 180 days from the date of the sale to submit the remainder of the full purchase price.

All funds submitted with unsuccessful bids will be returned to the bidders or their authorized representative upon presentation of acceptable photo identification at the BLM, George Field Office on the day of the sale or by certified mail if not present at the sale. If a successful high bidder purchases a parcel and defaults, the BLM will retain the bid deposit and cancel the sale of that parcel. If a high bidder is unable to consummate the transaction for any other reasons, the second highest bid may be considered. If there are no acceptable bids, the parcels may remain available for sale at a future date in accordance sale procedures and subject to an updated appraisal.

Federal law requires that bidders must be: (1) United States citizens 18 years of age or older; (2) A corporation subject to the laws of any State or of the United States; (3) An entity including, but not limited to, associations or partnerships capable of acquiring and

owning real property, or interests therein, under the laws of the State of Utah; or (4) A State, State instrumentality, or political subdivision authorized to hold real property. Failure to submit the above documentation to the BLM within 30 days from receipt of the high-bidder letter would result in cancellation of the sale of the parcel and forfeiture of the bid deposit.

High bidders will be required to submit the remainder of the full bid price for the parcel no later than 4:30 p.m., Mountain Time, within 180 days following the day of the sale. Failure to pay the full bid price prior to the expiration of the 180th day will disqualify the high bidder and cause the entire 20 percent bid deposit to be forfeited to the BLM, in accordance with 43 CFR 2711.3–1(d). No exceptions will be made. The BLM cannot accept the remainder of the bid price after the 180th day of the sale date.

The BLM cannot be a party to and will not sign any documents related to 1031 Exchange transactions. The timing for completion of such an exchange is the responsibility of the bidder.

In accordance with 43 CFR 2711.3–1(f), within 30 days from the sale date, the BLM will accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale, if, in the opinion of a BLM authorized officer, consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by applicable law or regulations. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid.

On publication of this notice and until completion of the sale, the BLM is no longer accepting land use applications affecting the parcel identified for sale. However, land use applications may be considered after the sale if the parcel is not sold. The parcel may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. Information concerning the sale, encumbrances of record, appraisals, reservations procedures and conditions, CERCLA, and other environmental documents that may appear in the BLM public files for the proposed sale parcels are available for review during business hours, 7:30 a.m. to 4:30 p.m., Mountain Time, Monday through Friday, at the BLM, St. George Field Office, except during Federal holidays. In order to determine FMV through appraisal, certain extraordinary assumptions and hypothetical conditions may have been made concerning the attributes and limitations of the lands and potential effects of local regulation and policies on potential future land uses. Through publication of this notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government.

It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations, and policies that may affect the subject lands, including any required dedication of lands for public uses. It is the responsibility of the buyer to be aware of existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the lands would be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It is the responsibility of the buyer to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should also make themselves aware of any Federal or State law or regulation that may affect the future use of the property. Any land lacking access from a public road or highway would be conveyed as such, and future access acquisition would be the responsibility of the buyer.

Before including your address, phone number, email address, or other personal identifying information in any comments, be aware that your entire comment—including personal identifying information—may be made publicly available at any time. Requests to withhold personal identifying information from public review can be submitted, but the BLM cannot guarantee that it will be able to do so.

Any adverse comments regarding the proposed sale will be reviewed by the BLM, State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR part 2711 and 43 CFR part 2720.

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–19609 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES003420.L14300000.FR0000;MIES–057953]

Notice of Realty Action; Recreation and Public Purposes Act Classification for Conveyance, Alpena County, MI

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification and conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, 43.08 acres of land on Thunder Bay Island in Alpena Township, Michigan. Alpena Township proposes to acquire the lighthouse and surrounding land on Thunder Bay Island to use as a historic site.

DATES: Comments must be received by the Northeastern States Field Office at the address listed below by October 3, 2014.

ADDRESSES: Field Manager, BLM, Northeastern States Field Office, 626 East Wisconsin Avenue, Suite 200, Milwaukee, WI 53202–4617.

FOR FURTHER INFORMATION CONTACT: Carol Grundman, Realty Specialist, at the above address or at 414–297–4447. 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. 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 following described public land on Thunder Bay Island in Alpena County, Michigan, reserved under the jurisdiction of the United States Coast Guard (USCG), Department of Homeland Security, has been examined and found suitable for conveyance under Section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and the provision of the R&PP Act as amended, 43 U.S.C. 869 *et seq.:*

Michigan Meridian,

T. 30 N., R. 10 E.,
Sec. 3.

The area described contains 43.08 acres in Alpena County, Michigan.

Alpena Township has applied to acquire the public land and lighthouse structures on Thunder Bay Island under the R&PP Act. The Township proposes to protect and manage the lighthouse

and surrounding acreage as a historic site open to the public under regulated access. The USCG concurs with the proposed disposition of the land. The conveyance is consistent with the Michigan Resource Management Plan Amendment approved June 27, 1997. The land is not needed for any Federal purpose and a conveyance to protect the historic structures and surrounding land would be in the public interest.

The conveyance document, if issued, would be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior and would contain the following reservations, terms, and conditions:

1. Valid existing rights.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove minerals under applicable laws and such regulations as the Secretary of the Interior may prescribe.

3. Any other terms and conditions that the authorized officer deems appropriate, including conditions to ensure public access and proper management of Federal land and interest therein.

Commencing on August 19, 2014, the public land described above will be segregated from all forms of appropriation under the public land laws, except for conveyance under the Recreation and Public Purposes Act. For a period of 45 days after issuance of this notice, interested parties may submit written comments regarding the proposed conveyance or classification of the land to the Field Manager at the address listed above. Detailed information concerning this action including but not limited to documentation related to compliance with applicable environmental and cultural resource laws is available for review at the address listed above.

Classification Comments: Interested parties may submit comments involving the suitability of the land for R&PP Act classification, and particularly, whether the land is physically suited for management as a historic site, whether the use will maximize future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and the plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for management as a historic site. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification of the land described in this notice will become effective on October 20, 2014. The land will not become available for conveyance until after the classification becomes effective.

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.

Authority: 43 CFR 2741.5

Dean Gettinger,

Field Manager, Northeastern States Field Office.

[FR Doc. 2014–19612 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS00560.L58530000.ES0000] MO#4500063562

Notice of Realty Action: Recreation and Public Purposes Lease, Partial Change of Use of Public Lands in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: In accordance with the Recreation and Public Purposes (R&PP) Act, Clark County requests to change the use of a portion of a previously approved R&PP lease in Clark County, Nevada (N–51437). Clark County proposes to change the use of 5 acres of an R&PP lease from a tree farm to a public park.

DATES: Interested parties may submit written comments regarding the proposed change of use of the lands until October 3, 2014.

ADDRESSES: Send written comments to the BLM Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, or email: *ddickey@blm.gov* and *kthorpe@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Dorothy Dickey, 702–515–5119, or *ddickey@blm.gov,* and Kerri-Anne Thorpe, 702–515–5196, or *kthorpe@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact Ms. Dickey or Ms. Thorpe during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for Ms. Dickey or Ms. Thorpe. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The change of use requested by Clark County is consistent with the BLM Las Vegas Resource Management Plan dated October 5, 1998, and is in the public interest. The original proposed R&PP lease for a civic multi-use facility was analyzed under Environmental Assessment (EA) NV–054–90–69 dated October 3, 1990. The lease was issued on August 21, 1991.

On August 11, 2000, Clark County requested to amend its lease and submitted a new plan of development for a demonstration garden park and tree farm. A Notice of Realty Action was issued on November 21, 2000 and published on December 4, 2000, (65 FR 75732) segregating 52.5 acres for use as a park and 10 acres for use as a tree farm under the R&PP Act. Clark County has now requested to change the use of 5 acres from a tree farm to a park. The parcel of land is located on the corner of Flamingo Road and Buffalo Drive in Las Vegas, Nevada, and is legally described as:

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,
Sec. 15, E½SE¼NW¼SW¼.

The change of use area described contains 5 acres in Clark County.

The proposed change of use area as a park will consist of a general park area with related facilities, such as parking lots, walkways, lighting, landscaping, drainage, irrigation, restrooms, and park amenities. Information pertaining to this application, plan of development, site plan, and environmental review documentation can be reviewed at the BLM, Las Vegas Field Office.

The lands are not required for any other Federal purpose. The change of use of 5 acres from a tree farm to a park is consistent with the BLM Las Vegas Resource Management Plan dated October 5, 1998, and is in the public interest. Clark County, a qualified applicant under the R&PP Act, has not applied for more than the 6,400-acre limitation consistent with the regulation at 43 CFR 2741.7(a)(1), and has submitted a statement in compliance with the regulation at 43 CFR 2741.4(b).

Interested parties may submit written comments on the suitability of the land for use as a park. Interested parties may

also submit written comments regarding the specific use proposed in the application and plan of development, and whether the BLM followed proper administrative procedures in reaching the decision to change the use to a park under the R&PP Act, or any other factor not directly related to the suitability of the land for R&PP use.

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.

Any adverse comments will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the decision will become effective on October 20, 2014. The lands will not be available for use as a public park until after the decision becomes effective.

Authority: 43 CFR 2741.5(h).

Vanessa L. Hice,

Assistant Field Manager, Las Vegas Field Office.

[FR Doc. 2014–19611 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–499–500 and 731–TA–1215–1223 (Final)]

Certain Oil Country Tubular Goods From India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam; Reopening of the Record and Request for Comments

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The United States International Trade Commission (the Commission) hereby gives notice that it is reopening the record in these investigations for the purpose of considering new factual information. The U.S. Department of Commerce (Commerce) in a document dated August 11, 2014, amended its final determination in the investigation concerning oil country tubular goods (OCTG) from Saudi Arabia. On August 13, 2014, the Commission received a request on behalf HLD Clark Pipe Co., Inc. to reopen the record. The record will reopen on August 13, 2014 and will close on August 18, 2014. The Commission is not reopening the record for any purpose other than to receive Commerce's amended final determination and comments from any party on this new factual information. Parties may submit final comments on this information on or before Monday, August 18, 2014, but such final comments must not exceed 10 pages in length, must not contain any additional new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing*, available on the Commission's Web site at *http://edis.usitc.gov*, elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

DATES: *Effective Date:* August 13, 2014.

FOR FURTHER INFORMATION CONTACT: Michael Szustakowski (202–205–3169), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Dated: August 13, 2014.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–19584 Filed 8–18–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Anchordoguy, et al.,* Civil Action No. 2:13-cv-848–MCE–CMK, was lodged with the United States District Court for the Eastern District of California on August 12, 2014.

The proposed Consent Decree concerns a complaint filed by the United States, on behalf of the United States Environmental Protection Agency, against Matthew R. Anchordoguy, Anchordoguy and Company Limited Partnership, and John R. Barlow, to obtain injunctive relief and civil penalties for violations of Sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 and 1344. The proposed Consent Decree resolves these allegations by requiring the defendants to mitigate the losses of ecological functions resulting from the violations; enjoining them from discharging pollutants to streams and wetlands on the site in question (in Tehama County, California) except as in compliance with the Clean Water Act; and directing them to pay a civil penalty.

The Department of Justice will accept written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Andrew J. Doyle, Senior Attorney, Environment and Natural Resources Division, Environmental Defense Section, Post Office Box 7611, Washington, DC 20044 and refer to *United States* v. *Anchordoguy, et al.,* DJ # 90–5–1–1–19337.

The proposed Consent Decree may be examined at any of the Clerk's Offices, United States District Court for the Eastern District of California, including 501 I Street, Room 4–200, Sacramento, California 95814, and 2986 Bechelli Lane, Redding, California 96002. In addition, the proposed Consent Decree may be examined electronically at

http://www.justice.gov/enrd/Consent_Decrees.html.

Cherie L. Rogers,

Assistant Section Chief,Environmental Defense Section,Environment and Natural Resources Division.

[FR Doc. 2014–19622 Filed 8–18–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OVC) Docket No. 1667]

Meeting of the National Coordination Committee on the AI/AN SANE–SART Initiative

AGENCY: Office for Victims of Crime, DOJ.

ACTION: Notice of meeting.

SUMMARY: The National Coordination Committee on the American Indian/Alaska Native (AI/AN) Sexual Assault Nurse Examiner (SANE)—Sexual Assault Response Team (SART) Initiative (''National Coordination Committee'' or ''Committee'') will meet to carry out its mission to provide advice to assist the Office for Victims of Crime (OVC) to promote culturally relevant, victim-centered responses to sexual violence within AI/AN communities.

DATES: *Dates and Locations:* The meeting will be held via webinar on Friday, September 12, 2014. The Webinar is open to the public for participation. There will be a designated time for the public to speak, and the public can observe and submit comments in writing to Shannon May, the Designated Federal Official. Webinar space is limited. To register for the webinar, please provide your full contact information to Shannon May (contact information below).

FOR FURTHER INFORMATION CONTACT: Shannon May, Designated Federal Officer (DFO) for the National Coordination Committee, Federal Bureau of Investigation, Office for Victim Assistance, 935 Pennsylvania Ave NW., Room 3329, Washington, DC 20535; Phone: (202) 323–9468 [note: this is not a toll-free number]; Email: *shannon.may@ic.fbi.gov.*

SUPPLEMENTARY INFORMATION: The National Coordination Committee on the American Indian/Alaskan Native (AI/AN)-Sexual Assault Nurse Examiner (SANE)-Sexual Assault Response Team (SART) Initiative (''National Coordination Committee'' or ''Committee'') was established by the Attorney General to provide valuable advice to OVC to encourage the coordination of federal, tribal, state, and local efforts to assist victims of sexual violence within AI/AN communities, and to promote culturally relevant, victim-centered responses to sexual violence within those communities.

Webinar Agenda: The agenda will include: (a) A traditional welcome and introductions; (b) remarks from the Director of OVC; (c) an update on the submission of the Committee's Recommendations Report to the Attorney General; (d) a discussion about the ongoing role of the Committee; (e) comments by members of the public; and (f) a traditional closing.

Shannon May,

Project Manager—Victims of Crime, National Coordinator, AI/AN SANE–SART Initiative, Designated Federal Official—National Coordination Committee, Federal Bureau of Investigation, Office for Victim Assistance.

[FR Doc. 2014–19615 Filed 8–18–14; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, Division of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov*

SUPPLEMENTARY INFORMATION: On July 7, 2014 the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on August 13, 2014 to: Dr. Becky Ball, Permit No. 2015–004.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2014–19595 Filed 8–18–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (P.L. 95–541)

AGENCY: National Science Foundation

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 671 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 18, 2014. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details:

1. *Applicant*, John McKeon, President, Polar Latitudes, Inc., 857 Post Road, #366, Fairfield, CT 06825. Permit Application: 2015–006.

Activity for Which Permit is Requested

Waste Permit;

For Coastal Camping: The applicant seeks permission for no more than 20 campers and two expedition staff to camp overnight at select locations for a maximum of 10 hours ashore. Camping would be away from vegetated sites and >150m from wildlife concentrations or lakes, protected areas, historical sites, and scientific stations. Tents would be pitched on snow, ice, or bare smooth rock, at least 15m from the high water line. No food would be brought onshore and all wastes, including human waste, would be collected and returned to the ship for proper disposal. The applicant

is seeking a Waste Permit to cover any accidental releases that may result from camping.

For UAV Filming: The applicant wishes to fly small, battery operated, remotely controlled copters equipped with a cameras to take scenic photos and film of the Antarctic. The UAVs would not be flown over concentrations of birds or mammals or over Antarctic Specially Protected Areas. The UAVs would only be flown by operators with extensive experience (>20 hours), who are pre-approved by the Expedition Leader. Several measures would be taken to prevent against loss of the UAV including painting them a highly visible color; only flying when the wind is less than 25 knots; flying for only 15 minutes at a time to preserve battery life; having prop guards on propeller tips, a flotation device if operated over water, and a ''go home'' feature in case of loss of control link or low battery; having an observer on the lookout for wildlife, people, and other hazards; and ensuring that the separation between the operator and UAV does not exceed an operational range of 500 meters. The applicant is seeking a Waste Permit to cover any accidental releases that may result from flying a UAV.

Location

Camping: possible locations include Damoy Point/Dorian Bay, Danco Island, Rongé Island, the Errera Channel, Paradise Bay (including Almirante Brown/Base Brown or Skontorp Cove), the Argentine Islands, Andvord Bay, Pleneau Island, the Argentine Islands, Hovgaard Island, Orne Harbour, Leith Cove, Prospect Point and Portal Point.

UAV filming: Western Antarctic Peninsula region

DATES:

November 12, 2014 to March 2, 2015.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2014–19593 Filed 8–18–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, Division of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On May 19, 2014 the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on August 13, 2014 to: Dr. Rachael Morgan-Kiss, Permit No. 2015–002.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2014–19594 Filed 8–18–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. IA–14–025–EA; ASLBP No. 14–932–02–EA–BD01]

James Chaisson; Establishment Of Atomic Safety And Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, *see* 37 FR 28,710 (1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

James Chaisson
(Enforcement Action)

This Board is being established pursuant to a hearing request submitted by James Chaisson in response to an ''Order Prohibiting Involvement in NRC-Licensed Activities'' issued on July 11, 2014 by the NRC Office of Enforcement, and published in the **Federal Register** on July 18, 2014 (79 FR 42,057).

The Board is comprised of the following administrative judges:

Alex S. Karlin, Chairman,
Atomic Safety and Licensing Board Panel,
U.S. Nuclear Regulatory Commission,
Washington, DC 20555–0001.

Michael M. Gibson,
Atomic Safety and Licensing Board Panel,
U.S. Nuclear Regulatory Commission,
Washington, DC 20555–0001.

Dr. Gary S. Arnold,
Atomic Safety and Licensing Board Panel,
U.S. Nuclear Regulatory Commission,
Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Issued at Rockville, Maryland, this 13th day of August 2014.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2014–19675 Filed 8–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0189]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 24, 2014 to August 6, 2014. The last biweekly notice was published on August 5, 2014.

DATES: Comments must be filed by September 18, 2014. A request for a hearing must be filed by October 20, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0189. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, 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: Janet C. Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1384, email: *Janet.Burkhardt@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0189 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–2014–0189.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0189 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. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would 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 basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) the name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/

petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North,

11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on obtaining information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: October 2, 2013, as supplemented by letter dated June 19, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML13284A063 and ML14188B450, respectively.

Description of amendment request: The proposed amendment incorporates Technical Specification Task Force (TSTF) Traveler TSTF–493–A, Revision 4, ''Clarify Application of Setpoint Methodology for LSSS [limiting safety system settings] Functions,'' Option A. The availability of this Technical Specification (TS) improvement was announced in the **Federal Register** on May 11, 2010 (75 FR 26294). The proposed amendment would revise the TSs by adding requirements to assess channel performance during testing that verifies instrument channel setting values established by plant-specific setpoint methodologies to all the functions identified in TSTF–493, Revision 4, Appendix A. Notice of this action was previously published in the **Federal Register** on January 21, 2014 (79 FR 3415). The renoticing of this action is provided to include a supplement to the licensee's application dated October 2, 2013, which is dated June 19, 2014. This renotice replaces and supersedes the **Federal Register** notice of January 21, 2014, in its entirety. The supplement dated June 19, 2014, added TS Table 3.3.6.2–1 Function 1 to the list of functions included in the adoption of TSTF–493, Revision 4, which is not included in Appendix A of TSTF–493.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change adds test requirements to TS instrument Functions related to those variables that have a significant safety function to ensure that instruments will function as required to initiate protective systems or actuate mitigating systems at the point assumed in the applicable safety analysis. Surveillance tests are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the TS for which surveillance Notes are added are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be capable of performing any mitigation function assumed in the accident analysis.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The change does not involve a physical alteration of the plant, i.e., no new or different type of equipment will be installed. The change does not alter assumptions made in the safety analysis but ensures that the instruments perform as assumed in the accident analysis. The proposed change is consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change adds test requirements that will assure that TS instrumentation AVs [allowable values] (1) will be limiting settings for assessing instrument channel operability and (2) will be conservatively determined so that evaluation of instrument performance history and the ALT [as-left tolerance] requirements of the calibration procedures will not have an adverse effect on equipment operability. The testing methods and acceptance criteria for systems, structures, and components specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis including the updated FSAR [final safety analysis report]. There is no impact to safety analysis acceptance criteria as described in the plant licensing basis because no change is made to the accident analysis assumptions.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William A. Horin, Esq., Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of amendment request: April 4, 2014. A publicly-available version is in

ADAMS under Accession No. ML14097A106.

Description of amendment request: The Northern States Power Company proposes to revise MNGP technical specification (TS) 3.5.1, ''ECCS [Emergency Core Cooling]—Operating.'' Specifically, NSPM proposes to remove TS 3.5.1, Condition F, which currently provides a 72-hour Completion Time to restore one Core Spray subsystem to Operable status when both Core Spray subsystems are inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is provided below.

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Core Spray subsystems are designed to inject/spray the core after any size break up to and including a design basis Loss of Coolant Accident (LOCA). The proposed change to revise the Completion Time does not change the conditions, operating configurations or the minimum amount of operating equipment assumed in the safety analysis for accident mitigation. No change is proposed to the manner in which the Core Spray System provides plant protection or which would create new modes of plant operation.

The proposed change will not affect the probability of any event initiators. There will be no degradation in the performance of, or an increase in the number of challenges imposed on, safety-related equipment assumed to function during an accident situation. There will be no change to normal plant operating parameters or accident mitigation performance.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

There is no hardware change nor is there a change in the method by which any plant systems perform a safety function. This request does not affect the normal method of plant operation.

The proposed change does not introduce new equipment which could create a new or different kind of accident. No new external threats, release pathways, or equipment failure modes are created. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this request.

Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The Core Spray subsystems are capable of providing water and removing heat loads to satisfy the Updated Safety Analysis Report requirements for accident mitigation or unit safe shutdown.

There will be no change to the manner in which the safety limits or limiting safety system settings are determined, nor is there a change to those plant systems necessary to assure the accomplishment of protection functions.

Therefore, it is concluded that this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: David L. Pelton.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit 1, Washington County, Nebraska

Date of amendment request: April 30, 2014. A publicly-available version is in ADAMS under Accession No. ML14125A239.

Description of amendment request: The proposed amendment would change Technical Specification (TS) section 3.2, Table 3–5, for Fort Calhoun Station, Unit 1, to add a new surveillance requirement similar to standard TS to verify the correct position of the valves required to restrict flow in the high-pressure safety injection system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Technical Specification (TS) 3.2 Table 3–5 would add a new surveillance requirement to verify the position of valves required to restrict flow in the high pressure safety injection system to ensure adequate flow is maintained following a design basis accident.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because: (1) The proposed amendment does not represent a change to the system design, (2) the proposed amendment does not alter, degrade, or prevent action described or assumed in any accident Updated Safety Analysis Report (USAR) from being performed, (3) the proposed amendment does not alter any assumptions previously made in evaluating radiological consequences, and [4)] the proposed amendment does not affect the integrity of any fission product barrier. No other safety related equipment is affected by the proposed change.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change adds a surveillance requirement to verify the position of valves. The proposed change does not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant. Hence, the proposed change does not introduce any new accident initiators, nor does it reduce or adversely affect the capabilities of any plant structure or system in the performance of their safety function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change to add a new surveillance requirement does not alter the manner in which safety limits or limiting safety system settings are determined. The safety analysis acceptance criteria are not affected by this proposed change. Further, the proposed change does not change the design function of any equipment assumed to operate in the event of an accident. The change only adds a requirement to periodically verify the position of valves.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David A. Repka, Esq., Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

NRC Acting Branch Chief: Eric R. Oesterle.

Pacific Gas and Electric Company, Docket No. 50–133, Humboldt Bay Power Plant Unit 3, and Docket No. 72–027, Humboldt Bay Independent Spent Fuel Storage Installation, Humboldt County, California

Date of amendment request: June 30, 2014. A publicly-available version is in ADAMS under Accession No. ML14182A476.

Description of amendment request: The license amendment request proposes changes to the Humboldt Bay (HB) site Emergency Plan (E-Plan). The proposed changes are a reduction in the emergency planning function commensurate with the ongoing and anticipated reduction in radiological source term at the Humboldt Bay site. These changes are a revised E-Plan organization, the replacement of a dedicated on-call emergency response team with advisory personnel on an as-needed basis, the elimination of the initiating events and emergency action levels for Humboldt Bay Power Plant (HBPP) Unit 3, and a revision to the emergency action level (EAL) information for the HB Independent Spent Fuel Storage Installation (ISFSI).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are a reduction in the emergency planning function commensurate with the ongoing and anticipated reduction in radiological source term at the HB site. These changes are a revised E-Plan organization, the replacement of a dedicated on-call emergency response team with advisory personnel on an as-needed basis, the elimination of the initiating events and emergency action levels for Humboldt Bay Power Plant (HBPP) Unit 3, and a revision to the emergency action level information for the HB ISFSI. There are no longer credible events that would result in doses to the public beyond the owner controlled area boundary that would exceed the Environmental Protection Agency (EPA) Protective Action Guidelines (PAGs). HBPP was shutdown in 1976 and was not restarted. All spent fuel and Greater Than Class C (GTCC) waste has been transferred to the ISFSI. Emergency Planning Zones beyond the owner controlled area and the associated protective actions are no longer required. No headquarters personnel, personnel involved in off-site dose projections, or personnel with special qualifications are required to augment the HB Emergency Response Organization. The credible events for the ISFSI remain unchanged. The indications of damage to a loaded cask confinement boundary have been revised to be twice the design basis dose rate as described in Section 7.3.2.1 of the ISFSI Final Safety Analysis Report (FSAR) (0.3 mrem/hr). This change is consistent with industry practices previously approved by the NRC for other ISFSIs to be able to distinguish that a degraded condition exists.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are a reduction in the emergency planning function commensurate with the ongoing and anticipated reduction in radiological source term at the HB site. These changes are a revised E-Plan organization, the replacement of a dedicated on-call emergency response team with advisory personnel on an as-needed basis, the elimination of the initiating events and EALs for HBPP, Unit 3, and a revision to the EAL information for the HB ISFSI. There are no longer credible events that would result in doses to the public beyond the owner controlled area boundary that would exceed the EPA PAGs. HBPP was shutdown in 1976 and was not restarted. All spent fuel and GTCC waste has been transferred to the ISFSI. Emergency Planning Zones beyond the owner controlled area and the associated protective actions are no longer required. No headquarters personnel, personnel involved in off-site dose projections, or personnel with special qualifications are required to augment the HB Site Emergency Response Organization. The proposed changes involve a revision to the HP Site E-Plan only, and do not involve any physical changes to the HB Site that would create the possibility of a new or different accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are a reduction in the emergency planning function commensurate with the ongoing and anticipated reduction in radiological source term at the HB site. These changes are a revised E-Plan organization, the replacement of a dedicated on-call emergency response team with advisory personnel on an as-needed basis, the elimination of the initiating events and EALs for HBPP Unit 3, and a revision to the EAL information for the HB ISFSI. There are no longer credible events that would result in doses to the public beyond the owner controlled area boundary that would exceed the EPA PAGs. HBPP was shutdown in 1976 and was not restarted. All spent fuel and GTCC waste has been transferred to the ISFSI. Margin of safety is related to the ability of the fission product barriers (fuel cladding, reactor coolant system, and primary containment) to perform their design functions during and following postulated accidents. There are no longer credible events that would result in doses to the public beyond the owner controlled area boundary that would exceed the EPA PAGs. Emergency Planning Zones beyond the owner controlled area and the associated protective actions are no longer required. No headquarters personnel, personnel involved in offsite dose projections, or personnel with special qualifications are required to augment the HB Site Emergency Response Organization. The proposed changes involve a revision to the HB Site E-Plan only and do not affect the fission product barrier design or capability of the ISFSI.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jennifer K. Post, Law Department, Pacific Gas and Electric Company, 77 Beale Street, B30A, San Francisco, CA.

NRC Branch Chief: Bruce Watson.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of amendment request: March 27, 2014. A publicly-available version is in ADAMS under Accession No. ML14086A426.

Description of amendment request: The proposed amendments would revise various technical specification (TS) surveillance requirements (SRs) associated with the Diablo Canyon Power Plant, Units 1 and 2, emergency Diesel Generators (DGs). The proposed changes reflect the results of a revised load study analysis, as well as a revision to the DG 30-minute load rating. These changes were submitted to address multiple issues identified by NRC and licensee investigations, and are intended to correct various non-conservative TS values associated with DG testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes revise the acceptance criteria to be applied to existing TS surveillance tests of the facility DGs.

The performing of a surveillance test is not an accident initiator and does not increase the probability of an accident occurring. The proposed new surveillance acceptance criteria will continue to assure that the DGs are capable of carrying the peak electrical loading assumed in the various existing safety analyses, which take credit for the operation of the DGs. The DG loads during the proposed surveillances are increased; however, they remain within vendor specifications.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

The proposed changes revise the acceptance criteria to be applied to existing TS surveillance tests of the facility DGs. The proposed changes do not involve installation of new equipment or modification of existing equipment, so no new equipment failure modes are introduced. The proposed revision to the DG surveillance test acceptance criteria is not a change to the way that the equipment or facility is operated and no new accident initiators are created.

Therefore, the proposed change does not create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes revise the acceptance criteria to be applied to existing TS surveillance tests of the facility DGs. The conduct of performance tests on safety related plant equipment is a means of assuring that the equipment is capable of maintaining the margin of safety established in the safety analyses for the facility. These changes do not significantly reduce the safety margin because the proposed SRs comply with RG [Regulatory Guide] 1.108, R1 [Revision 1, ''Periodic Testing of Diesel Generator Units Used as Onsite Electric Power Systems at Nuclear Power Plants,'' August 1977; available under ADAMS Accession No. ML12216A011] and Safety Guide 9 [''Selection of Diesel Generator Set Capacity for Standby Power Supplies''] (March 1971) [available under ADAMS Accession No. ML12305A251], or an exception has been requested. The changes are consistent in comparison to RG 1.9, R3 [Revision 3, ''Selection, Design, Qualification, and Testing of Emergency Diesel Generator Units Used as Class 1E Onsite Electric Power Systems at Nuclear Power Plants,'' July 1993; available under ADAMS Accession No. ML003739929]. The proposed DG test load values, which include the requested exception to RG 1.108, R1, are not a reduction in margin because the values are bounded by the DG manufacturer's ratings. With the proposed changes in the DG TS surveillance test acceptance criteria, the DG will continue to be tested in a manner that assures it will perform as assumed in the existing safety analyses.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jennifer Post, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Acting Branch Chief: Eric R. Oesterle.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant (HNP), Units 1 and 2, Appling County, Georgia

Date of amendment request: January 16, 2014, as supplemented July 22, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML14016A202 and ML14203A160.

Description of amendment request: The proposed amendments would modify Technical Specification (TS) 3.7.5, Control Room Air Conditioning (AC) System, to provide new Required Actions (RAs) for one, two, or three main control room (MCR) AC subsystems inoperable, and make other required corresponding changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is provided below:

SNC has evaluated whether or not a significant hazards consideration is involved with the proposed generic change by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change allows 7 days to restore an inoperable Main Control Room Air Conditioning (MCR AC) subsystem when two subsystems are inoperable and allows 72 hours to restore an inoperable MCR AC subsystem when three subsystems are inoperable, provided MCR temperature is verified every four hours to be less than 90°F [degrees Fahrenheit]. The new Required Action Completion Times are revised to be dependent upon the MCR temperature, instead of being dependent upon the outside air temperature. The option to operate indefinitely with one MCR AC subsystem inoperable provided the outside area temperature is less than 65°F is being deleted.

In the event that new Conditions A, B, or Care not met during movement of irradiated fuel assemblies in the secondary containment, during CORE ALTERATIONS, or during OPDRVs [operations with a potential for draining the reactor vessel], Conditions E and F are modified and added, respectively, to state Required Actions and Completion Times. These Required Actions include immediate suspension of the current activity as necessary. As a result of these changes, current Conditions F and G are no longer necessary and are deleted.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). The design basis equipment temperature limit of the control room equipment is not affected. Future changes to the Bases or licensee controlled document will be evaluated pursuant to the requirements of 10 CFR 50.59, ''Changes, test and experiments'', to ensure that such changes do not result in more than a minimal increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological consequences of any accident previously evaluated. Further, the proposed changes do not increase the types and the amounts of radioactive effluent that may be released, nor significantly increase individual or cumulative occupation/public radiation exposures.

Therefore, the changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change allows 7 days to restore an inoperable Main Control Room Air Conditioning (MCR AC) subsystem when two subsystems are inoperable and allows 72 hours to restore an inoperable MCR AC subsystem when three subsystems are inoperable, provided MCR temperature is verified every four hours to be less than 90°F. The new Required Action Completion Times are revised to be dependent upon the MCR temperature, instead of being dependent upon the outside air temperature. The option to operate indefinitely with one MCR AC subsystem inoperable provided the outside area temperature is less than 65°F is being deleted.

In the event that new Conditions A, B, or C are not met during movement of irradiated fuel assemblies in the secondary

containment, during CORE ALTERATIONS, or during OPDRVs, Conditions E and F are modified and added, respectively, to state Required Actions and Completion Times. These Required Actions include immediate suspension of the current activity as necessary. As a result of these changes, current Conditions F and G are no longer necessary and are deleted.

The changes do not involve a physical altering of the plant (i.e., no new or different type of equipment will be installed) or a change in methods governing normal plant operation. The requirements in the TS continue to require maintaining the control room temperature within the design limits.

Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change allows 7 days to restore an inoperable Main Control Room Air Conditioning (MCR AC) subsystem when two subsystems are inoperable and allows 72 hours to restore an inoperable MCR AC subsystem when three subsystems are inoperable, provided MCR temperature is verified every four hours to be less than 90°F. The new Required Action Completion Times are revised to be dependent upon the MCR temperature, instead of being dependent upon the outside air temperature. The option to operate indefinitely with one MCR AC subsystem inoperable provided the outside area temperature is less than 65°F is being deleted.

In the event that new Conditions A, B, or C are not met during movement of irradiated fuel assemblies in the secondary containment, during CORE ALTERATIONS, or during OPDRVs, Conditions E and F are modified and added, respectively, to state Required Actions and Completion Times. These Required Actions include immediate suspension of the current activity as necessary. As a result of these changes, current Conditions F and G are no longer necessary and are deleted.

Instituting the proposed changes will continue to maintain the control room temperature within design limits. Should it appear that control room temperature may exceed the design basis 105°F equipment limit based on the control room temperature reaching 90°F in Modes 1, 2, or 3, the plant will be placed in the Cold Shutdown Mode (Mode 4). If the control room heatup is rapid, then the plant with be required to be placed in Mode 3 and in Mode 4 with a Completion Time that is similar to the current requirements. If the control room heatup is relatively slow (and the design basis equipment temperature is therefore less likely to be reached), longer time will be allowed to place the plant in Mode 3 and in Mode 4 (if necessary). Changes to the Bases or license controlled document are performed in accordance with 10 CFR 50.59. This approach provides an effective level of regulatory control and ensures that the control room temperature will be maintained within design limits.

The proposed changes maintain sufficient controls to preserve the current margins of safety. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, SNC concludes that the proposed change presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Branch Chief: Robert Pascarelli.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: December 4, 2013.

Brief description of amendments: The amendments revised Technical Specification (TS) Limiting Condition for Operation 3.5.1 to delete a note that is not conservative. The note is being deleted because plant operation, in accordance with the note, could result in potential damage to the residual heat removal system.

Date of issuance: July 28, 2014.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendments Nos.: 292 and 295. A publicly-available version is in ADAMS under Accession No. ML14163A589; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Facility Operating Licenses and the TSs.

Date of initial notice in ***Federal Register:*** March 4, 2014 (79 FR 12245).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 2014.

No significant hazards consideration comments received: No.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: May 28, 2013, as supplemented by letters dated July 31, 2013, January 29, 2014, and March 26, 2014.

Brief description of amendment: The amendment revised the Seabrook Technical Specifications (TSs). Specifically, the amendment modified the TSs by relocating specific surveillance frequencies to a licensee-controlled program with implementation of Nuclear Energy Institute 04–10, ''Risk-Informed Technical Specification Initiative 5B, Risk-Informed Method for Control of Surveillance Frequencies.'' The changes are consistent with NRC-approved Technical Specifications Task Force (TSTF) Standard Technical Specifications (STS) change TSTF–425, ''Relocate Surveillance Frequencies to Licensee Control—Risk Informed

Technical Specifications Task Force (RITSTF) Initiative 5b,'' Revision 3 (ADAMS Accession No. ML090850642). The **Federal Register** notice published on July 6, 2009 (74 FR 31996), announced the availability of this TS improvement.

Date of issuance: July 24, 2014.

Effective date: As of its date of issuance and shall be implemented within 90 days.

Amendment No.: 141. A publicly-available version is in ADAMS under Accession No. ML13212A069; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–86: The amendment revised the License and TS.

Date of initial notice in ***Federal Register:*** August 20, 2013 (78 FR 51227). The supplemental letters dated July 31, 2013, January 29, 2014, and March 26, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 2014.

No significant hazards consideration comments received: No.

PSEG Nuclear, LLC, Docket No. 50–354, Hope Creek Generating Station (Hope Creek), Salem County, New Jersey

Date of amendment request: July 30, 2013.

Brief description of amendment: The amendment revised the Technical Specifications (TS) to delete the operability and surveillance requirements (SRs) for the reactor coolant system safety/relief valve (SRV) position instrumentation from the Hope Creek TS. The operability and SRs for the SRV position instrumentation will be relocated by the licensee into the Hope Creek Technical Requirements Manual (TRM). The Hope Creek TRM is controlled in a manner consistent with procedures described in the Hope Creek Updated Final Safety Analysis Report, and under the provisions of 10 CFR 50.59. Future changes to the operability and SRs for the SRV position instrumentation will be performed pursuant to 10 CFR 50.59.

Date of issuance: July 29, 2014.

Effective date: As of its date of issuance and shall be implemented within 60 days.

Amendment No.: 195. A publicly-available version is in ADAMS under Accession No. ML14108A312; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–57: The amendment revised the License and TS.

Date of initial notice in ***Federal Register:*** April 1, 2014 (79 FR 18334).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 2014.

No significant hazards consideration comments received: No.

South Carolina Electric and Gas, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: December 17, 2013, as supplemented by the letter dated March 26, 2014.

Brief description of amendments: The amendments authorize a revision to the VCSNS Units 2 and 3 Emergency Plan to facilitate compliance with the Final Rule for Emergency Planning and Preparedness published on November 23, 2011.

Date of issuance: June 23, 2014.

Effective date: As of the date of issuance and shall be implemented within 180 days of issuance.

Amendment Nos.: Unit 2—13, and Unit 3—13. A publicly-available version is in ADAMS under Accession Nos. ML14133A377 and ML14133A381; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses No. NPF–93 and NPF–94: Amendments revised the VCSNS Units 2 and 3 Emergency Plan.

Date of initial notice in ***Federal Register:*** February 19, 2014 (79 FR 9490). The supplement dated March 26, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 2014.

No significant hazards consideration comments received: No.

Tennessee Valley Authority (TVA), Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant (BFN), Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendments: February 28, 2013, as supplemented by letters dated September 30, 2013, and May 16, 2014.

Description of amendment request: The amendments add three additional AREVA NP analysis methodologies to the list of approved methods to be used in determining core operating limits in the Core Operating Limits Report. In addition, the amendments implement a change to the Safety Limit Minimum Critical Power Ratio value for BFN Unit 2. The changes support a planned transition to AREVA ATRIUM 10XM (XM) fuel design. TVA intends to transition Unit 2 to XM design starting with Cycle 19 (spring 2015), Unit 3 in spring 2016, followed by Unit 1 in fall of 2016.

Date of issuance: July 31, 2014.

Effective date: Date of issuance, to be implemented during the refueling outages of Unit 1 in fall of 2016, Unit 2 in spring 2015, Unit 3 in spring 2016.

Amendment Nos.: Unit 1—285, Unit 2—311, and Unit 3—270. A publicly-available version is in ADAMS under Accession No. ML14113A286; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–33, DPR–52, and DPR–68: Amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** August 13, 2013 (78 FR 49302). The supplemental letters dated September 30, 2013, and May 16, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 11th day of August 2014.

For the Nuclear Regulatory Commission.

A. Louise Lund,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–19386 Filed 8–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on September 3, 2014, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, September 3, 2014–12 p.m. Until 1 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013, (78 FR 67205–67206).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: August 8, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–19672 Filed 8–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on September 4–6, 2014, 11545 Rockville Pike, Rockville, Maryland.

Thursday, September 4, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: SECY–14–XXXX, ''Qualitative Consideration of Factors in the Development of Regulatory Analyses and Backfit Analyses'' (Open) The Committee will hear presentations by and hold discussions with representatives of the staff regarding SECY–14–XXXX, ''Qualitative Consideration of Factors in the Development of Regulatory Analyses and Backfit Analyses.''

10:45 a.m.–12:15 p.m.: Draft Final Generic Letter 20XX–XX, ''Monitoring of Neutron Absorber Materials in Spent Fuel Pools'' (Open) The Committee will hear presentations by and hold discussions with representatives of the staff regarding the draft final Generic Letter 20XX–XX, ''Monitoring of Neutron Absorber Materials in Spent Fuel Pools.''

1:15 p.m.–2:45 p.m.: Safety Evaluation Report (SER) Associated with the Fermi, Unit 3, Combined License Application (COLA) Referencing the Economic Simplified Boiling Water Reactor (ESBWR) Design (Open/Closed) The Committee will hear presentations by and hold discussions with representatives of the staff and DTE Electric Company regarding the SER associated with the Fermi, Unit 3, COLA referencing the ESBWR design. [**Note:** A portion of this meeting may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).]

3 p.m.–6 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4).]

Friday, September 5, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–10 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. [**Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

10 a.m.–10:15 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

10:30 a.m.–12 p.m.: Preparation for Commission Meeting (Open)—The Committee will discuss topics in preparation for the meeting with the Commission.

1 p.m.–2 p.m.: Assessment of the Quality of Selected NRC Research Programs—FY 2014 (Open)—The Committee will discuss the quality assessment of selected NRC research projects.

2 p.m.–6 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [**Note:** A portion of this session may be closed in order to discuss and protect

information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4).]

Saturday, September 6, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–11:30 a.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4).]

11:30 a.m.–12 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013 (78 FR 67205–67206). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) Public Law 92–463, and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: August 13, 2014.

Annette L. Vietti-Cook,

Acting Advisory Committee Management Officer.

[FR Doc. 2014–19660 Filed 8–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the ACRS Joint Subcommittees on Thermal-Hydraulics Phenomena and Reliability and PRA; Notice of Meeting

The ACRS Joint Subcommittees on Thermal-Hydraulics Phenomena and Reliability and PRA will hold a meeting September 3, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, September 3, 2014—8:30 a.m. until 5 p.m.

The Subcommittee will review and discuss the South Texas Project Risk-Informed Approach to Resolving Generic Safety Issue-191: Assessment of Debris Accumulation on PWR Sump Performance. The Subcommittee will hear presentations by and hold discussions with South Texas Project Nuclear Operating Company, the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Mark Banks (Telephone 301–415–3718 or Email: *Mark.Banks@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013 (78 CFR 67205–67206).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: August 12, 2014.

Maitri Banerjee,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–19662 Filed 8–18–14; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before October 20, 2014.

ADDRESSES: Written comments should be addressed to Denora Miller, FOIA/Privacy Act Officer, Office of Management, Peace Corps, 1111 20th Street NW., Washington, DC 20526. Denora Miller may also be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov*. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION: Peace Corps Response uses the staff, personal and professional reference forms to learn from someone who knows the applicant and his or her background whether the applicant possesses the necessary characteristics and skills to serve as a Peace Corps Response Volunteer.

OMB Control Number: 0420–0548.

Title: Peace Corps Response Volunteer Reference Forms.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals.

Respondents' Obligation to Reply: Voluntary.

Burden to the Public:

a. Number of interviewed applicants: * 700.

b. Number of references required per interviewed applicant: ** 2.25.

c. Estimated number of reference forms received: 1,575.

d. Frequency of response: One time.

e. Completion time: 10 minutes.

f. Annual burden hours: 263.

* Reference information is collected only if an applicant is contacted for an interview.

** Returned Peace Corps Volunteers (RPCVs) must submit two references; one staff and one professional reference. These applicants comprise of approximately 75% of the total applicants interviewed. Applicants who have not previously served with the Peace Corps must submit three references; one personal and two professional references. These applicants comprise of approximately 25% of the total applicants interviewed. Therefore, the number of references required per interviewed applicants is calculated at 2.25.

General Description of Collection: The information collected in the Peace Corps Response Reference Forms is an integral part of the screening and selection process and is used to determine whether an applicant would be a good candidate as a Peace Corps Response Volunteer. The information obtained from these forms is used by the recruitment and placement specialists within the Office of Peace Corps Response.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on August 12, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–19586 Filed 8–18–14; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 USC Chapter 35).

DATES: Submit comments on or before October 20, 2014.

ADDRESSES: Written comments should be addressed to Denora Miller, FOIA/Privacy Act Officer, Office of Management, Peace Corps, 1111 20th Street NW., Washington, DC 20526. Denora Miller may also be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION: The Peace Corps Response interview is necessary to assess applicants' qualifications and eligibility to serve in Peace Corps Response. The interview is a critical point in the recruitment process, as it is the point when the applicant and the recruitment and placement specialist verbally discuss the nature of the Volunteer assignment.

OMB Control Number: 0420–XXXX.

Title: Peace Corps Response Interview Form.

Type of Review: New.

Affected Public: Individuals.

Respondents' Obligation to Reply: Voluntary.

Burden to the Public:

a. *Number of Interviewed Applicants:* 700.

b. *Frequency of response:* One time.

c. *Completion time:* 60 minutes.

d. *Annual burden hours:* 700.

General Description of Collection: The information collected in the Peace Corps Response Interview Form is used to determine whether an applicant would be a good candidate as a Peace Corps Response Volunteer. The information obtained from this form is used by the recruitment and placement specialists within the Office of Peace Corps Response.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on August 12, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–19585 Filed 8–18–14; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2014–38 and CP2014–67; Order No. 2151]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Global Reseller Expedited Package Contracts 4 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 20, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Global Reseller Expedited Package Contracts 4 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment 4.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2014–38 and CP2014–67 to consider the Request pertaining to the proposed Global Reseller Expedited Package Contracts 4 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642; 39 CFR part 3015; and 39 CFR part 3020, subpart B. Comments are due no later than August 20, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2014–38 and CP2014–67 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than August 20, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–19567 Filed 8–18–14; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31209; 812–14308]

Innovator Management LLC and Academy Funds Trust; Notice of Application

August 13, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Innovator Management LLC (''Innovator'') and Academy Funds Trust (the ''Trust'').

SUMMARY OF APPLICATION: Applicants request an order that permits: (a) Actively-managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

DATES: *Filing Dates:* The application was filed on May 13, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief 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 September 8, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, 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: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, 123 South Broad Street, Suite 1630, Philadelphia, PA 19109.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879 or David P. Bartels, Branch Chief, at (202) 551–6821

[1] Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts 4 to the Competitive Products List and Notice of Filing Global Reseller Expedited Package 4 Negotiated Service Agreement, August 8, 2014 (Request).

(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. The Trust is registered as an open-end management investment company under the Act and is a statutory trust organized under the laws of Delaware. The Trust initially will offer one series, the Innovator IBD 50 ETF (the ''Initial Fund''), which applicants state will seek long-term capital growth. The Initial Fund will seek to achieve its investment objective by investing primarily in equity securities listed on North American exchanges.

2. Innovator, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and will serve as investment adviser to the Initial Fund. The Advisor (as defined below) may in the future retain one or more sub-advisors (each a ''Sub-Advisor'') to manage the portfolios of the Funds (as defined below). Any Sub-Advisor will be registered, or not subject to registration, under the Advisers Act. A registered broker-dealer (''Broker'') under the Securities Exchange Act of 1934 (the ''Exchange Act'') will act as the distributor and principal underwriter of the Funds (the ''Distributor'').

3. Applicants request that the order apply to the Initial Fund and any future series of the Trust as well as other open-end management investment companies that may utilize active management investment strategies (''Future Funds''). Any Future Fund will (a) be advised by Innovator or an entity controlling, controlled by, or under common control with Innovator (Innovator and each such other entity and any successor thereto included in the term ''Advisor''),[1] and (b) comply with the terms and conditions of the application.[2] The Initial Fund and Future Funds together are the ''Funds''.[3] Each Fund will consist of a portfolio of securities (including fixed income securities and/or equity securities) and/or currencies traded in the U.S. and/or non-U.S. markets, and derivatives, other assets, and other investment positions (''Portfolio Instruments'').[4] Funds may invest in ''Depositary Receipts''.[5] Each Fund will operate as an actively managed exchange-traded fund (''ETF'').

4. Applicants request that any exemption under section 12(d)(1)(J) apply to: (1) With respect to section 12(d)(1)(B), any Fund that is currently or subsequently part of the same ''group of investment companies'' as the Initial Fund within the meaning of section 12(d)(1)(G)(ii) of the Act as well as any principal underwriter for the Fund and any Brokers selling Shares of a Fund to an Investing Fund (as defined below); and (2) with respect to section 12(d)(1)(A), each management investment company or unit investment trust registered under the Act that is not part of the same ''group of investment companies'' as the Funds, and that enters into a FOF Participation Agreement (as defined below) to acquire Shares of a Fund (such management investment companies, ''Investing Management Companies,'' such unit investment trusts, ''Investing Trusts,'' and Investing Management Companies and Investing Trusts together, ''Investing Funds''). Investing Funds do not include the Funds.[6]

5. Applicants anticipate that a Creation Unit will consist of at least 25,000 Shares. Applicants anticipate that the trading price of a Share will range from $10 to $100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into a participant agreement with the Distributor and the transfer agent of the Fund (''Authorized Participant'') with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) a Broker or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (b) a participant in the DTC (such participant, ''DTC Participant'').

6. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[7] On any given Business Day[8] the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the ''Creation Basket.'' In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio (including cash positions),[9] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not

[1] For the purposes of the requested order, a ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Advisor to a Future Fund will be registered as an investment adviser under the Advisers Act. All entities that currently intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[3] Applicants further request that the order apply to any future Distributor of the Funds, which would be a Broker and would comply with the terms and conditions of the application. The Distributor of any Fund may be an affiliated person of the Advisor and/or Sub-Advisors.

[4] If a Fund invests in derivatives, then (a) the board of trustees (''Board'') of the Fund will periodically review and approve the Fund's use of derivatives and how the Fund's investment adviser assesses and manages risk with respect to the Fund's use of derivatives and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[5] Depositary Receipts are typically issued by a financial institution, a ''depositary'', and evidence ownership in a security or pool of securities that have been deposited with the depositary. A Fund will not invest in any Depositary Receipts that the Advisor or any Sub-Advisor deems to be illiquid or for which pricing information is not readily available. No affiliated persons of applicants, any Future Fund, any Advisor, or any Sub-Advisor will serve as the depositary bank for any Depositary Receipts held by a Fund.

[6] An Investing Fund may rely on the order only to invest in Funds and not in any other registered investment company.

[7] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[8] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a ''Business Day'').

[9] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's net asset value (''NAV'') for that Business Day.

tradeable round lots;[10] or (c) TBA Transactions,[11] short positions and other positions that cannot be transferred in kind[12] will be excluded from the Creation Basket.[13] If there is a difference between NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

7. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Funds holding non-U.S. investment (''Global Funds''), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Global Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[14]

8. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act (''Stock Exchange''), on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Stock Exchange will disseminate every 15 seconds throughout the trading day an amount representing, on a per Share basis, the sum of the current value of the Portfolio Instruments that were publicly disclosed prior to the commencement of trading in Shares on the Stock Exchange.

9. A Fund may recoup the settlement costs charged by NSCC and DTC by imposing a transaction fee on investors purchasing or redeeming Creation Units (the ''Transaction Fee''). The Transaction Fee will be borne only by purchasers and redeemers of Creation Units and will be limited to amounts that have been determined appropriate by the Advisor to defray the transaction expenses that will be incurred by a Fund when an investor purchases or redeems Creation Units.[15] All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant and the Distributor will transmit all purchase orders to the relevant Fund. The Distributor will be responsible for delivering a prospectus (''Prospectus'') to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

10. Shares will be listed and traded at negotiated prices on a Stock Exchange and traded in the secondary market. Applicants expect that Stock Exchange specialists or market makers (''Market Makers'') will be assigned to Shares. The price of Shares trading on the Stock Exchange will be based on a current bid/offer in the secondary market. Transactions involving the purchases and sales of Shares on the Stock Exchange will be subject to customary brokerage commissions and charges.

11. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[16] Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[17] Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV per Share should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

12. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund, or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant.

13. Neither the Trust nor any Fund will be marketed or otherwise held out as a ''mutual fund''. Instead, each Fund will be marketed as an ''actively-managed exchange-traded fund''. In any advertising material where features of obtaining, buying or selling Shares traded on the Stock Exchange are described there will be an appropriate

[10] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[11] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price.

[12] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[13] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Cash Amount (defined below).

[14] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[15] Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments. In all cases, the Transaction Fee will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

[16] If Shares are listed on The NASDAQ Stock Market LLC (''Nasdaq'') or a similar electronic Stock Exchange (including NYSE Arca), one or more member firms of that Stock Exchange will act as Market Maker and maintain a market for Shares trading on that Stock Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[17] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

statement to the effect that Shares are not individually redeemable.

14. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include a Prospectus and additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or mid-point of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[18]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such 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) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit each Fund to redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution system of investment company shares by eliminating price competition from brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity should ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that settlement of redemptions of Creation Units of Global Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which those Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Portfolio Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 14 calendar days. Applicants therefore request relief from section 22(e) in order to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Instruments of each Global Fund customarily clear and settle, but in all cases no later than 14 calendar days

[18] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day will be booked and reflected in NAV on the current Business Day. Accordingly, each Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for its NAV calculation at the end of such Business Day.

following the tender of a Creation Unit.[19]

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 14 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state each Global Fund's statement of additional information (''SAI'') will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each affected Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not effect redemptions in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

10. Applicants request relief to permit Investing Funds to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Broker to sell Shares to Investing Funds in excess of the limits in section 12(d)(l)(B) of the Act. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

11. Applicants submit that their proposed conditions address any concerns regarding the potential for undue influence. To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the adviser of an Investing Management Company (''Investing Fund Advisor''), sponsor of an Investing Trust (''Sponsor''), any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Advisor, the Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor (''Investing Fund's Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any sub-adviser to an Investing Management Company (''Investing Fund Sub-Advisor''), any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Advisor or any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor (''Investing Fund's Sub-Advisory Group'').

12. Applicants propose a condition to ensure that no Investing Fund or Investing Fund Affiliate[20] (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

13. Applicants propose several conditions to address the potential for layering of fees. Applicants note that the board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''independent directors or trustees''), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[21]

14. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

15. To ensure that an Investing Fund is aware of the terms and conditions of the requested order, the Investing Funds must enter into an agreement with the respective Funds (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Investing Fund that it may rely on the order only to invest in a Fund and not in any other investment company.

[19] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that it may otherwise have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

[20] An ''Investing Fund Affiliate'' is any Investing Fund Advisor, Investing Fund Sub-Advisor, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

[21] Any reference to NASD Conduct Rule 2830 includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

Sections 17(a)(1) and (2) of the Act

16. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person (''second tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the 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 and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Each Fund may be deemed to be controlled by an Advisor and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Advisor (an ''Affiliated Fund'').

17. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds.[22] Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, certain Investing Funds of which the Funds are affiliated persons or second-tier affiliates.[23]

18. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Absent the unusual circumstances discussed in the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond *pro rata* to the Fund's Portfolio Instruments. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the relevant Funds, and the valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner and on the same terms for all, regardless of the identity of the purchaser or redeemer. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

19. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[24] The FOF Participation Agreement will require any Investing Fund that purchases Creation Units directly from a Fund to represent that the purchase of Creation Units from a Fund by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund's registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on a Stock Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. The Advisor or any Sub-Advisor, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

B. Section 12(d)(1) Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote

[22] Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of an Investing Fund because an investment adviser to the Funds is also an investment adviser to an Investing Fund.

[23] To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between an Investing Fund and a Fund, relief from section 17(a) would not be necessary. The requested relief is intended to cover, however, transactions directly between an Investing Fund and a Fund.

[24] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of the Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Advisor or a person controlling, controlled by or under common control with the Investing Fund Sub-Advisor acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Advisor and any Investing Fund Sub-Advisor are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Advisor, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Advisor, or Trustee or Sponsor, or an affiliated person of the Investing Fund Advisor, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Advisor, or Trustee, or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Advisor will waive fees otherwise payable to the Investing Fund Sub-Advisor, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Advisor, or an affiliated person of the Investing Fund Sub-Advisor, other than any advisory fees paid to the Investing Fund Sub-Advisor or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Advisor. In the event that the Investing Fund Sub-Advisor waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

7. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided

under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund relying on the section 12(d)(1) relief will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19583 Filed 8–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, August 21, 2014 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution settlement of administrative proceedings;

adjudicatory matters; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: August 14, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19707 Filed 8–15–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72839; File No. SR–CBOE–2014–040]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Relating to Orders That Are Tied to Stock

August 13, 2014.

I. Introduction

On April 30, 2014, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding option orders that are tied to an order(s) for the underlying stock or a security convertible into the underlying stock. The proposed rule change was published for comment in the **Federal Register** on May 19, 2014.[3] The Commission received two comment letters regarding the proposed rule change.[4] On June 25, 2014, the Exchange extended the time for Commission action to August 4, 2014. On July 15, 2014, the Exchange submitted a letter responding to the comment letters.[5] The Commission received an additional comment letter on July 18, 2014.[6] On July 31, 2014, the Exchange extended the time for Commission action to August 15, 2014. On August 6, 2014, the Exchange submitted a second response letter.[7] This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to define a ''Tied to Stock Order'' and establish reporting requirements for Tied to Stock Orders. Specifically, the Exchange proposes that an order is tied to stock (and is, therefore, a Tied to Stock Order) if, at the time the Trading Permit Holder (''TPH'') representing the order on the Exchange receives or initiates the order, the TPH has knowledge that the order is coupled with an order(s) for the underlying stock or a security convertible into the underlying stock (''convertible security'' and, together with underlying stock, ''non-option'').[8] The Exchange notes that a TPH must have knowledge of the non-option order for an order to meet the definition of a Tied to Stock Order.[9] As an example, the Exchange states that if a TPH is a routing broker and receives an option order with no knowledge of a related stock component submitted separately for execution, then the routing broker TPH is not required to mark the order as a Tied to Stock Order.[10] Accordingly, the Exchange states that routing brokers do not need to take any steps to require non-TPH clients to identify orders as Tied to Stock Orders.[11]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72154 (May 13, 2014), 79 FR 28787 (''Notice'').

[4] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from James Ongena, Senior Vice President and General Counsel, Chicago Stock Exchange, dated June 9, 2014 (''CHX Letter''); Manisha Kimmel, Managing Director, Financial Information Forum, dated June 13, 2014 (''FIF Letter I'').

[5] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Laura G. Dickman, Senior Attorney, CBOE, dated July 15, 2014 (''CBOE Letter I'').

[6] *See* letter to Elizabeth M. Murphy, Secretary, Commission, Manisha Kimmel, Managing Director, Financial Information Forum, dated July 18, 2014 (''FIF Letter II'').

[7] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Laura G. Dickman, Senior Attorney, CBOE, dated August 6, 2014 (''CBOE Letter II'').

[8] *See* proposed CBOE Rule 6.53(y). CBOE notes that Tied to Stock Orders may be simple or complex orders and may be part of, among other things, buy-write strategies, married put strategies, delta neutral strategies, contingent strategies, and other stock-option trading strategies with definitive option orders and stock orders. *See* Notice, *supra* note 3, at 28788.

[9] *See* Notice, *supra* note 3, at 28788.

[10] *See id.*

[11] *See id.* The Exchange notes, however, that where a routing client is a TPH, and that client separates a related stock order (or is aware of a separate non-option order) prior to submitting the option order to the routing broker, the TPH client has the responsibility to mark the order as a Tied to Stock Order, and the routing broker would not have any ''re-marking'' obligation. *See id.* Nevertheless, the Exchange states that where a routing broker populates order information for orders and either elects to route the non-option order of a trading strategy separately for execution (or has knowledge of a separate non-option component), then the routing broker must mark the order as a Tied to Stock Order. *See id.* at 28788–89.

In the Notice, the Exchange states that an order is a Tied to Stock Order only if it is part of a trading strategy coupled with at least one non-option component, which trading strategy comprised a single investment decision for which the investor has the intent of execution of these orders at or near the same time.[12] The Exchange further states that an option order that is received or initiated to hedge a previously executed stock transaction is not a Tied to Stock Order.[13] In such a case, the Exchange states the option order is a separate and subsequent investment decision based on an existing stock position, without the necessary intent for execution of the option order at or near the same time as a non-option order.[14]

Under the proposal, TPHs representing Tied to Stock Orders must include an indicator on each such order upon systemization unless: (1) The order is submitted to the Exchange as part of a qualified contingent cross [15] (''QCC'') order through an Exchange-approved device; [16] (2) the order is submitted to the Exchange for electronic processing as a stock-option order; [17] (3) all of the component orders (including both option and stock or convertible security components) are systematized on a single order ticket.[18]

CBOE proposes certain reporting requirements for Tied to Stock Orders. Specifically, the Exchange proposes to adopt CBOE Rule 15.2A, which provides that, in a manner and form prescribed by the Exchange,[19] each Trading Permit Holder must, on the business day following the order execution date, report to the Exchange the following information for the executed stock or convertible security legs of QCC orders, stock-option orders, and other Tied to Stock Orders that the Trading Permit Holder executed on the Exchange that trading day: (a) Time of execution, (b) execution quantity, (c) execution price, (d) venue of execution, and (e) any other information requested by the Exchange.[20] Under the proposal, TPHs may arrange for their clearing firm to submit these reports on their behalf; provided that, if the clearing firm does not report an executed stock order, the TPHs would be responsible for reporting the information.[21]

Notwithstanding the forgoing, the Exchange proposes that TPHs do not need to report information pursuant to CBOE Rule 15.2A with respect to: (a) Stock-option orders submitted to the Exchange for electronic processing, or (b) stock or convertible security orders entered into an Exchange-approved device.[22] The Exchange also proposes that market-makers (or their clearing firms) may include the information required by CBOE Rule 15.2A in the equity reports submitted pursuant to existing CBOE Rule 8.9(b).[23] For Tied to Stock Orders that are executed on multiple options exchanges, the Exchange proposes that TPHs (or their respective clearing firms) may report to the Exchange the information required by CBOE Rule 15.2A for the entire stock or convertible security component(s) rather than the portion applicable to the portion of the order that executed at the Exchange.[24] Finally, the Exchange proposes that, in lieu of the time of execution information required under proposed CBOE Rule 15.2A(a), the Exchange may accept the time of the trade report if that time is generally within 90 seconds of the time of execution.[25]

The purpose of the proposed rule change, according to the Exchange, is to enhance the Exchange's ability to effectively monitor and conduct surveillance of its market and TPHs relevant cross-market trading activity with respect to stock orders for which the execution information is not electronically captured by the Exchange's current audit trail.[26] The Exchange believes that the proposed rule change will improve its ability to conduct more timely and accurate trading analyses, market reconstructions, complex enforcement inquiries or investigations, and inspections and examinations.[27] By improving the Exchange's ability to tie an executed non-option leg to its corresponding option order, the Exchange believes the proposed rule change will help the Exchange surveil such orders for compliance with applicable rules such as Regulation SHO [28] or front-running rules.[29] The Exchange further believes that the proposed rule change will substantially decrease both the Exchange's and TPHs' administrative burden in the long-term, in having to otherwise manually gather this cross-market information and tie non-option legs to option orders in connection with the Exchange's regulatory duties.[30]

The Exchange proposes to announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 90 days following the effective date of the proposed rule change, with such implementation date occurring no later than 180 days following the effective date.[31]

III. Summary of Comments and CBOE's Response

As previously noted, the Commission received a total of three comment letters, from two commenters, on the proposal.[32] One commenter supported the proposed rule change.[33] The other commenter expressed concerns and requested more information about implementing the proposed rule change.[34] CBOE submitted two letters responding to the comments.[35]

The first commenter, a national securities exchange, expressed support for the Exchange's proposal.[36] The

[12] *See* Notice, *supra* note 3, at 28789.

[13] *See id.*

[14] *See id.* Similarly, the Exchange states that an option transaction or position that is hedged with a subsequently received or initiated stock order would not be a Tied to Stock Order. *See id.*

[15] *See* CBOE Rule 6.53(u) (defining QCC order).

[16] The Exchange notes that the Floor Broker Workstation and PULSe workstation would currently be the only Exchange-approved devices for this proposal. *See* Notice, *supra* note 3, at n.5.

[17] *See* CBOE Rule 6.53C(a)(2) (defining a stock-option order).

[18] *See* proposed CBOE Rule 6.53(y)(i)–(iii).

[19] The Exchange proposes to announce by Regulatory Circular any determinations, including the manner and form of the report it makes pursuant to CBOE Rule 15.2A. *See* proposed CBOE Rule 15.2A, Interpretation and Policies .01. The Commission notes that the Exchange issued Regulatory Circular RG14–110, detailing the proposed technical specifications of CBOE Rule 15.2A. *See* CBOE Regulatory Circular RG14–110.

[20] *See* proposed CBOE Rule 15.2A (Reports of Execution of Stock Transactions).

[21] *See id.* The Exchange also proposes to amend CBOE Rule 6.77 governing order service firms to provide that order service firms must submit reports pursuant to CBOE Rule 15.2A with respect to the stock transactions they execute on behalf of market-makers pursuant to CBOE Rule 6.77. *See* proposed CBOE Rule 6.77(e). The Exchange notes that order service firms are TPHs (and thus would already be subject to proposed CBOE Rule 15.2A), but believes it is helpful to include all the requirements applicable to order service firms in a single Exchange rule. *See* Notice, *supra* note 3, at 28790.

[22] *See* proposed CBOE Rule 15.2A, Interpretation and Policies .02.

[23] *See id.* at Interpretation and Policies .03.

[24] *See id.* at Interpretation and Policies .04.

[25] *See id.* at Interpretation and Policies .05.

[26] *See* Notice, *supra* note 3, at 28790. The Exchange notes that while the Consolidated Audit Trail (''CAT'') will eventually capture the stock transaction information that is the subject of this proposal, the Exchange believes that the implementation of CAT may be several year away and that the Exchange should continue to enhance its audit trail when it identifies opportunities to do so. *See id. See also* 17 CFR 242.613 (Consolidated Audit Trail).

[27] *See* Notice, *supra* note 3, at 28790.

[28] 17 CFR 242.200 *et seq.*

[29] *See* Notice, *supra* note 3, at 28790.

[30] *See id.*

[31] *See id.*

[32] *See supra* notes 4 and 6.

[33] *See* CHX Letter, *supra* note 4.

[34] *See* FIF Letter I and FIF Letter II, *supra* notes 4 and 6.

[35] *See supra* notes 5 and 7.

[36] *See* CHX Letter, *supra* note 4, at 1.

commenter, while broadly in support of the proposal, noted that it does not believe that the proposal sufficiently addresses the complex task of identifying and linking the often numerous component trades of Tied to Stock Orders executed on different markets.[37] To this end, the commenter suggested that it would be willing, in coordination with other market participants, to mark every execution for components of a Tied to Stock Order that was submitted to the commenter's exchange with a unique stock leg trade identifier and to make such information readily available to its own members and other market participants.[38] In response, the Exchange stated that it welcomes the opportunity to coordinate with other exchanges to create further enhancements and regulatory efficiencies, but noted that such efforts would take time to implement, and the Exchange believes it is necessary to proceed with this proposal.[39]

The second commenter, an industry group, submitted two comment letters expressing concerns relating to the implementation of the proposed rule change and requesting more information from the Exchange on such implementation.[40] The first comment letter requested that the Exchange release the reporting specifications for the proposed rule change.[41] The commenter expressed concern that, without knowing the technical specifications for the proposed rule change, it would be difficult to accurately estimate the amount of time and effort that would be required of market participants affected by the proposed rule change to implement the proposal.[42] In response, the Exchange directed the commenter to a regulatory circular that included technical specifications in the form of proposed data reporting specifications for reports of the non-option components of Tied to Stock Orders.[43] The Exchange also stated that it would announce the proposed implementation date of the reporting requirements no later than 90 days following the effective date of the proposed rule change, which implementation date would be no later than 180 days following the effective date of the proposed rule change. The Exchange stated it believes this implementation schedule would provide TPHs with sufficient time to comply with the proposed rule change.[44]

Following the public release of the technical specifications relating to the proposed rule change, the second commenter expressed additional concerns about the implementation of the proposal.[45] Specifically, the commenter believed that the technology build for market participants affected by the proposed rule change will be significant.[46] The commenter noted a number of differences with, and additional information requested by, the technical specifications to the proposed rule change as compared to CBOE's existing equity reporting format for market makers under current CBOE Rule 8.9(b).[47]

In response to the second commenter, the Exchange stated that the proposed rule change will enhance CBOE's audit trail, particularly with respect to cross-market trading activity.[48] While the proposed reporting requirement may impose upfront costs on Trading Permit Holders, the Exchange asserted that this is offset by the future benefits provided by the proposed rule filing.[49] Currently, Exchange surveillances monitor Trading Permit Holders' cross-market trading activity.[50] If the surveillances detect a potential violation, the Exchange receives an alert, at which point the Exchange investigates the trading activity.[51] In connection with these efforts, the Exchange often requests transaction information on an ad hoc basis from Trading Permit Holders.[52] According to the Exchange, this is both costly and time-consuming for Trading Permit Holders, as well as the Exchange, due to the inconsistent format of the information submitted and the manual processing of such information.[53] Regularly, after receiving this information, the Exchange determines that there is a reasonable basis to conclude that no further action is warranted with respect to that surveillance alert.[54] The Exchange stated its belief that the information it will receive through the proposed stock reports, in connection with the tied to stock indicator, will significantly reduce the number of ad hoc requests it must make from Trading Permit Holders, as it will already have the stock transaction information necessary to make a similar determination with respect that surveillance alert.[55]

In response to the second commenter's concern about the technical specifications required by the proposed rule change, the Exchange stated that it currently permits Clearing Trading Permit Holders (or Market-Makers to the extent a Clearing Trading Permit Holder does not report a trade on behalf of a Market-Maker) to submit CBOE Rule 8.9(b) Reports in one of two different formats (currently, each Clearing Trading Permit Holder may determine which format to use).[56] The gap analysis that FIF performed was done with the ''older format'' for CBOE Rule 8.9(b) reports, while the proposed stock reporting format is substantially similar to the ''newer format.'' [57] CBOE pointed out that it is in the process of migrating the reports from the older format to the newer format and intends to phase out the older format, and the proposed stock reporting requirement is based on the newer format (which in the future will be the required format for CBOE Rule 8.9(b) reports).[58]

The Exchange stated that it is reviewing FIF's questions regarding some of the elements of the proposed stock reporting format and, if it deems necessary to provide additional detail regarding those and other elements, may issue another Regulatory Circular.[59] The Exchange emphasized, however, that while the proposed reporting requirement format includes more fields than the older format of CBOE Rule 8.9(b) reports, neither proposed CBOE Rule 15.2A, Interpretation and Policy .03 nor Regulatory Circular RG 14–110 requires Trading Permit Holders to include those additional fields on CBOE Rule 8.9(b) reports to the extent Market-Makers rely on proposed Interpretation and Policy .03 to satisfy the proposed stock reporting requirement.[60] Therefore, regardless of whether a Market Maker (or its Clearing Trading Permit Holder) uses the older format or newer format for CBOE Rule 8.9(b) reports, those reports will satisfy the proposed stock reporting requirement even though they may not include all of the data elements set forth in Regulatory Circular RG 14–110.[61] According to the Exchange, to the extent CBOE Rule

[37] *See id.*

[38] *See id.*

[39] *See* CBOE Letter I, *supra* note 5, at 2.

[40] *See* FIF Letter I, *supra* note 4, and FIF Letter II, *supra* note 6.

[41] *See* FIF Letter I, *supra* note 4, at 2.

[42] *See id.*

[43] *See* CBOE Letter I, *supra* note 5. *See also* CBOE Regulatory Circular RG14–110.

[44] *See* CBOE Letter I, *supra* note 5, at 1–2.

[45] *See* FIF Letter II, *supra* note 6.

[46] *See id.* at 2.

[47] *See id.* at 2–6. *See also, supra* note 23 and accompanying text.

[48] *See* CBOE Letter II, *supra* note 7 at 2.

[49] *See id.*

[50] *See id.* at 3.

[51] *See id.*

[52] *See id.*

[53] *See* CBOE Letter II, *supra* note 7 at 3.

[54] *See id.*

[55] *See id.*

[56] *See id.* at 1.

[57] *See id.* at 2.

[58] *See id.*

[59] *See* CBOE Letter II, *supra* note 7 at 2.

[60] *See id.*

[61] *See id.*

8.9(b) reports include information for all stock transactions of Market Makers, Market Makers will have no additional requirements under proposed CBOE Rule 15.2A.[62]

The Exchange acknowledged that while other Trading Permit Holders that are not subject to CBOE Rule 8.9(b) may have to perform system work to comply with proposed CBOE Rule 15.2A, this work will likely overlap with system work related to reports required by CBOE Rule 17.2, Interpretation and Policy .04.[63] CBOE reiterated that it will accept feedback from Trading Permit Holders regarding the timing of the implementation date, but the Exchange believed the proposed time frame provides Trading Permit Holders that need to perform system work to be able to comply with the proposed rule change with sufficient time to do so.[64]

The second commenter also argued that there are an insignificant number of transactions that would qualify as Tied to Stock Orders that would justify the time and costs of implementing the proposed rule change.[65] While the Exchange acknowledged that it does not know the exact volume of tied to stock transactions, the Exchange stated that its self-regulatory obligations require it to monitor all types of trading activity, including order types that may represent a smaller amount of the Exchange's volume.[66] The Exchange stated that it has identified an area in which it can enhance its audit trail, and the proposed rule change is intended to implement that enhancement.[67] While it may cover an area that involves a smaller transaction volume, the Exchange believed the enhancement is reasonable and appropriate to assist in its efforts to monitor that area for potential violations of federal rules and regulations and Exchange rules.[68]

The second commenter also expressed concerns that floor brokers, whom the commenter believes will be significantly impacted by the proposed rule change, may not fully understand the details of the proposal.[69] The Exchange responded that the rule filing states that *each Trading Permit Holder* must comply with the proposed reporting requirement for the executed stock or convertible security legs of ''tied to stock orders *that the Trading Permit Holder executed on the Exchange that trading day''* (emphasis added).[70] This includes Trading Permit Holders that act as floor brokers.[71]

The second commenter expressed support for the other comment letter in favor of the proposed rule change that offered to work in coordination with other market participants to further enhance all market participants' ability to link disparate components of Tied to Stock Orders executed across various exchanges and marketplaces.[72] The Exchange stated that it welcomes the opportunity to coordinate with other exchanges to identify methods that may create further enhancements and regulatory efficiencies with respect to such activity.[73] However, the Exchange asserted that this type of cooperative effort would take time to implement.[74] The Exchange noted that its current proposal identifies an opportunity to enhance CBOE's audit trail in the short-term, and it is necessary to proceed with the rule filing as proposed.[75] To the extent there is an industry-wide effort to identity further opportunities for enhancements in the future, the Exchange stated that it will gladly cooperate with such an effort and further modify its rules as appropriate in coordination with such an effort.[76]

Finally, the second commenter urged the Commission to consider requiring the release of specifications prior to rule adoption in order to allow for a more comprehensive evaluation of the implementation impact of rulemaking as part of the comment period process.[77] CBOE responded to these concerns by stating that the proposed rule change is consistent with current and longstanding practice of announcing the form and manner of reporting requirements by Regulatory Circular to accommodate the technical detail of and regular changes to these formats.[78] The Exchange believed that it generally provides sufficient implementation time for changes to reporting formats to accommodate Trading Permit Holders and will continue to do so.[79] According to the Exchange, technology is constantly changing, and the Exchange regularly evaluates ways in which it may improve reporting formats to both its and Trading Permit Holders' benefits.[80] When the Exchange identifies such improvements, it releases updates to the format.[81] If exchanges were required to submit the form and manner of reporting requirements for Commission approval, the frequency with which they would need to seek this approval would render any benefits of improved formats moot.[82] The Exchange stated that it appreciates any feedback on reporting formats for its releases, whether it is the initial format or an update to the existing format.[83] However, like other rules, the proposed rule change provides the Exchange with authority to issue and modify the reporting format by Regulatory Circular.[84]

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[85] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[86] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The

[62] *See id.*

[63] *See id.*

[64] *See id.*

[65] *See* FIF Letter II, *supra* note 6, at 7. The commenter also noted that the Exchange already has reporting requirements with respect to QCC orders, and questioned the need for this proposed rule change, which, in the commenter's view, would only incrementally improve the Exchange's audit trail. *See id.* at 7. The Exchange responded that while Regulatory Circular 13–102 does include a reporting requirement for QCC transactions, the proposed rule change will supersede that requirement upon implementation to achieve the enhancements described above. The Exchange stated that it expects the ''extensive implementation effort'' referenced by FIF to ultimately be required for other regulatory reporting requirements to which all Trading Permit Holders will be subject under CBOE Rule 17.2, Interpretation and Policy .04, as well as the transition from the older format to newer format of CBOE Rule 8.9(b) Reports. In addition, the Exchange stated that it expects any implementation effort to be offset by the ability of Market-Makers (through their Clearing Trading Permit Holders if they so choose) to satisfy the proposed stock reporting requirement through CBOE Rule 8.9(b) Reports (whether the older or newer format is used) and fewer costly and time-consuming ad hoc requests for information. *See* CBOE Letter II, *supra* note 7, at 4.

[66] *See* CBOE Letter II, *supra* note 7, at 4.

[67] *See id.*

[68] *See id.*

[69] *See* FIF Letter II, *supra* note 6, at 7.

[70] *See* CBOE Letter II, *supra* note 7, at 4.

[71] *See id.*

[72] *See* FIF Letter II, *supra* note 6, at 7.

[73] *See* CBOE Letter II, *supra* note 7 at 4.

[74] *See id.*

[75] *See id.*

[76] *See id.*

[77] *See* FIF Letter II, *supra* note 6, at 8.

[78] *See* CBOE Letter II, *supra* note 7, at 3.

[79] *See id.*

[80] *See id.*

[81] *See id.*

[82] *See id.*

[83] *See id.*

[84] *See* CBOE Letter II, *supra* note 7, at 3–4.

[85] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[86] 15 U.S.C. 78f(b)(5).

Commission believes that the stated objective of the proposal—to obtain sufficient trade data to effectively monitor cross-market trading activity—would further the purposes of the Act. Specifically, by better enabling the Exchange to surveil for compliance with Regulation SHO and frontrunning rules, the proposal is reasonably designed to help prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.

The Commission notes that the proposed rule change also allows for a TPH to arrange for its clearing firm to report Tied to Stock Orders on its behalf. The Commission also notes that the Exchange has stated that regardless of whether a Market Maker (or its Clearing Trading Permit Holder) uses the older format or newer format for CBOE Rule 8.9(b) reports, those reports will satisfy the proposed stock reporting requirement even though they may not include all of the data elements set forth in Regulatory Circular RG 14–110. According to the Exchange, to the extent CBOE Rule 8.9(b) reports include information for all stock transactions of Market Makers, Market Makers will have no additional requirements under proposed Rule 15.2A. Under the proposed rule change, the Commission believes that it would be reasonable for the Exchange to anticipate a reduction in the number of ad hoc requests it must make from Trading Permit Holders, as the proposed rule change is designed to provide the Exchange with the non-option transaction information necessary to make a ''no further action is warranted'' determination with respect to a particular surveillance alert.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[87] that the proposed rule change (SR–CBOE–2014–040) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[88]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19582 Filed 8–18–14; 8:45 am]

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[87] 15 U.S.C. 78s(b)(2).

[88] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72831; File No. SR–NASDAQ–2014–077]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rebates and Fees in Penny and Non-Penny Pilot Options

August 13, 2014.

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 July 30, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2 governing pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options. Specifically, NOM proposes to: (i) Amend the Customer [3] Fee for Removing Liquidity in Penny Pilot Options; [4] (ii) amend certain Penny Pilot Options Rebates to Add Liquidity and Non-Penny Pilot Options Fees for Adding Liquidity applicable to Firms,[5] Non-NOM Market Makers [6] and Broker Dealers; [7] and (iii) amend NOM Market Maker [8] Penny Pilot Options Rebates to Add Liquidity.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on August 1, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Customer'' applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Chapter I, Section 1(a)(48)).

[4] The Penny Pilot was established in March 2008 and in October 2009 was expanded and extended through December 31, 2014. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR–NASDAQ–2013–082); 71105 (December 17, 2013), 78 FR 77530 (December 23, 2013) (SR–NASDAQ–2013–154) and 72244 (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR–NASDAQ–2014–056). *See also* NOM Rules, Chapter VI, Section 5.

[5] The term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[6] The term ''Non-NOM Market Maker'' or (''O'') is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

[7] The term ''Broker-Dealer'' or (''B'') applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[8] The term ''NOM Market Maker'' means a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2(1) governing the rebates and fees assessed for option orders entered into NOM. The Exchange proposes to: (i) Amend the Customer Penny Pilot Options Fee for Removing Liquidity; (ii) delete certain Firm, Non-NOM Market Maker and Broker-Dealer pricing in Chapter XV, Section 2; and (iii) amend the NOM Market Maker Pilot Options Rebates to Add Liquidity.

Today the Exchange assesses the following Penny Pilot Options Fees for Removing Liquidity: Customer $0.47 per contract, and Professional,[9] Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer $0.49 per contract. In addition a Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer that qualifies for Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 in a given month will be assessed a Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options of $0.47 per contract.

The Exchange is proposing to make two amendments related to the Customer Penny Pilot Options Fees for Removing Liquidity. The Exchange is proposing to increase the Customer Penny Pilot Options Fee for Removing Liquidity from $0.47 to $0.48 per contract. Despite the increase to this fee, the Exchange believes market participants will continue to remove Customer orders on NOM. Additionally, the Exchange is proposing to amend note ''d'' in Section 2, Chapter XV to provide, ''Participants or Participants under Common Ownership [10] that qualify for Customer or Professional Rebates to Add Liquidity Tiers 7 or 8 in a given month will be assessed a Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options of $0.48 per contract *and a Customer Fee for Removing Liquidity in Penny Pilot Options of $0.47 per contract.''* The Exchange is therefore proposing to offer Customers the opportunity to lower the Customer Fee for Removing Liquidity in Penny Pilot Options to $0.47 per contract, provided they qualify for Customer or Professional Rebates to Add Liquidity Tiers 7 or 8 in a given month. Today, the Exchange offers tiered Penny Pilot Options Rebates to Add Liquidity to Customers and Professionals based on various criteria with rebates ranging from $0.20 to $0.48 per contract. To obtain the Tier 7 Customer and Professional Rebates to Add Liquidity in Penny Pilot Options, a Participant must have Total Volume [11] of 150,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer and/or Professional liquidity in Penny Pilot Options.[12] Tier 7 pays a $0.47 per contract rebate. To obtain the Tier 8 Customer and Professional Rebate to Add Liquidity in Penny Pilot Options, a Participant must add Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 0.75% or more of national customer volume in multiply-listed equity and ETF options classes in a month. Tier 8 pays a rebate of $0.48 per contract for Customers and $0.47 per contract for Professionals.

The Exchange proposes to amend the Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebates to Add Liquidity and Non-Penny Pilot Fees for Adding Liquidity by removing the opportunity to lower fees as specified in note 2 in Section 2, Chapter XV which states, ''[a] Participant that adds Firm, Non-NOM Market Maker or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 15,000 contracts per day or more in a given month will receive a Rebate to Add Liquidity in Penny Pilot Options of $0.20 per contract and will pay a Fee for Adding Liquidity in Non-Penny Pilot Options of $0.36 per contract.'' Firms, Non-NOM Market Makers and Broker-Dealers would therefore receive a $0.10 per contract Penny Pilot Options Rebate to Add Liquidity and pay a $0.45 per contract Non-Penny Pilot Options Fee for Adding Liquidity. The Exchange believes that this incentive is not encouraging Firms, Non-NOM Market Makers and Broker-Dealers to transact additional liquidity on NOM and therefore the Exchange desires to remove this incentive.

Today, the Exchange pays Penny Pilot Options NOM Market Maker Rebates to Add Liquidity based on various criteria in four tiers with rebates which range from $0.20 to $0.42 per contract as follows:

Monthly volume	Rebate to add liquidity
Tier 1 Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of up to 0.10% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month	$0.20
Tier 2 Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month	0.25
Tier 3 Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.30% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month	0.30
Tier 4 Participant adds NOM Market Maker [1] liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.60% of total industry customer equity and ETF option ADV contracts per day in a month	([1])
Tier 5 Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options	0.40

[9] 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) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[10] The term ''Common Ownership'' shall mean Participants under 75% common ownership or control.

[11] Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM. *See* note ''b'' in Section 2, Chapter XV. The Exchange utilizes data from OCC to determine the total industry customer equity and ETF options ADV figure. OCC classifies equity and ETF options volume under the equity options category. Also, both customer and professional orders that are transacted on options exchanges clear in the customer range at OCC and therefore both customer and professional volume would be included in the total industry figure to calculate rebate tiers. This is the case today for the Total Volume number that appear in Tiers 6 and 7 of the Customer and Professional rebate today, which includes Customer and Professional numbers in both the numerator and denominator of that percentage.

[12] Tier 8 requires the Participant have Total Volume of 150,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer and/or Professional liquidity in Penny Pilot Options.

Monthly volume	Rebate to add liquidity
Tier 6 Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.90% of total industry customer equity and ETF option ADV contracts per day in a month	0.42

[1] $0.32 or $0.38 in the following symbols BAC, GLD, IWM, QQQ and VXX or $0.40 in SPY.

The Exchange proposes to amend the Tier 2 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options which currently pays a $0.25 per contract rebate to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month. The Exchange intends to instead continue to pay a $0.25 per contract rebate to Participant that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to *0.25%* of total industry customer equity and ETF option ADV contracts per day in a month. By lowering this tier, the Exchange believes a greater number of NOM Market Makers may qualify for the Tier 2 rebate.

The Exchange proposes to amend the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options which currently pays a $0.30 per contract rebate to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.30% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month. The Exchange intends to instead continue to pay a $0.30 per contract rebate to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above *0.25%* to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month. Also, the Exchange intends to offer a higher rebate for Tier 3 qualifiers of $0.40 per contract in options overlying PowerShares QQQ (''QQQ''), SPDR S&P 500 (''SPY''), iPath S&P 500 VIX ST Futures ETN (''VXX''). By lowering this tier, and offering a higher rebate for certain symbols, the Exchange believes a greater number of NOM Market Makers may qualify for the Tier 3 rebate.

Finally, the Exchange proposes to amend the Tier 4 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options which currently pays a $0.32 rebate in all options, except options overlying Bank of America Corporation (''BAC''), SPDR Gold Shares (''GLD''), iShares Russell 2000 Index (''IWM''), QQQ and VXX, which pays a $0.38 per contract rebate, and SPY which pays a $0.40 per contract rebate. The Tier 4 rebate is paid to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.60% of total industry customer equity and ETF option ADV contracts per day in a month. The Exchange proposes to amend the Tier 4 rebate to pay a $0.32 rebate in all options, except QQQ, VXX and SPY, which will pay a $0.40 per contract rebate. The Exchange will pay a $0.32 per contract rebate for BAC, GLD and IWM with this proposal. Additionally, in order to qualify for the Tier 4 rebate, a Participant must add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.60% *to 0.90%* of total industry customer equity and ETF option ADV contracts per day in a month. The Exchange believes that adding the language ''above 0.60% *to 0.90%* of total industry customer equity'' will clarify Tier 4 for purposes of obtaining the rebate. NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.90% today qualifies for the Tier 6 NOM Market Maker rebate.[13] The Exchange believes the amendment to the description of the Tier 4 rebate is non-substantive and clarifies the qualification for the rebate. The Exchange believes that paying a higher rebate for QQQ and VXX transactions will encourage a greater number of transactions in these symbols. Despite the decrease in rebates paid for transaction in BAC, GLD and IWM, the Exchange believes that market participants will continue to transact volume in these symbols.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[14] in general, and with Section 6(b)(4) of the Act,[15] in particular, in that they provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls as described in detail below.

Customer Penny Pilot Options Fee for Removing Liquidity

The Exchange's proposal to increase the Customer Penny Pilot Options Fee for Removing Liquidity from $0.47 to $0.48 per contract is reasonable because the Exchange is seeking to recoup costs associated with offering Customer rebates in Penny Options to attract greater liquidity to the Exchange. The Exchange believes that increasing the Customer Fee for Removing Liquidity by $0.01 per contract ($0.47 to $0.48 per contract) allows the Exchange to recoup costs and offer even greater Customer rebates, thereby benefitting all market participants by attracting Customer order flow to NOM.

The Exchange's proposal to increase the Customer Penny Pilot Options Fee for Removing Liquidity from $0.47 to $0.48 per contract is equitable and not unfairly [sic] because Customers would continue to be assessed lower fees as compared to non-Customer market participants. Currently, Professionals, Firms, Non-NOM Market Makers and NOM Market Makers are assessed a $0.49 per contract Fee for Removing Liquidity in Penny Options. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Further, the Exchange is

[13] The Tier 6 NOM Market Maker Rebate to Add Liquidity pays a $0.42 per contract rebate to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participant adds *NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.90% of total industry customer equity and ETF option ADV contracts per day in a month*.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

offering Customers, similar to other non-Customer market participants [16] the opportunity to lower the Customer Penny Pilot Options Fee for Removing Liquidity by qualifying for Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 in a given month.[17]

The Exchange's proposal to offer Customers the opportunity to lower the Customer Fee for Removing Liquidity in Penny Pilot Options to $0.47 per contract, provided they qualify for Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 in a given month is reasonable because today the Exchange offers all other non-Customer market participants (Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer) the opportunity to lower the Fee for Removing Liquidity in Penny Pilot Options from $0.49 to $0.48 per contract. The Exchange believes that incentivizing Customers, as today is done with other market participants,[18] to transact a greater number of Customer and Professional orders [19] in order to lower fees is reasonable because the liquidity from this order flow will benefit other market participants that have the opportunity to interact with this order flow.

The Exchange's proposal to offer Customers the opportunity to lower the Customer Fee for Removing Liquidity in Penny Pilot Options to $0.47 per contract, provided they qualify for Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 in a given month, is equitable and not unfairly discriminatory because Customers will have the opportunity to lower fees similar to other non-Customer market participants.

Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebate To Add Liquidity

The Exchange's proposal to amend the Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebates to Add Liquidity and Non-Penny Pilot Options Fees for Adding Liquidity by removing the opportunity to lower fees as specified in note 2 in Section 2, Chapter XV which states, ''[a] Participant that adds Firm, Non-NOM Market Maker or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 15,000 contracts per day or more in a given month will receive a Rebate to Add Liquidity in Penny Pilot Options of $0.20 per contract and will pay a Fee for Adding Liquidity in Non-Penny Pilot Options of $0.36 per contract'' is reasonable because the Exchange no longer desires to incentivize these market participants in this manner. The Exchange believes that focusing on attracting Customer and Professional order flow will benefit all market participants. Additionally, the Exchange offers these market participants other incentives such as the incentive to reduce the Fee for Removing Liquidity in Penny Pilot Options by qualifying for Tiers 7 and 8.[20]

The Exchange's proposal to amend the Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebates to Add Liquidity and Fees for Adding Liquidity by removing the opportunity to lower fees as specified in note 2 in Section 2, Chapter XV which states, ''[a] Participant that adds Firm, Non-NOM Market Maker or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 15,000 contracts per day or more in a given month will receive a Rebate to Add Liquidity in Penny Pilot Options of $0.20 per contract and will pay a Fee for Adding Liquidity in Non-Penny Pilot Options of $0.36 per contract'' is equitable and not unfairly discriminatory because the Exchange would not offer this opportunity to earn higher rebates and receive lower fees to any market participant in this manner.

NOM Market Maker Penny Pilot Options Rebates To Add Liquidity

The Exchange's proposal to amend the Tier 2 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options which currently pays a $0.25 per contract rebate to apply to NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to *0.25%* of total industry customer equity and ETF option ADV contracts per day in a month is reasonable because, specifically, the Exchange believes a greater number of NOM Market Makers may qualify for the Tier 2 rebate. Generally, the proposal is reasonable because it should incentivize NOM Market Makers to post liquidity on NOM. NOM Market Makers are valuable market participants that provide liquidity in the marketplace and incur costs unlike other market participants. The Exchange believes that encouraging NOM Market Makers to be more aggressive when posting liquidity benefits all market participants through increased liquidity.

The Exchange's proposal to amend the Tier 2 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options which currently pays a $0.25 per contract rebate to apply to NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to *0.25%* of total industry customer equity and ETF option ADV contracts per day in a month is equitable and not unfairly discriminatory because all eligible Participants that qualify for the Tier 2 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity metric will be uniformly paid the rebate.[21] Further, the NOM Market Maker rebate proposal is equitable and not unfairly discriminatory because it does not misalign the current rebate structure because NOM Market Makers will continue to earn higher rebates as compared to Firms, Non-NOM Market Makers and Broker-Dealers and will earn the same or lower rebates as compared to Customers and Professionals.

The Exchange's proposal to offer a higher rebate for Tier 3 of $0.40 per contract for options in SPY, QQQ and VXX is reasonable because the proposal seeks to encourage Participants to add liquidity in SPY, QQQ and VXX in order to obtain a higher rebate of $0.40 per contract. The Exchange believes that offering NOM Market Makers the ability to obtain higher rebates is reasonable because it will encourage additional order interaction. The Exchange's proposal to amend the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options which currently pays a $0.30 per contract rebate, or with this proposal $0.40 per contract for SPY,QQQ and VXX, to apply to NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above *0.25%* to 0.60% of total industry customer equity and ETF

[16] *See* current note ''d'' in Section 2, Chapter XV of NOM Rules.

[17] *See* proposed amendment to note ''d'' in Section 2, Chapter XV of NOM Rules.

[18] *See* current note ''d'' in Section 2, Chapter XV of NOM Rules.

[19] Tier 7 requires 50,000 or more contracts per day in a month to be Customer and/or Professional liquidity in Penny Pilot Options. Tier 8 requires Participants to add Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 0.75% or more of national customer volume in multiply-listed equity and ETF options classes in a month.

[20] *See* current note ''d'' in Section 2, Chapter XV of NOM Rules.

[21] The NOM Market Maker obligations and regulatory requirements remain unchanged. Pursuant to NOM Rules at Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5.

option ADV contracts per day in a month is reasonable because the Exchange believes a greater number of NOM Market Makers may qualify for the Tier 3 rebate.

The Exchange's proposal to offer a higher rebate for Tier 3 of $0.40 per contract for options in SPY, QQQ and VXX, or $0.30 for other symbols, if the Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above *0.25%* to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month is equitable and not unfairly discriminatory because all NOM Market Makers may qualify for the Tier 3 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity.

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to adopt specific pricing for SPY, QQQ and VXX because pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in the most actively traded options classes, in this case actively traded Penny Pilot Options.[22] The Exchange notes that SPY, QQQ and VXX are some of the most actively traded options in the U.S. The Exchange believes that this pricing will incentivize members to transact options on SPY, QQQ and on NOM in order to obtain the higher $0.40 per contract rebate.

The Exchange's proposal to amend the Tier 4 rebates to assess BAC, GLD and IWM the lower rebate of $0.32 per contract is reasonable because the Exchange believes that despite the decrease, Participants will continue to be incentivized to earn the $0.32 per contract rebate. The Exchange's proposal to increase the Tier 4 rebates for QQQ and VXX to $0.40 per contract, similar to SPY, is reasonable because the proposal seeks to encourage Participants to add more liquidity in QQQ and VXX in order to obtain a higher rebate of $0.40 per contract. The Exchange believes that offering NOM Market Makers the ability to obtain higher rebates is reasonable because it will encourage additional order interaction.

The Exchange's proposals to amend the Tier 4 rebates to assess BAC, GLD and IWM the lower rebate of $0.32 per contract and the Exchange's proposal to increase the Tier 4 rebates for QQQ and VXX to $0.40 per contract, similar to SPY, are equitable and not unfairly discriminatory because all NOM Market Makers may qualify for the Tier 4 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity.

The Exchange believes that adding to the phrase ''above 0.60%'' the words ''*to 0.90%*'' to Tier 4 is reasonable, equitable and not unfairly discriminatory because it will clarify the rule text with respect to the qualification for the rebate and apply uniformly to all market participants. The Exchange pays a Rebate to Add Liquidity in Tier 6 to Participants that add NOM Market Maker in Penny Pilot Options and/or Non-Penny Pilot Options above 0.90% in Tier 6.[23] The Exchange believes clarifying Tier 4 will make this clear.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange's proposal to increase the Customer Penny Pilot Options Fee for Removing Liquidity to $0.48 per contract does not create an undue burden on competition because Customers will continue to be assessed lower fees as compared to non-Customer market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Also, the Exchange is offering Customers, similar to other non-Customer market participants, the opportunity to lower the Customer Penny Pilot Options Fee for Removing Liquidity by qualifying for Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 in a given month. The Exchange believes that offering Customers the opportunity to lower the Customer Fee for Removing Liquidity in Penny Pilot Options, provided they qualify for Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 in a given month, does not impose an unfair burden on competition because incentivizing Customers to transact a greater number of Customer and Professional orders,[24] in order to lower fees, results in increased liquidity which benefits other market participants that have the opportunity to interact with this order flow.

The Exchange's proposal to amend the Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebates to Add Liquidity and Non-Penny Pilot Fees for Adding Liquidity to remove the incentive if a Participant adds Firm, Non-NOM Market Maker or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 15,000 contracts per day or more in a given month they will receive a Rebate to Add Liquidity in Penny Pilot Options of $0.20 per contract and will pay a Fee for Adding Liquidity in Non-Penny Pilot Options of $0.36 per contract does not create an undue burden on competition because the Exchange would not offer this opportunity to earn higher rebates and receive lower fees to any market participant in this manner.

The Exchange's proposal to amend the Tier 2 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options which currently pays a $0.25 per contract rebate to apply to NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to *0.25%* of total industry customer equity and ETF option ADV contracts per day in a month does not create an undue burden on competition because it should incentivize NOM Market Makers to post liquidity on NOM. NOM Market Makers are valuable market participants that provide liquidity in the marketplace and incur costs unlike other market participants. The Exchange believes that encouraging NOM Market Makers to be more aggressive when posting liquidity benefits all market participants through increased liquidity.

The Exchange's proposal to offer a higher rebate for Tier 3 of $0.40 per contract for options in SPY, QQQ and VXX does not create an undue burden on competition because all NOM Market Makers may qualify for the Tier 3 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity. Also more Participants may qualify for the rebate because of the lower tier, 0.25% to 0.60% as compared to 0.30% to 0.60%.

The Exchange's proposal to amend the Tier 4 rebates to assess BAC, GLD and IWM the lower rebate of $0.32 per contract and raise the QQQ and VXX rebate to $0.40 per contract, similar to SPY, does not create an undue burden on competition because all NOM Market Makers may qualify for the Tier 4 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity. The Exchange believes that adding the ''to 0.90%'' language to Tier 4 does not create an undue burden on competition because it will clarify the rule text with respect to the qualification for the rebate and

[22] *See* NASDAQ OMX PHLX LLC's Pricing Schedule. See also the International Securities Exchange LLC's Fee Schedule. Both of these markets segment pricing by symbol.

[23] *See* note 13.

[24] *See* note 18.

apply uniformly to all market participants.

The Exchange believes the differing outcomes, rebates and fees created by the Exchange's proposed pricing incentives contribute to the overall health of the market place to the benefit of all Participants that willing choose to transact options on NOM. For the reasons specified herein, the Exchange does not believe this proposal creates an undue burden on competition. The Exchange operates in a highly competitive market comprised of twelve U.S. options exchanges in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. These market forces support the Exchange belief that the proposed rebate structure and tiers proposed herein are competitive with rebates and tiers in place on other exchanges. The Exchange believes that this competitive marketplace continues to impact the rebates present on the Exchange today and substantially influences the proposals set forth above.

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 is effective upon filing pursuant to Section 19(b)(3)(A) [25] of the Act and subparagraph (f)(2) of Rule 19b–4 [26] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [27] of the Act to determine whether the proposed rule change should be approved or disapproved.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(2).

[27] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–077 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–077. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–077, and should be submitted on or before September 9, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19579 Filed 8–18–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72837; File No. SR–CME–2014–30]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing of Proposed Rule Change Related to 2014 ISDA Definitions

August 13, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 11, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by CME. 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 changes to CME's clearing rules (the ''CDS Product Rules'') is to (i) incorporate references to revised Credit Derivatives Definitions, as published by the International Swaps and Derivatives Association, Inc. (''ISDA'') on February 21, 2014 (the ''2014 ISDA Definitions''), which are the successor definitions to the 2003 Credit Derivatives Definitions published by ISDA and as supplemented in 2009 (together, the ''2003 ISDA Definitions'') and (ii) provide greater clarity with respect to the operation of certain provisions in the CDS Product Rules. CME is submitting the proposed amendments to the CDS Product Rules to incorporate references to the 2014 ISDA Definitions. The effectiveness of the Proposed CME Rules is intended to coincide with the date on which the credit derivatives market is expected to transition to the 2014 ISDA Definitions, which is currently anticipated to be September 22, 2014. As such, the Proposed CME

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Rules will become effective on September 22, 2014 or on such later date that CME otherwise determines. To the extent that the credit derivatives market does not transition to the 2014 ISDA Definitions, the Proposed CME Rules will not become effective.

The text of the proposed change is also available at the CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, 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, CME included statements concerning the purpose 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. CME 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

CME is submitting the proposed amendments to the CDS Product Rules to incorporate references to the 2014 ISDA Definitions to be effective by the proposed industry implementation date of September 22, 2014. It is CME's intention that, following the date on which the 2014 ISDA Definitions are implemented, the 2014 ISDA Definitions will apply to both (i) open positions cleared by CME (the ''Converting Contracts'') and (ii) new CDS contracts cleared by CME, consistent with market practice. In furtherance of this, CME proposes to make conforming changes throughout the CDS Product Rules to refer to and/or conform to the 2014 ISDA Definitions. Additionally, CME proposes to add provisions to the CDS Product Rules to provide for the deemed amendment of all Converting Contracts on the date on which the 2014 ISDA Definitions are implemented.

a. Key 2014 ISDA Definition Changes

The 2014 ISDA Definitions make changes to a number of the standard terms with respect to CDS contracts when compared to the 2003 ISDA Definitions. Key changes include the introduction of new provisions relating to:

(i) The settlement of credit events relating to financial and sovereign reference entities by delivery of assets other than bonds or loans that constitute deliverable obligations,

(ii) Transactions that would be impacted by a government bail-in of certain financial reference entities,

(iii) Standard reference obligations for certain more frequently traded reference entities, and

(iv) Other technical amendments and improvements.[3]

Of particular note in relation to the CME's proposed changes to the CDS Product Rules are the impact of the modifications to the 2014 ISDA Definitions relating to (i) the Successor provisions and (ii) the inclusion of Asset Package provisions. Notwithstanding the proposed changes to the CDS Product Rules relating to Asset Package provisions, none of the CDS products that CME currently clears are anticipated to be subject to and/or impacted by such changes.

b. Description of Proposed CME Rule Changes

The proposed changes will primarily provide for the conversion of existing contracts which are currently based on the 2003 ISDA Definitions into contracts based on the 2014 ISDA Definitions in conformance with the anticipated Protocol and allow for new cleared CDS products to incorporate the 2014 Definitions.

CME proposes to amend Chapters 800, 801, 802, 804, and 805 of the CDS Product Rules to align them with the 2014 ISDA Definitions. A concise description of the changes relating to the 2014 ISDA Definitions is set out below. Several provisions are being revised to include references to the 2014 ISDA Definitions and the DC Secretary, as appropriate. Non-substantive conforming changes and numbering changes have been made as well.

1. Chapter 800 (Credit Default Swaps)

Introductory language has been added to CME Rule 80001 (Definitions) to consolidate provisions relating to which definitions will govern Chapters 800–805. Corresponding deletions have been made to CME Rule 80101 (Scope of Chapter) and CME Rule 80501.A (Scope of Chapter). Other than the reference to the new 2014 ISDA Definitions, the CDS Product Rules are substantively unchanged by this modification.

CME Rule 80001 (Definitions), has been amended to include new definitions for, among other things, ''2003 ISDA Credit Derivatives Definitions,'' ''2014 Credit Derivatives Definitions,'' ''2014 Definitions Transaction,'' ''Asset Package Cash Settlement Amount,'' ''Asset Package Notice,'' ''CME Successor Resolution Request Date,'' ''Converting Contract,'' ''Declaration of Successor,'' and ''Implementation Date'' to conform and adapt the CDS Product Rules to the 2014 ISDA Definitions. In addition, the definition of ''DC Rules'' and ''Credit Derivatives Definitions'' have been deleted, as they will no longer be relevant following the implementation of the 2014 ISDA Definitions, and the definition of ''Tax'' has been amended and updated in accordance with certain changes to the 2014 ISDA Definitions. The definition of ''Contract Elections'' has been revised to correct a typo and correctly reference the ''Initial Payment Payer'' and the definition of ''Eligible Contract Participant (''ECP'')'' has been revised to include a specific reference to the relevant Commodity Exchange Act provision referred to therein. Chapter 800 (Credit Default Swaps) has also been revised to include certain other clarifying and conforming changes related to the incorporation of the 2014 ISDA Definitions.

2. Chapter 801 (CDS Contracts)

A clarifying change has been made to CME Rule 80102 (Eligible Contract Participant) to make clear the requirement that a CDS Participant be an ECP, pursuant to at least one of the applicable limbs of the definition provided in Section 1a(18) of the Commodity Exchange Act. In addition, a clarifying change has been made to CME Rule 80103.B (Acceptance of CDS by the Clearing House and Creation of CDS Contracts) to state that the potential for a separate agreement referred to in the second paragraph is subject to applicable law.

CME Rule 80104 (Clearing Self-Referencing CDS Contracts) has been revised to correctly reference the ''North American Single Name CDS Contract.''

3. Chapter 802 (CDX Index Untranched CDS Contracts)

CME Chapter 802 (CDX Index Untranched CDS Contracts) has been revised to update the definition of ''CDX Untranched Terms'' to include a reference to the new ''2014 Supplement,'' the standard documentation for use in documenting standard CDX transactions incorporating the 2014 ISDA Definitions, anticipated to be published by Markit North America, Inc. on or about September 22, 2014 to incorporate the 2014 ISDA Definitions. Additionally, provisions have been

[3] *See* ISDA Press Release describing the 2014 Definitions at *http://www2.isda.org/news/isda-publishes-isda-2014-credit-derivatives-definitions.*

added to CME Rule 80201 (Scope of Chapter) to effect the amendment of all Converting Contracts on the date on which the 2014 ISDA Definitions are implemented, and authorizing the Clearing House to make such additional amendments or modifications to the 2014 Supplement as it deems reasonably necessary in order to give effect to the incorporation of the 2014 ISDA Credit Derivatives Definitions, as this document has yet to be published and may require certain amendments in the clearing context. Within CME Rule 80201 (Scope of Chapter), provisions relating to CDS Component Transactions have also been updated to clarify the already existing position that, notwithstanding that CDX Component Transactions will not be fungible with North American Single Name CDS Contracts, there may still be margin offsets between them, pursuant to the CDS Product Rules.

CME Rule 80202.F (Credit Event Backstop Date) has been revised to update the original amending provision relating to the definition of ''Credit Event Backstop Date'' in order to conform it to the changes in the 2014 ISDA Definitions relating to the definition of ''Credit Event Backstop Date.'' Additionally, changes have been made to remove provisions relating to Credit Events and/or Credit Event Resolution Request Dates occurring prior to June 20, 2009, as these are historic provisions within the definition that are no longer relevant.

CME Rule 80202.I (Declaration of Credit Events) has been revised to conform provisions relating to a Declaration of Credit Event to the updates in the 2014 ISDA Definitions given that concepts contained in CME Rule 80202.I (Declaration of Credit Events) are now captured by the newly defined terms of ''Notice Delivery Period'' and ''Post Dismissal Additional Period'' in the 2014 ISDA Definitions. Therefore these changes are entirely non-substantive.

CME Rule 80202.J (Event Determination Date) has been revised to update the original amending provision relating to the definition of ''Event Determination Date'' in order to conform it to the changes in the 2014 ISDA Definitions relating to the definition of ''Event Determination Date.''

CME Rule 80202.K (Succession Event Backstop Date), CME Rule 80202.L (Declaration of Successor) and CME Rule 80202.M (CDX Index Versions) have been revised to conform the Successor provisions contained therein (including, in particular, the definition of ''Succession Event Backstop Date'' and ''Declaration of Succession Event'') to the 2014 ISDA Definitions as they relate to Successor determinations (as more fully described above). ''Succession Event Backstop Date'' has been renamed ''Successor Backstop Date'' and ''Declaration of Succession Event'' has been renamed ''Declaration of Successor'' in accordance with the 2014 ISDA Definitions. Additionally, changes have been made to remove provisions relating to Succession Events and/or Succession Event Resolution Request Dates occurring prior to June 20, 2009, as these are historic provisions within the definition of Succession Event Backstop Date that are no longer relevant. Additionally, CME Rule 80202.M (CDX Index Versions) has also been updated to make reference to the determination of a Substitute Reference Obligation in respect of a Non-Standard Reference Obligation or publication of a revised SRO List in accordance with the 2014 ISDA Definitions.

A new CME Rule 80202.N (Standard Reference Obligation) has been added to conform the CDS Product Rules to the additions made in the 2014 ISDA Definitions relating to Standard Reference Obligations by providing that documentation evidencing any CDX Component Transaction which is a Converting Contract will be automatically deemed to be amended by insertion of ''Standard Reference Obligation: Applicable'' (to the extent that such provision is not already applicable) and modifications relating to the introduction of ''Standard Reference Obligation'' have also been made to CME Rule 80203.A (Rules). The previous CME Rule 80202.N (De Minimis Cash Settlement) has been deleted in order to bring the CDS Product Rules in line with current CDS documentation and market practices with regard to de minimis cash settlement, as provided for in the CDX Untranched Terms.

A new CME Rule 80202.O (Not Contingent Deliverable Obligation Characteristic) has been added to provide that CDX Untranched Terms will be amended by deleting the words ''Not Contingent'' to address the removal of this concept in the 2014 ISDA Definitions.

A new CME Rule 80202.P (NOPS Cut-off Date) has been added to modify Section 8.10(b) of the 2014 ISDA Credit Derivatives Definitions to add a new proviso relating to decisions by the CDS Risk Committee (''CDS RC'') to resolve that a Credit Event has occurred with respect to a CDX Index Untranched CDS Contract for which there is Publicly Available Information. This change is necessary in order to conform the application of the 2014 ISDA Definitions with respect to CDS contracts cleared by CME with the existence of the CDS RC.

CME Rule 80203.C (Industry Protocol) has been amended to remove outdated references to the March 2009 Protocol and the July 2009 Protocol.

CME also proposes various other clarifying and conforming changes throughout Chapter 802 (CDX Index Untranched CDS Contracts) related to the incorporation of the 2014 ISDA Definitions.[4]

4. Chapter 804 (CME CDS Risk Committee: Part A)

Chapter 804 (CME CDS Risk Committee: Part A) has been revised to (i) apply only in connection with 2014 Definitions Transactions and (ii) update the scope of the chapter generally to conform more accurately to the 2014 ISDA Definitions. While CME does not currently clear any CDS products to which the 2003 ISDA Definitions will apply following the implementation of the 2014 ISDA Definitions, a ''Part A'' distinction has been added to Chapter 804 in anticipation of the potential need to bifurcate Chapter 804 to allow for separate treatment of CDS products that may be cleared by CME in the future and to which the 2003 ISDA Definitions will apply.

CME Rule 80401 (Certain Functions and Authorities of the CDS RC) has been revised to update the scope of the definition of ''Issue'' in accordance with changes to the 2014 ISDA Definitions by (i) amending references and provisions relating to succession events and or determinations (as more fully described above), (ii) including reference to Non-Standard Reference Obligations and Eligible Information, (iii) removing references to Accreted Amount and Accreting Obligation, (iv) adding provisions relating to Asset Package Credit Events (as more fully described above), and (v) adding provisions relating to the determination of Reference Entity mergers with a Seller and other matters of contractual determination. In addition, modifications have been made in order to ensure alignment of the CDS Product Rules with the current market practices (as mandated by ISDA) to clarify the circumstances under which the CDS RC may make such determinations to avoid determinations that are inconsistent with DC determinations.

[4] Staff has removed a reference to a proposed rule change in the Appendix to Chapter 802. Staff confirmed with CME on August 13, 2014 that CME does not intend to make that rule change as part of this rule filing.

CME Rule 80402.A (Publicly Available Information) has been revised to align with the changes to the definition of ''Publicly Available Information'' in the 2014 ISDA Definitions.

Cross references in CME Rule 80404.A.E (Limitation of Liability and Waivers) have been updated to reflect changes in section numbering in the 2014 ISDA Definitions.

5. Chapter 805 (CME CDS Physical Settlement: Part A)

Chapter 805 (CME CDS Physical Settlement: Part A) has been revised to (i) apply only in connection with 2014 Definitions Transactions and (ii) update the scope of the chapter generally to conform more accurately to the 2014 ISDA Definitions. Specifically, amendments have been made in relation CME Rule 80502.A.C (Notices) and CME Rule 80503.A (Physical Settlement of Non DVP Obligations) to include provisions relating to Asset Package Delivery (as more fully described above). While CME does not currently clear any CDS products to which the 2003 ISDA Definitions will apply following the implementation of the 2014 ISDA Definitions, a ''Part A'' distinction has been added to Chapter 805 in anticipation of the potential need to bifurcate Chapter 805 to allow for separate treatment of CDS products that may be cleared by CME in the future and to which the 2003 ISDA Definitions will apply.

CME Rule 80502.A (Matched Pairs) has been updated to provide additional detail in relation to the matching process. The additions do no substantively alter the CDS Product Rules but rather, seek to provide greater clarity with respect to the current matching process.

Changes have been made to CME Rule 80507.A (Clearing House Guarantee of Matched Pair CDS Contracts) and CME Rule 80508.A (Failure to Perform Under Matched Pair CDS Contracts) to align the matching process with the general physical settlement provisions of CME as set out in Chapter 7 (Delivery Facilities and Procedures).

Additionally, Chapter 805 (CME CDS Physical Settlement: Part A) has been revised to include references, where appropriate, to the 2014 ISDA Definitions, Asset Package Delivery and the DC Secretary, and corresponding changes to provision numbering have been made.

2. Statutory Basis

CME believes the proposed changes to the CDS Product Rules are consistent with the requirements of the Exchange Act, including Section 17A of the Exchange Act [5] and the applicable regulations thereunder. The proposed changes to the CDS Product Rules are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Exchange Act.[6]

The 2014 ISDA Definitions are intended to become effective on September 22, 2014 as part of an industry-wide comprehensive review of the entire ISDA Credit Derivatives Definitions, the first of its kind in over a decade. The proposed changes set out in the 2014 ISDA Definitions reflect market experience in recent years and are chiefly intended to address perceived concerns and/or shortcomings in relation to the 2003 ISDA Definitions. As CME plans to accept for clearing, contracts referencing the industry standard 2014 ISDA Definitions by the time of the planned industry-wide implementation on September 22, 2014 (and to convert certain existing contracts to the new definitions as of that date) the proposed changes to the CDS Product Rules will be necessary to achieve the clearing and/or conversion (as applicable) of such CDS contracts. CME believes that the proposed changes to the CDS Product Rules accurately conform the CDS Product Rules to the 2014 ISDA Definitions. As such, the proposed changes to the CDS Product Rules are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F) of the Act.[7]

Additionally, CME facilitates physical settlement of CDS contracts. The proposed amendments to the CDS Product Rules would also facilitate the physical settlement process by amending the process to include references to the 2014 ISDA Definitions, Asset Package Delivery and the DC Secretary. In this regard, the additions do not substantively alter the CDS Product Rules but rather, seek to update the process to reflect references to the 2014 ISDA Definitions. These proposed amendments are designed to permit CME to continue to offer physical delivery and as such are designed to promote the prompt and accurate clearance and settlement of CDS and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Exchange Act.[8]

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed changes to the CDS Product Rules will have any impact, or impose any burden, on competition. CME is submitting the proposed amendments to the CDS Product Rules to incorporate references to the 2014 ISDA Definitions and are intended to apply consistently across all clearing members. CME does not believe that any of the proposed changes to the CDS Product Rules would significantly affect the ability of clearing members or other market participants to continue to clear CDS, or otherwise limit market participants' choices for selecting clearing services. For the foregoing reasons, the proposed changes to the CDS Product Rules do not, in CME's view, impose any unnecessary or inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the CDS Product Rules have not been solicited, or received. CME will notify the Commission of any written comments received by CME.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Id.*

[8] *Id.*

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2014–30 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–CME–2014–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2014–30 and should be submitted on or before September 9, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19581 Filed 8–18–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72830; File No. SR–BATS–2014–030]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

August 13, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 1, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b-4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to use of the Exchange in order to: (i) Add an additional ''Step-Up Tier'' for purposes of tiered pricing applicable to the Exchange's equities trading platform (''BATS Equities''); (ii) introduce an ''Options Step-Up Tier'' and a corresponding definition of ''Options Step-Up Add TCV'' for purposes of tiered pricing applicable to the Exchange's equity options trading platform (''BATS Options''); (iii) reduce the fee charged by BATS Options to remove liquidity for all Customer[6] orders in securities subject to the options penny pilot program (''Penny Pilot Securities''); and (iv) increase the fee charged by BATS Options for Professional,[7] Firm, and Market Maker[8] orders routed to and executed at certain venues.

Additional Step-Up Tier—BATS Equities

Currently, with respect to BATS Equities, the Exchange determines the liquidity adding rebate that it will provide to Members using the Exchange's tiered pricing structure, which is based on the Member meeting certain volume tiers based on their

[6] As defined on the Exchange's fee schedule, a ''Customer'' order is any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (''OCC''), except for those designated as ''Professional''.

[7] The term ''Professional'' is defined in Exchange Rule 16.1 to mean any person or entity that (A) is not a broker or dealer in securities, and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[8] As defined on the Exchange's fee schedule, the terms ''Firm'' and ''Market Maker'' apply to any transaction identified by a member for clearing in the Firm or Market Maker range, respectively, at the Options Clearing Corporation (''OCC'').

ADAV [9] as a percentage of TCV [10] or ADV [11] as a percentage of TCV. Under such pricing structure, a Member will receive an adding rebate of anywhere between $0.0020 and $0.0032 per share executed, depending on the volume tier for which such Member qualifies. The Exchange also maintains two additional types of tiers in addition to the volume tiers described above: Step-Up Tiers and a Cross-Asset Step-Up tier. The Step-Up Tier and Cross-Asset Step-Up tier provide Members with additional ways to qualify for enhanced rebates.

As proposed, the existing volume tiers, including the Step-Up Tiers and Cross-Asset Step-Up Tier will remain the same. However, the Exchange proposes to add a new tier to its fee schedule as Step-Up Tier 1, and to re-number the existing tiers as Step-Up Tiers 2 and 3. The new proposed Step-Up Tier 1 would provide a rebate of $0.0025 per share where the Member's Step-Up Add TCV is equal to or greater than 0.07%. For purposes of BATS Equities pricing, the Exchange defines the term ''Step-Up Add TCV'' within the definition of ADAV as a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV. This definition would remain unchanged.

A Member's Step-Up Add TCV is calculated as the increase in the Member's current ADAV as a percentage of TCV (''Current ADAV'') over the Member's ADAV as a percentage of TCV from January 2014 (''Baseline ADAV''). By way of example, where a Member's Baseline ADAV is 0.07%, the Member would qualify for new Step-Up Tier 1 if the Member's Current ADAV is at least 0.14%. The Exchange is not proposing any changes to pricing for BATS Equities other than the addition of the new Step-Up Tier 1 and the re-numbering of the existing Step-Up Tiers.

The Exchange's Step-Up Tiers, including the new proposed tier, are designed to incentivize Members to increase their participation on the Exchange in terms of their ADAV compared to their January 2014 ADAV. The Exchange notes that the Step-Up tiers are similar to step-up tiers currently employed by NYSE Arca, Inc. (''Arca'').[12] As is currently the case pursuant to the fee schedule, a Member will receive the higher of the volume rebates, step-up rebates, or cross-asset step-up rebates for which they qualify.

Options Step-Up Tier—BATS Options

The Exchange also proposes to introduce an ''Options Step-Up Tier'' and a corresponding definition of ''Options Step-Up Add TCV'' for purposes of tiered pricing applicable to adding liquidity in Penny Pilot Securities to BATS Options. The Exchange notes that it already maintains an Options Step-Up Tier for purposes of tiered pricing applicable to BATS Equities. The Exchange also notes that the definitions within the Options Pricing portion of the fee schedule of TCV (''Options TCV'') [13] and ADAV (''Options ADAV'') [14] are similar to but different than those under the Equities Pricing portion of the fee schedule.

The Exchange notes that its proposed definition of Options Step-Up Add TCV for BATS Options pricing mirrors the definition of Options Step-Up Add TCV under BATS Equities pricing with the exception of the applicable baseline, which, for BATS Options is proposed to be June 2014 and for BATS Equities is January 2014. Thus, for purposes of BATS Options pricing, the Exchange proposes to define ''Options Step-Up Add TCV'' within the definition of ADAV as ''ADAV as a percentage of TCV in June 2014 subtracted from current ADAV as a percentage of TCV, using the definitions of ADAV and TCV.''

Currently, for BATS Options, the Exchange provides a rebate of $0.40 per contract for any Professional, Firm or Market Maker order that adds liquidity in Penny Pilot Securities to the BATS Options order book. In addition, Professional, Firm and Market Maker orders can qualify for additional rebates to the extent they establish a new NBBO and are submitted by a Member that qualifies based on volume conducted on BATS Options (the ''NBBO Setter Program''). Further, Market Makers (but only Market Makers) can qualify for additional rebates under the Quoting Incentive Program (''QIP''), which is a program that incentivizes Market Maker registration and quoting.

In order to provide an additional incentive to Members to submit to the Exchange Professional and Firm orders, the Exchange proposes to adopt an Options Step-Up Tier for BATS Options that would provide a rebate of $0.44 per contract for any Professional or Firm order that adds liquidity to BATS Options and was submitted by a Member that has an Options Step-Up Add TCV equal to or greater than 0.50%.

A Member's Options Step-Up Add TCV would be calculated as the increase in the Member's current ADAV as a percentage of TCV (''Current Options ADAV'') over the Member's ADAV as a percentage of TCV from June 2014 (''Baseline Options ADAV''). By way of example, where a Member's Baseline Options ADAV is 0.04% the Member would need to achieve a Current Options ADAV of 0.54% in order to qualify for the Options Step-Up Tier and its $0.44 per contract rebate.

The Exchange proposes to continue to provide a rebate $0.40 per contract for all other Professional, Firm and Market Maker orders and does not propose any changes to applicable additional rebates such as QIP and NBBO Setter rebates.

Customer Fee To Remove Liquidity—BATS Options

The Exchange proposes to reduce the fee charged by BATS Options to remove liquidity for all Customer orders in Penny Pilot Securities. Currently, pricing on BATS Options for removing liquidity is based on the capacity of the order that is executed (i.e., Customer or ''non-Customer'', which includes all Professional, Firm and Market Maker orders) as well as whether or not the

[9] As provided in the fee schedule, for purposes of BATS Equities pricing, ''ADAV'' means average daily added volume calculated as the number of shares added per day on a monthly basis; the Exchange excludes from the ADAV calculation routed shares as well as shares added on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption''), on any day with a scheduled early market close and on the last Friday in June (the ''Russell Reconstitution Day'').

[10] As provided in the fee schedule, for purposes of BATS Equities pricing, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption, on any with a scheduled early market close and the Russell Reconstitution Day.

[11] As provided in the fee schedule, for purposes of BATS Equities pricing, ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; the Exchange excludes from the ADV calculation routed shares, and shares added on any day that the Exchange's system experiences an Exchange System Disruption, on any day with a scheduled early market close and on the Russell Reconstitution Day.

[12] *See* Exchange Act Release No. 64820 (July 12, 2011), 76 FR 40974 (July 6, 2011) (SR–NYSEArca–2011–41) [sic].

[13] As provided in the fee schedule, for purposes of BATS Options pricing, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[14] As provided in the fee schedule, for purposes of BATS Options pricing, ''ADAV'' means average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis; the Exchange excludes from the ADAV calculation routed contracts, contracts added or removed on any day that the Exchange experiences an Exchange System Disruption, and contracts added or removed on any day with a scheduled early market close.

security is a Penny Pilot Security. BATS Options currently charges a fee of $0.47 per contract for all Customer orders that remove liquidity in Penny Pilot Securities. To encourage Members to submit Customer orders to the Exchange, the Exchange proposes to reduce this fee to a fee of $0.45 per contract for all Customer orders that remove liquidity in Penny Pilot Securities.

Routing Fees—BATS Options

Finally, the Exchange proposes to increase the fee charged by BATS Options for Professional, Firm, and Market Maker orders routed to and executed at certain venues.

The Exchange currently charges certain flat rates for routing to other options exchanges that have been placed into groups based on the approximate cost of routing to such venues. The grouping of away options exchanges is based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (i.e., clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, ''Routing Costs'').

The Exchange currently charges $0.57 per contract for Professional, Firm, and Market Maker orders routed to and executed at NYSE MKT LLC (''AMEX''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the Miami International Securities Exchange, LLC (''MIAX''), NASDAQ OMX BX, Inc. (''BX Options'') in Penny Pilot Securities and the International Securities Exchange, LLC (''ISE'') in Non-Penny Pilot Securities.

Based on execution fees charged by some of these venues that exceed the fees currently charged by the Exchange for Professional, Firm and Market Maker orders routed to and executed at such venues (even without taking other Routing Costs into consideration), the Exchange proposes to increase fees for the options venues listed above.[15] Specifically, the Exchange proposes to charge $0.60 per contract for Customer orders executed at AMEX, CBOE, MIAX, BX Options (Penny Pilot Securities) and ISE (Non-Penny Pilot Securities). The Exchange is not proposing any changes to pricing for Customer orders routed to and executed at these options venues, which is currently set at a fee of $0.11 per contract.

[15] In particular, AMEX currently charges $0.58 to non-Customer orders that remove liquidity in non-Penny Pilot Securities and CBOE currently charges $0.60 to non-Customer orders that remove liquidity in non-Penny Pilot Securities.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on August 1, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[16] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[17] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

Step-Up Tiers—BATS Equities and BATS Options

The Exchange believes that providing additional financial incentives to Members that demonstrate an increase over their Baseline ADAV (or Options Baseline ADAV) through the Step-Up Tiers already in place on BATS Equities and the proposed Step-Up Tier for BATS Options offer additional, flexible ways to achieve financial incentives from the Exchange and encourage Members to add increasing amounts of liquidity to both BATS Equities and BATS Options. The Exchange believes that these incentives are reasonable, fair and equitable because the increased liquidity from each of these proposals also benefits all investors by deepening the BATS Equities and BATS Options liquidity pools, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern and such increased volume increase potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. These pricing programs are also fair and equitable in that they are available to all Members and will result in Members receiving either the same or an increased rebate than they would currently receive.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(4).

Although non-Customer orders are typically treated consistently by the Exchange and the Options Step-Up Tier will only be applied to Professional and Firm orders, and not Market Maker orders, the Exchange believes that this proposal is reasonable not unfairly discriminatory because Market Makers are already able to reach the same rebate level through the QIP, which is not available to Professional or Firm orders. The Exchange also notes that the proposed step-up tier are similar to pricing tiers currently available on Arca.[18]

Volume-based rebates and fees such as the ones maintained on both BATS Equities and BATS Options as well as the BATS Equities Step-Up Tiers and the new BATS Options Step-Up Tier proposed herein, have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Further, the Exchange believes that the Step-Up Tiers will provide such enhancements in market quality on both BATS Equities and BATS Options by incentivizing increased participation on both platforms. The Exchange notes that it is not proposing to modify any existing tiers (other than to re-number the Equities Step-Up Tiers), but rather to add new tiers that will provide Members with additional ways to receive higher rebates. Accordingly, under the proposal a Member will receive either the same or a higher rebate than they would receive today. Accordingly, the Exchange believes that the proposed additions to the Exchange's tiered pricing structure and incentives are not unfairly discriminatory because they will apply uniformly to all Members and are consistent with the overall goals of enhancing market quality on both BATS Equities and BATS Options. The Exchange again notes that it believes that restricting the availability of the proposed Options Step-Up Tier for BATS Options to Professional and Firm orders is reasonable and not unreasonably discriminatory because Market Maker orders are already afforded an opportunity to receive QIP rebates up to an additional $0.04 per contract that is not available to

[18] *See supra* note 12.

Professional and Firm orders. Thus, currently, Professional and Firm orders can never receive the same maximum rebate that Market Maker orders can receive but, pursuant to the proposal, there would be a way for all three non-Customer capacities to achieve such maximum rebate.

Customer Fee To Remove Liquidity—BATS Options

The Exchange believes that its proposal to reduce the Customer fee to remove liquidity from BATS Options in Penny Pilot Securities is reasonable, fair and equitably allocated because it will reduce the cost of removing liquidity for all Customer orders and is intended to enhance the competitiveness of the Exchange's pricing model. The fee remains consistent with the fees changes by other markets with similar fee structures, such as NYSE Arca and NOM. The Exchange believes that the proposal is not unreasonably discriminatory because it will apply equally to all Customer orders and is only slightly discounted as compared to the fee to remove liquidity charged for non-Customer orders.

Routing Fees—BATS Options

As explained above, the Exchange generally attempts to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to increase fees applicable to Professional, Firm and Market Maker orders routed to and executed at AMEX, CBOE, MIAX, BX Options (Penny Pilot Securities) and ISE (Non-Penny Pilot Securities) is fair, equitable and reasonable because the fees are generally an approximation of the cost to the Exchange for routing orders to such exchanges. The Exchange believes that its flat fee structure for orders routed to various venues is a fair and equitable approach to pricing, as it provides certainty with respect to execution fees at groups of away options exchanges. Under its flat fee structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or slight loss for orders routed to and executed at other options exchanges. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to such exchanges. The Exchange also believes that the proposed fee structure for orders routed to and executed at these away options exchanges is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

The Exchange reiterates that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive or providers of routing services if they deem fee levels to be excessive. Finally, the Exchange notes that it constantly evaluates its routing fees, including profit and loss attributable to routing, as applicable, in connection with the operation of a flat fee routing service, and would consider future adjustments to the proposed pricing structure to the extent it was recouping a significant profit or loss from routing to other options exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. With respect to the proposed new tiered rebates, the Exchange does not believe that any such changes burden competition, but instead, enhance competition, as they are intended to increase the competitiveness of and draw additional volume to both BATS Equities and BATS Options. The Exchange also believes the proposed step-up tiers would enhance competition because they are similar to pricing tiers currently available on Arca.[19] Similarly, the proposal to reduce the fee for Customer orders that remove liquidity in Penny Pilot Securities is a competitive proposal that is intended to draw volume to BATS Options. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deem fee structures to be unreasonable or excessive. Finally, the Exchange notes that the proposed change to routing fees to certain options exchanges is not intended as a competitive change to create an incentive or disincentive to use the Exchange's routing strategies to route to these exchanges. Rather, the proposed changes will assist the Exchange in recouping costs for routing orders to other options exchanges on behalf of its participants in a manner that is a better approximation of actual costs than is currently in place. The Exchange also notes that Members may choose to mark their orders as ineligible for routing to avoid incurring routing fees.[20]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and paragraph (f) of Rule 19b–4 thereunder.[22] 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–BATS–2014–030 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–BATS–2014–030. 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

[19] *See supra* note 12.

[20] *See* BATS Rule 21.1(d)(8) (describing ''BATS Only'' orders for BATS Options) and BATS Rule 21.9(a)(1) (describing the BATS Options routing process, which requires orders to be designated as available for routing).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

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–BATS–2014–030, and should be submitted on or before September 9, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19578 Filed 8–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72835; File No. SR–MIAX–2014–30]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Options on Shares of the iShare ETFs

August 13, 2014.

On June 17, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade on the Exchange options on shares of the iShares MSCI Brazil Capped ETF, iShares MSCI Chile Capped ETF, iShares MSCI Peru Capped ETF, and iShares MSCI Spain Capped ETF (collectively ''iShare ETFs''). The proposed rule change was published for comment in the **Federal Register** on July 3, 2014.[3] No comments were received on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is August 17, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change, if approved, would allow the Exchange to list for trading options on shares of the iShare ETFs for which the Exchange has not entered into comprehensive surveillance sharing agreements with the underlying foreign markets.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates October 1, 2014, 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 No. SR–MIAX–2014–30).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19580 Filed 8–18–14; 8:45 am]

BILLING CODE 8011–01–P

TENNESSEE VALLEY AUTHORITY

[Meeting No. 14–03]

Sunshine Act Meeting Notice

August 21, 2014.

The TVA Board of Directors will hold a public meeting on August 21, 2014, in the TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee. Members of the public may comment on any agenda item or subject at a public listening session which begins at 8:30 a.m. (e.t). Registration of speakers at the public listening session is required. Speakers may preregister at *www.tva.com/abouttva/board/,* or register on-site until 15 minutes before the public listening session begins. Preregistered speakers will address the Board first. Following the public listening session, the meeting will be called to order to consider the agenda items listed below. TVA management will answer questions from the news media following the Board meeting.

Status: Open

Agenda

Old Business

Approval of minutes of May 8, 2014, Board meeting

New Business

1. Chairman's welcome
2. Report from President and CEO
3. Report of the External Relations Committee
4. Report of the Finance, Rates, and Portfolio Committee
   - A. FY 2015 Financial plan and budget
   - B. Financing authority
   - C. Rate actions
   - D. Generation fleet planning—Allen Fossil Plant
5. Report of the Audit, Risk, and Regulation Committee
   - A. Policy on Audit and Non-Audit Permissible Services
   - B. FY 2015 external auditor selection
6. Report of the People and Performance Committee
   - A. Corporate goals
   - B. Bylaws Revision to Section 1.7
7. Report of the Nuclear Oversight Committee
   - A. Watts Bar 2 Update
8. Information Items
   - A. Power supply arrangements with an industrial customer
   - B. Kingston claims settlement

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: August 14, 2014.

Ralph E. Rodgers,

General Counsel and Secretary.

[FR Doc. 2014–19720 Filed 8–15–14; 11:15 am]

BILLING CODE 8120–08–P

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[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72492 (June 27, 2014), 79 FR 38099.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2014–0510]

Implementation of Legislative Categorical Exclusion for Environmental Review of Performance Based Navigation Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for public comment.

SUMMARY: The Federal Aviation Administration (FAA) is considering how to implement Section 213(c)(2) of the FAA Modernization and Reform Act of 2012 which directs the FAA to issue and file a categorical exclusion for any navigation performance or other performance based navigation (PBN) procedure that would result in measureable reductions in fuel consumption, carbon dioxide emissions, and noise on a per flight basis as compared to aircraft operations that follow existing instrument flight rule procedures in the same airspace. In September 2012, the FAA tasked the NextGen Advisory Committee (NAC) for assistance, especially on how measurable reductions in noise on a per flight basis might be measured and assessed. The NAC developed a Net Noise Reduction Method which it recommended to the FAA. This notice provides the public an opportunity to comment on the Net Noise Reduction Method and possible variations of it to further inform the FAA's consideration of interpretive guidance to implement Section 213(c)(2).

DATES: Send comments on or before September 18, 2014.

ADDRESSES: Send comments identified by ''Docket Number FAA–2014–0510'' using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lynne S. Pickard, Senior Advisor for Environmental Policy, Office of Environment and Energy (AEE–6), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3577; email *lynne.pickard@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Environmental Policy Act (NEPA) establishes a broad national policy to protect the quality of the human environment and to ensure that environmental considerations are given careful attention and appropriate weight in decisions of the Federal Government. Regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR parts 1500–1508) to implement NEPA establish three levels of environmental review for federal actions. An environmental impact statement (EIS) is the detailed written statement as required by section 102(2)(C) of NEPA, and is prepared for those actions when one or more environmental impacts are potentially significant and mitigation measures cannot reduce the impact(s) below significant levels. 40 CFR 1508.11. An environmental assessment (EA) is a more concise document that provides a basis for determining whether to prepare an environmental impact statement or a finding of no significant impact. 40 CFR 1508.9. A categorical exclusion (CATEX) is used for actions which do not individually or cumulatively have a significant effect on the human environment. 40 CFR 1508.4. A CATEX is not an exemption or waiver of NEPA review; it is a level of NEPA review.

CEQ regulations require agency procedures to identify classes of actions which normally require an EIS or an EA, as well as those actions which normally do not require either an EIS or an EA (i.e., a CATEX). 40 CFR 1507.3(b). In addition to identifying actions that normally are CATEXed, an agency's procedures must also provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect which would preclude the use of a CATEX. 40 CFR 1508.4.

The FAA has adopted policy and procedures for compliance with NEPA and CEQ's implementing regulations in Order 1050.1E, Environmental Impacts: Policies and Procedures, dated June 8, 2004 (as updated by Change 1, dated March 20, 2006). Order 1050.1E lists FAA actions subject to a CATEX in accordance with CEQ regulations, including CATEXes for FAA actions involving establishment, modification, or application of airspace and air traffic procedures. In addition, in the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95), Congress created two legislative CATEXes for certain air traffic procedures being implemented as part of the Next Generation Air Transportation System (NextGen).[1] Section 213(c) of this Act provides:

(c) COORDINATED AND EXPEDITED REVIEW.

(1) In General—Navigation performance and area navigation procedures developed, certified, published, or implemented under this section shall be presumed to be covered by a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations) under chapter 3 of FAA Order 1050.1E unless the Administrator determines that extraordinary circumstances exist with respect to the procedure.

(2) NextGen Procedures.—Any navigation performance or other performance based navigation procedure developed, certified, published, or implemented that, in the determination of the Administrator, would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise, on a per flight basis, as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace, shall be presumed to have no significant affect [sic] on the quality of the human environment and the Administrator shall issue and file a categorical exclusion for the new procedure.

[1] The Next Generation Air Transportation System, referred to as NextGen, is a term used to describe the ongoing transformation of the National Airspace System (NAS). At its most basic level, NextGen represents an evolution from a ground-based system of air traffic control to a satellite-based system of air traffic management.

These two new legislative CATEXes have been included in the FAA's proposed Order 1050.1F, Environmental Impact: Policies and Procedures, 78 FR 49596 (Aug. 14, 2013). The FAA issued implementing guidance on the CATEX described in Section 213(c)(1) on December 6, 2012. Technical and legal issues have hindered implementing guidance on the CATEX in Section 213(c)(2) because none of the FAA's current noise methodologies or methodologies that the FAA has explored measure noise on a per flight basis.

The CATEX in Section 213(c)(2) has some unique characteristics. It presumes no significant effect on the quality of the human environment based on a review of three factors—fuel consumption, carbon dioxide emissions, and noise. To apply this CATEX, the FAA is directed to determine that all three factors would be measurably reduced when compared to what is generated by existing instrument flight rules procedures, instead of determining that there would be no potential for significant impacts. It bases the determination of measurable reductions on a per flight basis. It does not provide for extraordinary circumstances to override the CATEX.

Section 213(c)(2) states that this CATEX applies to ''any navigation performance or other performance based navigation procedure. . . .'' The FAA interprets this to mean NextGen performance based navigation (PBN) procedures based on the terminology and because the provision is entitled ''NextGen Procedures'' and is within a more comprehensive Section 213 that is entitled ''Acceleration of NextGen Technologies''. PBN procedures are flight procedures that rely on satellite-based navigation, i.e. Area Navigation (RNAV) and Required Navigation Performance (RNP). Accordingly, the FAA finds that the use of this CATEX is limited to PBN procedures. The CATEX cannot be used for conventional procedures (flight procedures that rely on ground-based navigational aids) or for projects involving a mix of conventional and PBN procedures, which is commonly the case for sizeable projects such as an Optimization of the Airspace and Procedures in the Metroplex (Metroplex). In addition, for projects involving only PBN procedures, 95 percent or more already meet the conditions of existing FAA CATEXes. Under these circumstances, the Section 213(c)(2) CATEX would be expected to be used infrequently. It could expedite review of a PBN-only project that would otherwise be subject to an EA or possibly an EIS due to a high level of environmental controversy or potential environmental impacts that would preclude the use of another existing CATEX.

The statutory language of Section 213(c)(2) states that the CATEX cannot be implemented unless the FAA can determine that there are measurable reductions of fuel consumption, carbon dioxide emissions, and noise on a per flight basis. While measurable reductions in fuel consumption and carbon dioxide emissions can be determined on a per flight basis using current methodologies, aircraft noise poses unique challenges for such a determination. Noise depends not only on the varying noise levels of an aircraft as it flies, but also on the position of the aircraft in relation to noise sensitive receivers on the ground. Noise tends to increase at some locations and decrease at other locations as PBN procedures shift and concentrate flight tracks. Total noise in an area of airspace cannot be calculated by adding up the noise levels at various locations on the ground, and noise levels cannot be divided by the number of aircraft to produce noise per flight. The FAA could not find a technically sound way to make the noise determination required by the statute based on an analysis of noise methodologies.

In September 2012, the FAA tasked the NextGen Advisory Committee (NAC) for assistance in further exploring how to make use of this legislative CATEX. The NAC, established September 23, 2010, is a 28-member Federal advisory committee formed to provide advice on policy-level issues facing the aviation community in developing and implementing NextGen. In response to FAA's request, the NAC created a Task Group of diverse stakeholders representing airlines, airports, manufacturers, aviation associations, consultants, and community interests. The Task Group agreed with the FAA's technical analysis of current methodologies and went on to develop a Net Noise Reduction Method. The Net Noise Reduction Method received unanimous support from Task Group members and was recommended to FAA by the NAC on June 4, 2013.[2]

Following extensive evaluation of the NAC's recommended Net Noise Reduction Method, the FAA has decided to solicit public comment to further inform the FAA's consideration of interpretive guidance to implement Section 213(c)(2) using the Net Noise Reduction Method and possible variations on it. There are reasons for seeking public review in addition to the NAC's public forum. One reason is that this CATEX has some unique statutory requirements that have presented challenges to the FAA in determining how to implement the CATEX. In addition, the Net Noise Reduction Method would introduce a new method for assessing noise for certain proposed PBN procedures under NEPA that is different in a number of respects from current noise analysis methodologies. The NAC has also suggested an additional test, at the FAA's discretion, involving a determination of significant noise impact which is further explained below; and the FAA would like input from the public on the use of such a test. Finally, there appears to be substantial public interest and concern regarding this CATEX, as reflected in numerous comments submitted on the inclusion of this CATEX in the FAA's proposed Order 1050.1F.

Description of Net Noise Reduction Method

The Net Noise Reduction Method provides for the computation of the number of people who would experience a reduction in noise and the number of people who would experience an increase in noise with a proposed PBN procedure as compared with the existing instrument procedure, at noise levels of DNL 45 dB and higher.[3] If the overall number of people is reduced, the NAC Task Group viewed this result as reasonably demonstrating noise reduction as intended by the Section 213(c)(2) legislative CATEX; therefore, the noise reduction determination required for the CATEX could be made. The example in Table 1 below illustrates the result (i.e., a decrease in noise for 1,431,221 people compared to an increase for 1,018,055 people) that could support the CATEX noise determination using the Net Noise Reduction Method.

[2] *http://www.rtca.org/Files/Miscellaneous%20Files/CatEx2%20Report%20NAC%20June%202013final.pdf.*

[3] DNL, the Day-Night Average Sound Level, is the FAA's primary metric for assessing aircraft noise. DNL accounts for the noise levels of individual aircraft events, the number of times those events occur, and the period of day/night in which they occur.

TABLE 1—NUMBER OF PEOPLE EXPOSED TO DNL LEVEL PBN PROCEDURES VS EXISTING PROCEDURES [4]

DNL noise exposure band	Number of people decreases	Number of people increases	Number of people unchanged
45–60	1,405,952	961,579	445,074
60–65	15,531	45,401	6,792
Above 65	9,738	11,075	3,964
Total People	1,431,221	1,018,055	455,830

The NAC Task Group additionally observed that if there would be a net increase in people exposed to noise within the DNL 65 dB noise exposure band and the amount of the noise increase would be described as significant under FAA's NEPA criteria,[5] community opposition could delay implementation and negate Congressional intent of expedited PBN procedures. Accordingly, the NAC Task Group indicated that in such a case, the FAA might apply its significant noise impact threshold as a second test in addition to the determination of net reduction in the number of people exposed to noise. If the noise increase would not exceed DNL 1.5 dB in the DNL 65 dB band and there would be an overall net reduction in the number of people exposed to noise across all noise exposure bands, the NAC Task Group concluded that this would appear to further confirm that application of the CATEX is reasonable. If the increase in noise in the DNL 65 dB band was DNL 1.5 or greater, the FAA could decide not to use the CATEX.

FAA Considerations Involving the Use of the Proposed Net Noise Reduction Method

The FAA's first consideration is the extent to which the Net Noise Reduction Method meets the statutory requirement for the FAA to determine that proposed PBN procedures would result in measurable reductions in noise on a per flight basis compared to aircraft operations following existing instrument flight rules procedures. As with current noise analysis methodologies, the Net Noise Reduction Method does not produce a quantity of noise on a per flights basis. However, the NAC Task Group has pointed out that the Conference Report describing the final legislative language for the Section 213(c)(2) CATEX expresses the Congressional intent to determine measurable reductions on an *average* per flight basis. The Task Group confirmed with Congressional staff that this language allows for averaging noise impact on a representative basis for flights using a particular procedure. The FAA is considering the extent to which the Net Noise Reduction Method should be relied on to determine measurable reductions in noise on a per flight basis under the statute and in light of the accompanying Conference Report, and invites public views on this aspect of the methodology.

Another consideration is the extent to which the Net Noise Reduction Method's reliance on a net reduction in the number of people exposed to noise constitutes a net reduction in noise, since the two reductions are not the same. An increase in the number of people exposed to noise does not convey the amount of the noise increase, i.e. whether it is a small or a large increase in noise. Similarly, a decrease in the number of people does not convey the amount of the noise decrease. If people receiving a noise decrease outnumber the people receiving an increase, but the amount of the noise decrease is small compared to the noise increase, is it appropriate for the FAA to determine that there is a measurable reduction in noise?

The FAA has explored this issue by using the same source data used by the NAC in its example (see Table 1), but calculating differences in terms of noise, i.e., the average change in the DNL at thousands of locations within the area of airspace. The FAA did this calculation in two ways—(1) a straightforward average of all locations, and (2) a population weighted average. The population-weighted average was used because where people reside in relation to locations on the ground that receive more or less noise is relevant to assessing noise impact. The FAA's results, expressed in changes in noise using DNL, are shown below in Table 2. In both cases, the total average change in noise is a decrease. Therefore, if the FAA used a Net Noise Reduction Method, but relied on noise changes rather than population changes, the results in this example could support the use of the legislative CATEX. The FAA is giving further consideration to which approach (i.e., population change, noise change, population weighted noise change) best fulfills the letter and intent of the statute. The FAA is also considering whether one approach offers greater public understanding, and invites comments on these different approaches to a net noise reduction methodology.

TABLE 2—AVERAGE CHANGES IN DNL LEVEL PBN PROCEDURES VS EXISTING PROCEDURES

DNL noise exposure band	Straight average change in DNL	Population weighted average change in DNL
45–60	−0.3 DNL	−0.2 DNL
60–65	0	0
Above 65	0	+0.1

[4] The example in Table 1 is used by the NAC based on noise and population data from an EA for procedural changes at Chicago Midway International Airport; however, in its June 2013 published report, the NAC mixed this example with another example in reporting the number of people in the DNL 60–65 noise exposure band, which also resulted in inaccuracies in the total number of people. The FAA used NAC source data for the example in this notice. The Midway EA may be viewed at *http://www.flychicago.com/midway/en/AboutUs/NoiseManagement/AirportNoise/Airport-Noise.aspx#FinalAssess.* The NAC also used an example based on the Greener Skies EA for Seattle Tacoma International Airport, which is not repeated in this notice.

[5] The FAA's threshold for a significant noise impact under NEPA is an increase of DNL 1.5 dB or more for a noise sensitive area that is exposed to noise at or above the DNL 65 dB noise exposure level, or that will be exposed at or above this level due to a 1.5 dB or greater increase, when compared to the no action alternative for the same timeframe.

TABLE 2—AVERAGE CHANGES IN DNL LEVEL PBN PROCEDURES VS EXISTING PROCEDURES—Continued

DNL noise exposure band	Straight average change in DNL	Population weighted average change in DNL
Total Change	−0.3 DNL	−0.2 DNL

In the examples in both Tables 1 and 2, the greatest reductions in either noise or the population exposed to noise are at the DNL 45–60 dB level, which is the lowest noise level that the FAA normally evaluates for differences in noise that may result from certain proposed changes in procedures. In Table 1, there are increases in the number of people in higher noise exposure bands of DNL 60–65 dB and above DNL 65 dB. In Table 2, the average DNL decrease occurs in the lowest noise exposure band, while the average DNL change in the higher noise exposure bands is either zero or a slight increase using the population weighted average approach.

The use of the total of all three DNL noise exposure bands to determine a net noise reduction gives equal weight to lower and higher levels of noise, while the FAA's practice is to give greater weight to higher noise levels which people find more annoying, especially noise levels above DNL 65 dB. Accordingly, the FAA is considering the extent to which a mix of noise increases and decreases in different noise exposure bands supports a determination of noise reduction, especially when reductions at lower DNL noise levels would outweigh increases at higher noise levels. A potential alternative approach could be to require reductions in all three DNL noise exposure bands to support a noise reduction determination for use of the CATEX. This alternative approach would be expected to reduce the use of the CATEX, and it appears less consistent with the statutory provision to compare procedures ''in the same airspace.'' The FAA invites comments on this aspect of the Net Noise Reduction Method.

Finally, if the FAA decides to use the Net Noise Reduction Method or a variation of it, the FAA must also decide if and how to employ its significant noise impact threshold. The decision that is the most consistent with the statutory language would be not to employ the threshold at all. The statutory text is prescriptive in that a PBN procedure that meets the test for measurable reductions ''shall be presumed to have no significant affect [sic] on the quality of the human environment and the Administrator shall issue and file a categorical exclusion for the new procedure.'' Unlike CATEXes that are administratively established under CEQ regulations, this legislative CATEX is not subject to extraordinary circumstances; therefore, a CATEX determination is not precluded by potential environmental impacts that are beyond the specific parameters in the statutory text (i.e, measureable reductions in fuel consumption, carbon dioxide emissions, and noise on a per flight basis). As the FAA considers the viability of employing the significant noise impact threshold in conjunction with this CATEX, the FAA is soliciting public views on whether a threshold test may and should be used. Further, if a significant noise impact threshold test is used, should it be used only when there is a net increase in people exposed at DNL 65 dB and above, as the NAC Task Group has suggested, or should it be more broadly used to check for significant noise impact when there is any increase in the number of people exposed to noise at DNL 65 dB and above—even if there is a net population benefit at that level?

Solicitation of Public Comment

The FAA invites public comment on the entirety of the prospective implementation of the CATEX in Section 213(c)(2) of the FAA Modernization and Reform Act of 2012, and particularly invites comment on the following specific aspects of the Net Noise Reduction Method which are under consideration by the FAA as described in this notice:

1. Extent to which the FAA should rely on the Net Noise Reduction Method to determine measurable reductions in noise on a per flight basis.

2. Appropriateness of determining that there is a measurable reduction in noise if people receiving a noise decrease outnumber the people receiving an increase, but the noise decrease is small compared to the noise increase.

3. Different approaches to a net noise reduction methodology (i.e., population change, noise change, population weighted noise change), and whether the selection of one approach over another is preferred and increases public understanding.

4. Extent to which a mix of noise increases and decreases could support a determination of measurable noise reduction, especially when reductions at lower noise levels outweigh increases at higher noise levels, and whether an alternative approach that would require reductions in all three noise exposure bands to support the use of the CATEX should be used.

5. Whether a significant noise impact threshold test should be used; and if so, if it should be used only when there is a net increase in people exposed to noise at DNL 65 dB and above, or if it should be used when there is any increase in the number of people exposed to noise at DNL 65 dB and above—even if there is a net population benefit at that level.

Issued in Washington, DC, on August 13, 2014.

Lourdes Q. Maurice,

Executive Director, Office of Environment and Energy, Federal Aviation Administration.

[FR Doc. 2014–19691 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixth Meeting: RTCA Tactical Operations Committee (TOC)

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

ACTION: Sixth Meeting Notice of RTCA Tactical Operations Committee.

SUMMARY: The FAA is issuing this notice to advise the public of the sixth meeting of the RTCA Tactical Operations Committee.

DATES: The meeting will be held September 3, 2014 from 10:00 a.m.–4:00 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Trin Mitra, TOC Secretary, *tmitra@rtca.org,* 202–330–0655.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the RTCA Tactical Operations Committee. The agenda will include the following:

September 3

- Opening of Meeting/Introduction of TOC Members
  - Co-Chairs Mr. Jim Bowman, FedEx Express, and Mr. Dale Wright, National Air Traffic Controllers Association (NATCA)
- Official Statement of Designated Federal Official
  - Ms. Elizabeth Ray, FAA Air Traffic Organization, Vice President Mission Support
- Approval of May 16, 2014 Meeting Summary
- FAA Report
- Review Industry Ideas for Future TOC work
- Discussion on Regional Task Groups
  - Updates from each group, discussion on role of RTGs
- Update from NextGen Integration Working Groups
- Review new task ideas for TOC
  - Airport construction and safety risk, South Florida/Caribbean operations, ''Review, Revise, Remove (Three Rs)'' for Right Sizing Procedures in the NAS, Others
- Update from NOTAM Task Group
  - FAA and NOTAM Task Group review 16 month implementation roadmap for NOTAM Search and role of the NOTAM Task Group
- Update from VHF Omni-directional Range (VOR) Minimum Operating Network Task Group
  - Report on Outreach and Modifications Required by VOR MON and Update from FAA on PBN Route Strategy
- Anticipated Issues for TOC consideration and action at the next meeting
- Other business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 14, 2014.

Mohannad Dawoud,

Management Analyst, NextGen, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2014–19693 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventy Ninth Meeting: RTCA Special Committee 147, Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

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

ACTION: Meeting Notice of RTCA Special Committee 147, Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of the Seventy Nineth meeting of RTCA Special Committee 147, Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

DATES: The meeting will be held September 11th, 2014, from 9:00 a.m. to 5:00 p.m.

ADDRESS: The meeting will be held at 1150 18th St. NW., Suite 910 Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 147. The agenda will include the following:

September 11

- Opening Plenary Session
  - Chairmen's Opening Remarks/ Introductions
  - Approval of Summary from 78th meeting of SC–147
  - Approval of Agenda
- Report from WG–75
- Review of ISRA deliverable for SC 228
- EUROCONTROL Report
- Report from WG–1 (Surveillance and Tracking)
- Report from WG–2 (Threat Resolution)
  - Threat Resolution
  - Xo sub group
  - Safety sub-group
- Review of the Software Development Agreement
- Coordination Stress Testing
- Operational Team Updates
- Review of Decisions
  - Use of ADS–B Only targets
- Additional business/Overflow if time permits
  - Solicitation of vendor data for SWG/TOO analysis
- Closing Session
  - Next Meeting Location
  - Action Item review
  - End Meeting

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 14, 2014.

Mohannad Dawoud,

Management Analyst, NextGen, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2014–19692 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–52]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 8, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–

2014–0508 using any of the following methods:

• *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC, 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 13, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0508.

Petitioner: Advanced Aviation Solutions LLC.

Section of 14 CFR: parts 21 Subpart H, 45.23, 45.29, 61.113, 61.133, 91.9, 91.109, 91.119, 91.121, 91.151, 91.203(a) and (b), and 91 Subpart E.

Description of Relief Sought: The petitioner seeks an exemption for the eBee Ag Unmanned Aircraft System manufactured by SenseFly SA of Switzerland which would support an application for a commercial Certificate of Authorization to use the system to support agriculture.

[FR Doc. 2014–19592 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0006]

Notice of Request for Comments on Updates to National Transit Database Information Collection

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of request for comments.

This notice announces the intent of the Federal Transit Administration (FTA) to revise certain aspects of National Transit Database (NTD) reporting guidance as described in the NTD Reporting Manual. The proposed revisions are prompted, in part, by enactment of the Moving Ahead for Progress in the 21st Century Act (MAP–21). The changes in this notice primarily relate to urbanized area transit providers. FTA is seeking public comment before implementing these changes to 49 U.S.C. 5335 National Transit Database.

DATES: Comments must be received by September 18, 2014. Any comments filed after this deadline will be considered to the extent practicable.

ADDRESSES: Please submit your comments by only one of the following methods, identifying your submission by Docket Number (FTA–2014–0006)

• *Federal eRulemaking Portal:* Submit electronic comments and other data to *http://www.regulations.gov.*

• *U.S. Mail:* Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building, Ground Floor, at 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations, U.S. Department of Transportation, at (202) 493–2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket Number (FTA–2014–0006) for this notice, at the beginning of your comments. If sent by mail, submit two copies of your comments. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments should consider using an express mail firm to ensure their prompt filing of any submissions not filed electronically or by hand. If you wish to get confirmation that FTA received your comments, you must include a self-addressed stamped postcard. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You may review U.S. DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477–8 or *http://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Keith Gates, National Transit Database Program Manager, Office of Budget and Policy, (202) 366–1794, or email: *keith.gates@dot.gov*

Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Introduction

The National Transit Database (NTD) is the Federal Transit Administration's (FTA's) primary database for statistics on the transit industry. Congress established the NTD to ''help meet the needs of . . . the public for information on which to base public transportation service planning . . .'' (49 U.S.C. 5335). Currently, 821 transit providers in urbanized areas report to the NTD through its online reporting system. Each year, performance data from these submissions are used to apportion over $7 billion of FTA funds for Urbanized Area Formula (Section 5307) grants, Rural Area Formula (Section 5311) grants, Tribal Transit Formula grants, Bus and Bus Facilities Formula (Section 5339) grants, and State of Good Repair (Section 5337) grants. These data are made available on the NTD Web site at *www.ntdprogram.gov* for the benefit of the public, transit systems, and all levels of government. These data are also used in the annual National Transit Summaries and Trends report, the biennial Conditions and Performance Report to Congress, and in meeting FTA's obligations under the Government Performance and Results Act. Reporting requirements are governed by a Uniform System of Accounts (USOA) and Reporting Manuals that are issued each year. Both the USOA and the Reporting Manual are available for review on the NTD Web site at *www.ntdprogram.gov.*

Every year, FTA refines and clarifies reporting requirements for the NTD in an ongoing effort to improve our reporting system, to be responsive to the needs of transit providers reporting to the NTD, and to address the needs of the transit data user community. This notice proposes a number of updates to the NTD Urban Reporting Manual necessary to implement policy changes established by the Moving Ahead for Progress in the 21st Century Act (MAP–21), to clarify ambiguous reporting guidance, and to eliminate unnecessary reporting requirements.

II. Background

This notice proposes various changes to the requirements for the Urbanized Area Systems reporting to the NTD. These changes are primarily updates to the guidance in the NTD Reporting Manual, and FTA proposes that these changes will take effect for the FY 2014 data reporting cycle, which will begin this Fall. These changes do not apply to rural transit systems reporting through the NTD Rural Module. The proposed changes are as follows:

A. Clarification for reporting subset data on ADA paratransit services
B. Clarification on the reporting of contractual relationships
C. Updates to definition of the bus rapid transit mode
D. Guidance for service on HOT lanes
E. Updates to the definition of commuter service and allocation of data attributable to an urbanized area
F. Proposed elimination of consolidated reporting and update of small systems waiver reporting
G. Clarification on consistent use of transit system names and organization types
I. Policy clarification allowing delegation of CEO certification responsibility
J. Elimination of unnecessary reporting requirements
K. Updated guidance for sampling of passenger miles
L. Expansion of capital asset reporting required by MAP–21

Although this notice proposes an expansion of capital asset reporting in the NTD, it is independent of the separate rulemaking process that is underway to define FTA asset management guidance and requirements. It is, likewise, not a part of transit safety regulatory rulemaking or any other FTA rulemaking activities. Nothing in this notice should be construed as being a preliminary activity that will eventually lead to new FTA regulations.

III. Proposed Changes to National Transit Database Reporting

A. Clarification for Reporting Subset Data on ADA Paratransit Services

Urbanized area transit systems that operate demand response (or demand response taxi) service must report their total number of annual unlinked passenger trips and their total annual operating expenditures for that mode to the NTD. These urban transit systems must also report the portion of their total demand response passenger trips and total demand response operating expenses that are attributable to the requirements of the Americans with Disabilities Act of 1990 (ADA.)

The ADA requires public agencies operating fixed-route transit systems to provide complementary and comparable ADA paratransit services to eligible persons with disabilities between points that are within ¾-mile of their fixed routes or between a point that is within a ¾-mile radius of one rail station to a point within a ¾-mile radius of another rail station. Many agencies provide additional demand-responsive (dial-a-ride) service that is beyond the minimum required under the ADA by serving a larger service area than the above minimums or by providing service to a broader segment of the public than required by the ADA. These additional services do not meet the legal definition of ADA paratransit. Other transit systems provide demand-responsive service to the general public, or provide demand-responsive service with no fixed-route service at all.

Service data required by the ADA have been reported inconsistently to the NTD in the past. In order to generate consistent and useful data from these questions, FTA is proposing the following guidance for how urban transit systems should report these data. This guidance only applies to full reports from urbanized areas; it does not apply to rural reporting, nor to reporting under a small systems waiver.

(1) Transit systems that operate demand response services that are not intended to fulfill the ADA paratransit requirements of any fixed route service should report that zero (0) of their service and operating expenses are attributable to ADA requirements.

(2) Transit systems that operate demand response services to fulfill the ADA paratransit requirements of a fixed-route service must report their unlinked trips provided to all eligible paratransit passengers (eligibility determined by local policy), excluding only the following:

(i) Trips that are sponsored by a third party (e.g. Medicare-sponsored trips);

(ii) Trips whose origin or destination (or both) are outside the minimum service area required by the ADA; and,

(iii) Trips taken during times when the fixed-route system is not operating.

(3) Transit systems that operate demand response services to fulfill the ADA paratransit requirements of a fixed-route service would then report their operating expenses for such services as attributable to the ADA on the same basis. In general, if a transit system does not have an accounting system for tracking this, then it may report on the basis of the percentage of total demand response trips that were identified as ADA trips, per the above criteria. That is, if ADA trips were 76% of all demand-response mode trips, then ADA operating expenses would be reported as 76% of total demand-response mode operating expenses.

FTA seeks comment from transit systems on how difficult it would be to report data based on the above criteria, particularly #2. You should comment on whether transit systems that provide paratransit service beyond the minimum requirements under the ADA (for example, to and from points that are outside of the minimum ¾-mile service area) would be able to reasonably differentiate such services.

B. Clarification on the Reporting of Contractual Relationships

Public transportation services reported to the NTD by an urbanized area transit system are classified as either *directly operated* (DO) by a transit provider or as *purchased transportation* (PT) service from a third-party contractor. Services provided by a *purchased transportation* contract are reported to the NTD in the name of the buyer. FTA would like to clarify that in order for service to be classified as PT, the service must meet three criteria:

(1) The contract or agreement must provide for the buyer to be responsible for the fully-allocated cost of providing the service, either through direct contract payments to the seller, or else through allowing the seller to retain fare and advertising revenue; (e.g. the seller of the service is not using any outside funding sources to support the service, and if the seller provides services to other buyers, then the seller must maintain separate accounting records for each service);

(2) The service must be operated in the name of the buyer; (e.g. the presence of the seller must generally be transparent to the riding public); and,

(3) The seller must operate and manage the service (e.g. Professional Employer Organization (PEO) services are not considered to be purchased

transportation, a grantee using a PEO would report the service to the NTD as directly operated).

To be clear, public transportation services that do not meet the above criteria may still be reported to the NTD. However, these services would instead be reported to the NTD as directly operated, and would be reported by the organization that is actually operating the service.

C. Updates to Definition of the Bus Rapid Transit Mode

The NTD introduced the new *Bus Rapid Transit* (RB) mode in the 2011 Report Year. However, MAP–21 provides a new legal definition of bus rapid transit, which includes requirements such as separated right-of-way along a majority of the route during peak periods and features that emulate the services provided by rail fixed guideway public transportation systems. MAP–21 also directs the Secretary to determine other features that produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

To be consistent with the new provisions from MAP–21, on March 3, 2014, FTA published a notice in the **Federal Register** seeking comment on Circular FTA C 5300.1 *State of Good Repair Grants Programs: Circular and Application Instructions.* In that draft circular FTA proposed the following definition of the *bus rapid transit* (RB) mode as a service that meets five criteria. These criteria are re-published below in order to provide additional notice to impacted parties, in particular with regards to changing the definition of the BRT Mode in the NTD. However, comments on whether the below criteria should be used for funding eligibility in the State of Good Repair Formula Program will be handled through notice and comment on the circular. The five criteria are as follows:

(1) Over 50 percent of the route operates in a separated right-of-way dedicated for transit use during peak periods; (However, other traffic may make turning movements through the separated right-of-way.)

(2) the route has defined stations that are accessible for persons with disabilities, offer shelter from the weather, and provide information on schedules and routes;

(3) the route offers faster passenger travel times through congested intersections by using active signal priority in separated guideway, and either queue-jump lanes or active signal priority in non-separated guideway;

(4) the route offers *short headway,* bi-directional, service that is provided for at least a 14 hour span on weekdays and a 10 hour span on weekends; (*Short headway* service on weekdays, consists of maximum headways that are either: 15 minutes or less throughout the day; or, 10 minutes or less during peak periods and 20 minutes or less at all other times. *Short headway* service on weekends consists of maximum headways that are 30 minutes or less for at least 10 hours for the day.) and,

(5) a separate and consistent brand identity applied to stations and vehicles.

Bus services that implement features of *bus rapid transit* systems, but which do not meet all of the above criteria, particularly corridor-based *bus rapid transit* projects, would still be reported to the NTD under the fixed-route bus (MB) mode.

D. Guidance for Service on HOT Lanes

On January 11, 2007, FTA published a final policy on the inclusion of transit service operated on High-Occupancy Toll (HOT) Lanes in the apportionment of formula funds. In this policy, FTA said that it would allow transit service operated on HOV Lanes that were reported to the NTD as of January 11, 2007, and were converted to HOT Lanes after that to be counted as transit service operated on an HOV Lane. FTA indicated at that time that this policy was intended to be temporary in anticipation of further statutory direction from Congress.

With the passage of MAP–21, Congress repealed the Fixed Guideway Modernization Program and replaced it with a new State of Good Repair Formula Grant Program, which includes a High-Intensity Motorbus (HIMB) service tier for transit service operated on HOV Lanes. This new formula does not make any reference to transit service on HOT lanes. Thus, FTA proposes, beginning with the Fiscal Year 2015 apportionment, to no longer consider transit service operated on any HOT lane to be the same as transit service operated on an HOV lane, for purposes of the formula apportionment for the High-Intensity Motorbus Tier. Comments on this were solicited in the previously mentioned March 3, 2014, FTA **Federal Register** notice, C 5300.1 *State of Good Repair Grants Programs: Circular and Application Instructions.* FTA is currently reviewing the comments received and is not seeking additional comments on the impact of this policy change on the State of Good Repair Formula Program. However, FTA is proposing to continue to collect the amount of transit service operated on HOT Lanes in the NTD for future use. FTA is accepting comments on this proposal to continue collecting data on transit service operated in HOT Lanes through this notice.

E. Updates to the Definition of Commuter Service and Allocation of Data Attributable to an Urbanized Area

The definition of *Public Transportation* at 49 U.S.C. 5302 excludes intercity passenger rail operated by Amtrak, and also intercity bus service. FTA proposes to amend the definition of public transportation in the NTD Reporting Manual to implement this definition, and to clarify the distinction between commuter and intercity services as follows:

Commuter rail is local passenger rail transportation usually having multiple-ride tickets and having, at a minimum, operations during morning and evening peak periods. *Commuter rail* is characterized by service with relatively long distances between stops, connecting a central city with outlying areas. *Local transportation* generally means that 50% or more of the passengers boarding at each *key rail station* over the full route must make a same-day return trip; otherwise, the service is *intercity service.* A *key rail station* is a station at the end of a line, a major transfer point, or one that otherwise accounts for a substantial portion of boardings.

Commuter rail excludes services provided by Amtrak; services provided by Amtrak are considered to be *intercity rail. Provided by Amtrak* means any service that uses one or more of the following: Amtrak branding, Amtrak schedules, Amtrak tickets, Amtrak's customer loyalty program, or Amtrak's priority access to Class I railroads. Services provided pursuant to 49 U.S.C. 24702 are also considered to be *provided by Amtrak,* whereas services provided pursuant to 49 U.S.C. 24101(a)6 and 24104(f) are not. However, services that were reported to the National Transit Database as of the 2012 Report Year, but which are excluded from the definition of *commuter rail,* may continue to report to the NTD and their data will continue to be treated as *commuter rail* only for purposes of the apportionment of, and eligibility for, FTA's formula grant programs.

Commuter bus is local fixed-route bus transportation primarily connecting outlying areas with a central city. *Commuter bus* is characterized by usually using a motorcoach (aka over-the-road-bus), having multiple trip tickets, multiple stops in outlying areas, limited stops in the central city, and

having at least five miles of closed-door service. *Local transportation* generally means that 50% or more of the passengers boarding at each *key bus stop* over the full route must make a same-day return trip; otherwise, the service is *intercity service.* A *key bus stop* is a bus stop at the end of a line, a major transfer point, or one that otherwise accounts for a substantial portion of the boardings.

A determination that a service qualifies as *public transportation* will ordinarily be made when a system first reports to the NTD. This determination will usually be based on a ticket analysis or rider survey conducted by the transit system. This analysis or survey must be based on the totality of the service (i.e. the full length of the route, including all runs on all days of the week across the entire year). When a transit system's route structure changes, by extension or other significant restructuring, the transit system must submit a new analysis or survey to FTA. If it has been more than five years since the last analysis or survey, FTA may require the transit system to submit a new one.

For purposes of Federal funding allocations in the NTD, only *local transportation* may normally be reported as attributable to and serving an urbanized area. When *intercity service* provided by rail, or other non-bus modes (intercity bus is completely ineligible per 49 U.S.C. 5302), is reported to the NTD, only the miles of the service physically located within the boundaries of the Urbanized Area may be reported as being attributable to that area.

MAP–21 established a new provision at 49 U.S.C. 5336(b)(2)(E) for how to handle services not attributable to an urbanized area for purposes of the formula apportionment. This provision will be applied to intercity non-bus modes that are not able to allocate their services outside the boundaries of an urbanized area as attributable to that urbanized area. This provision will also be applied to urbanized area passenger ferry services that connect two points located outside the boundary of the urbanized area, and thus are not attributable to the urbanized area.

Finally, FTA wishes to clarify the instructions in the Reporting Manual regarding the allocation of transit service between multiple areas. Transit service classified as *commuter service* that connects one or more urbanized areas or that connects rural areas with one or more urbanized areas must be allocated to the urbanized area that is primarily being served. Each transit agency may determine what proportion of service to allocate to each urbanized area according to some reasonable methodology. Normally this determination is based on the percent of unlinked passenger trips on a route originating or terminating in the urbanized area, or both. For example, if 100% of the passengers on the service either board or alight the service in the Metropolis Urbanized Area, then it is reasonable to say that 100% of the service ''serves'' the Metropolis Urbanized Area. As another example, if only 85% of passengers on a route board or alight in Urbanized Area A then it would *not* be reasonable to report that 100% of the route serves Urbanized Area A. It would only be reasonable to attribute, at most, 85% of the service on the route to Urbanized Area A. The remaining 15% of the service must be attributed to the other geographical areas served. Reasonable alternative methodologies for establishing which urbanized areas are primarily being served that are based on available data (such as ticket or survey analysis) may also be used if approved by NTD staff in the efile of the NTD Online Reporting System.

F. Proposed Elimination of Consolidated Reporting and Update of Small Systems Waiver Reporting

FTA proposes to eliminate consolidated reports and have all urbanized area transit providers report directly to the NTD. FTA has previously allowed some urbanized area transit agencies to submit consolidated NTD reports for other transit providers. Typically this involves a large municipal operator reporting for smaller fixed-route, demand-response, and vanpool services in their area. These exceptions have been allowed to minimize the reporting burden on small transit operators that might not otherwise report to the NTD. In particular, by consolidating their NTD Reports, small transit operators were able to avoid the burden of filing separate reports, as well as the burden of reporting operating expenses by object class. However, consolidated NTD reporters have been still required to conduct passenger mile sampling, and have been still required to report to the Monthly Module and the Safety and Security Module.

Since 2011, FTA has reduced reporting requirements for urbanized area transit systems with 30 or fewer vehicles through the small system waiver. These systems are exempt from sampling for passenger miles and report only summary financial and operating statistics, similar to what is required of rural subrecipients. They also report contact information, funding allocation information, a revenue vehicle inventory, data on stations and maintenance facilities, and total injuries, fatalities, and safety incidents. FTA requires their reports to be reviewed by an auditor and certified by the CEO. Systems using the small systems waiver are exempt from the reporting requirements for the Monthly and Safety & Security Modules.

There are currently fewer than ten consolidated reporters in the NTD. However, consolidated reporting makes it difficult to validate and assure the accuracy of NTD data. It complicates NTD data presentation and makes it harder to use the NTD to answer basic questions about the transit industry. With the introduction of the small systems waiver in the 2011 reporting cycle, small urban transit systems can now enjoy reduced reporting requirements without having to participate in a consolidated report. In fact, small transit systems that currently participate in a consolidated report will actually be required to provide less data under this change, as a small systems waiver will eliminate the requirement to report passenger miles and monthly operational statistics. Under this proposal, reports for each transit system would have to be filed under a unique NTD ID number and consolidated reports would no longer be allowed.

Additionally, FTA wishes to clarify the requirements for a small systems waiver report to require that a reporter must use a B–30 form to identify each contractor used for purchased transportation service (see above), and must also use a D–10 Form to certify their data at the end of their report.

G. Clarification on Consistent Use of Transit System Names and Organization Types

The reporting of organization names in the NTD has been inconsistent. FTA is proposing that the name and organization type on the B–10 form must now match the total revenues and total expenses reported on the F forms. That is to say that an NTD reporter must include the total revenues and total expenses for the organization identified on the B–10 form when completing the F-Forms. Further, FTA is proposing that the responsible certifying official on the B–20 form must be a direct employee of the reporting organization, and the independent auditor statements must be done on the basis of the reporting organization.

H. Policy Clarification Allowing Delegation of CEO Certification Responsibility

The formal guidance for the NTD has historically required that the Chief Executive Officer (CEO), or equivalent officer of a reporting entity, must submit the NTD report and certify its accuracy. This proposed policy would formally allow the CEO (or equivalent officer) to delegate those duties to another individual within the organization. This delegation shall be indicated by submission of a delegation letter, signed by the CEO on organization letterhead, naming the individual who will act in the CEO's name for this purpose. This letter will be attached to the report when it is originally submitted and will remain valid for subsequent reporting years as long as both the CEO and the designated official continue to hold their respective positions. This process is intended to simplify the submission process but does not change the CEO's overall responsibility for the accuracy of data submitted in the report.

I. Elimination of Unnecessary Reporting Requirements

In its ongoing efforts to streamline NTD reporting requirements and to eliminate unnecessary data collection FTA is proposing to eliminate the requirement for rail systems to report vehicle revenue miles, vehicle revenue hours, unlinked passenger trips, and passenger miles traveled for morning peak and evening peak periods. FTA is no longer using these data and has determined that this data collection is unnecessary. This will align the service data reporting requirements for rail modes with other modes.

FTA also proposes to eliminate that B–60 and B–70 forms for identifying funds passed from one public entity to another public entity. The clarifications to the reporting of purchased transportation proposed above will render these forms unnecessary, and FTA will no longer require these data.

J. Updated Guidance for Sampling of Passenger Miles

FTA proposes to withdraw several outdated Urban Mass Transportation Administration (UMTA) Circulars that remain in effect. In particular, FTA proposes to withdraw UMTA C2710.1A, UMTA C2710.2A, and UMTA C2710.4A, which relate to procedures for conducting statistical samples to collect passenger mile data. FTA proposes to replace these Circulars with the *NTD Sampling Manual,* which has been in use as optional guidance for several years now. Withdrawing these outdated circulars would make the *NTD Sampling Manual* permanent guidance for procedures on sampling for passenger miles.

In addition, FTA proposes to withdraw UMTA C2710.6 and UMTA C2710.7. Both of these are outdated circulars that have been superseded by the NTD Reporting Manual. The texts of these circulars, as well as the NTD Sampling Manual may be reviewed at *www.ntdprogram.gov.*

K. Expansion of Capital Asset Reporting

Currently, the NTD only collects asset inventory information on revenue vehicles. The NTD just collects summary counts for other asset categories, such as maintenance facilities and fixed guideway. For some assets, such as signaling and telecommunications systems, NTD collects no data at all. FTA proposes to collect additional asset inventory data to remedy this situation and to meet the baseline asset condition reporting requirements required by MAP–21. These changes are proposed pursuant to 49 U.S.C. 5335(c), which requires grantees to report to the NTD any information relating to a transit asset inventory or condition assessment conducted by the recipient; and pursuant to 49 U.S.C. 5326(b)(3), which establishes new requirements for reporting on the condition of assets to FTA.

The proposed NTD Asset Inventory Module will support collection of national-scale information about the quantity, replacement values, and condition of transit capital assets. Data reported to this module will come from transit agencies' asset inventories. Assembling a nationwide inventory of asset conditions will improve FTA's ability to project future costs for the replacement and renewal of transit capital assets as reported in the Department of Transportation's biennial Conditions and Performance Report to the Congress. The information reported in the module will facilitate analysis using both the Federal version of the Transit Economic Requirements Model (TERM), the analysis tool used for Conditions and Performance Report investment scenarios, and for TERM-Lite, a capital needs tool based on the Federal version that is designed for use by local agencies. This proposal is not intended to establish a definition of state of good repair nor define official performance measures. Parties interested in these topics should look for them to be addressed in a future FTA Notice of Proposed Rulemaking (NPRM).

Beginning with the 2015 NTD reporting cycle (beginning September 2015), a new 'Asset Inventory Module' (AIM) and associated updates to NTD's Annual Reporting Manual will be added to FTA's annual NTD reporting requirement for urban agencies. FTA will, however, grant an optional first-year AIM reporting waiver upon request to any transit system for the 2015 reporting year. FTA proposes that AIM reporting will then become mandatory beginning in the 2016 NTD reporting cycle, with reporting waivers issued on a case-by-case basis. For the first year, AIM data will be submitted by grantees using a Microsoft Excel spreadsheet that shares the ''look and feel'' of other NTD reporting forms in the current Internet-based reporting system. The Excel spreadsheet includes many user-friendly features, including user prompts, validation features, and drop-down menus. Preliminary versions of the above spreadsheet and its user manual can be found on the NTD Web site at: *http://www.ntdprogram.gov/ntdprogram/pubs/other_data_products/AssetModule.xlsx http://www.ntdprogram.gov/ntdprogram/pubs/other_data_products/AssetReportingManual.docx* In subsequent years, the AIM will be incorporated into NTD's Internet-based submittal format and will also be required of rural reporters.

FTA aims to minimize the reporting burden on the transit industry, while still meeting MAP–21 mandates, by collecting data at the minimum level of detail required to provide accurate needs forecasts. The data requested in the AIM will consist of objective and verifiable aspects of assets that represent significant capital costs. The data collection is also designed to require minimal updates from year to year once it is originally submitted. The proposed AIM consists of a series of electronic forms that grantees will use to report categories of asset condition data. The AIM forms include:

1. Agency Identification. Collects organizational and contact information. This form will only apply to the spreadsheet version of the data collection (2014 collection cycle).

2. Administrative and Maintenance Facilities. Collects information on administrative and maintenance facilities used to supply transit service. For each facility, the facility's name, street address, square footage, year built or substantially reconstructed, primary transit mode supported, and estimated cost are collected.

3. Passenger and Parking Facilities. Collects information on passenger and passenger parking facilities used to

supply transit service. For each facility, the facility's name, street address, square footage and number of parking spaces, year built or substantially reconstructed, primary mode, and estimated cost are collected.

4. Rail Fixed Guideway. Collects data on linear guideway assets and power and signal equipment including the length of specific types of guideway and corresponding equipment reported as network totals by mode and operating agreement. The data includes quantity, expected service years, date of construction or major rehabilitation (within a ten year window), and estimated cost.

5. Track. Collects data on track assets including length and total number of track special work reported as network totals by rail mode and operating agreement. The data includes expected service years and date of construction or major rehabilitation.

6. Service Vehicles. Collects data on service vehicles that support transit service delivery, maintain revenue vehicles, and perform administrative activities. The data includes quantity, expected service life, year of manufacture, and estimated cost.

FTA thanks our stakeholders in advance for providing comment on the above proposed changes to the NTD Reporting Manual.

Therese McMillan,

Acting Administrator.

[FR Doc. 2014–19605 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0113]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FV CODZILLA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 18, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0113. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FV CODZILLA is:

Intended Commercial Use of Vessel: ''This vessel will be used for ''Six Pack'' charter fishing. Coastwise endorsement required.''

Geographic Region: ''Rhode Island waters only for ''Six Pack'' charters.''

The complete application is given in DOT docket MARAD–2014–0113 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: August 11, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–19647 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0115]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GRATITUDE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 18, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0115. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–

366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GRATITUDE is:

Intended Commercial Use of Vessel: ''We intend to make the vessel available for private charters through a local charter company. The local charter company has employees who will market the vessel for charter and crew the boat on charter voyages. We plan on most of the charters being trips from Pinellas County, FL to the Florida Keys.''

Geographic Region: ''Florida''

The complete application is given in DOT docket MARAD–2014–0115 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator .

Dated: August 11, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–19648 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2014 0110]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ALTA MAR; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 18, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0110. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ALTA MAR is:

Intended Commercial Use Of Vessel: ''Chartering''

Geographic Region: Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, New Jersey, Connecticut, Rhode Island, Massachusetts, and New York

The complete application is given in DOT docket MARAD–2014–0110 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: July 17, 2014.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. 2014–19687 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2014 0116]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ISLAND LADY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 18, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0116. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ISLAND LADY is:

Intended Commercial Use of Vessel: ''Sightseeing and private charters no more than six passengers. (UPV 6 pack charter)''

Geographic Region: ''Washington State''

The complete application is given in DOT docket MARAD–2014–0116 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: August 11, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–19681 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0114]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FELIX; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 18, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0114. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FELIX is:

Intended Commercial Use of Vessel: ''Private daytime/overnight sailing charters''

Geographic Region: ''Hawaii''

The complete application is given in DOT docket MARAD–2014–0114 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: August 11, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–19685 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2014 0017]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SUNNY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized

to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 18, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0017. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SUNNY is:

Intended Commercial Use Of Vessel: ''Passenger Charter''

Geographic Region: ''Puerto Rico''

The complete application is given in DOT docket MARAD–2014–0117 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: August 11, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–19684 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0111]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NANATASIS; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 18, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0111. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NANATASIS is:

Intended Commercial Use Of Vessel: ''Day Sailing Trips''

Geographic Region: Massachusetts, Connecticut, New Hampshire, Maine

The complete application is given in DOT docket MARAD–2014–0111 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: August 11, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–19680 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0001; Notice 2]

Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of Petition.

SUMMARY: Cooper Tire & Rubber Company (Cooper), has determined that certain Cooper light truck tires do not fully comply with paragraph S6.4 of Federal Motor Tire Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds) and Motorcycles.* Cooper has filed an appropriate report dated December 6, 2013 pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

ADDRESSES: For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5310, facsimile (202) 366–7002.

SUPPLEMENTARY INFORMATION:

I. Cooper's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Cooper has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on May 22, 2014 in the **Federal Register** (79 FR 29502). No comments were received. To view the petition, and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2014–0001.''

II. Tires Involved: Affected are approximately 83,343 Mickey Thompson Baja MTZ brand LT315/70R17 Load Range D Tubeless tires manufactured from January 28, 2006 through October 31, 2013.

III. Noncompliance: Cooper explains that the noncompliance is that, due to a molding error, the subject tires were manufactured with only five of the six treadwear indicators required by paragraph S6.4 of FMVSS No. 119.

IV. Rule Text: Paragraph S6.4 of FMVSS No. 119 requires in pertinent part:

S6.4 *Treadwear Indicators.* Except as specified in this paragraph, each tire shall have at least six treadwear indicators spaced approximately equally around the circumference of the tire that enable a person inspecting the tire to determine visually whether the tire has worn to a tread depth of 1.6 mm (one-sixteenth of an inch). . . .

V. Summary of Cooper's Analyses: Cooper believes that the subject noncompliance is inconsequential to motor vehicle safety because the absence of a single treadwear indicator has no practical effect on motor vehicle safety. Cooper supported this belief by stating that the presence of five of the six treadwear indicators provides ample coverage over the surface of the tire because consumers or technicians who attempt to inspect tread depth by relying on the treadwear indicators can easily see several of the indicators. In fact, when the vehicle is parked, only a small portion of the tread surface is not visible.

Therefore, Cooper believes that five treadwear indicators have an equivalent functionality of six indicators whether the tire is mounted on a vehicle or not.

Cooper also points out that NHTSA has previously granted other petitions that Cooper believes were similar to the subject petition.

Cooper has informed NHTSA that it has corrected the noncompliance so that all future production of these tires will comply with FMVSS No. 119.

In summation, Cooper believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt Cooper from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA Decision:

NHTSA Analysis: The purpose for tire treadwear indicators is to serve as a means for a person to visually inspect a tire's tread depth and readily determine if a tire has worn to the extent that tread depth is 1.6 mm (one-sixteenth of an inch) or less.

Cooper stated that while the subject tires were molded with only five treadwear indicators that it believes that those indicators still provide ample coverage over the surface of the tire.

NHTSA agrees with Cooper that in this case the subject noncompliance will have no significant effect on the safety of the vehicles on which the subject tires are mounted. The subject tires have five indicators; 4 indicators spaced at 60 degrees and one indicator spaced at 120 degrees. NHTSA believes that in this case the absence of a single indicator does not significantly affect a person's ability to visually inspect a tire and readily recognize when a significant portion of the tire's tread is warn to the point that a tire should be replaced.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that Cooper has met its burden of persuasion that the Cooper FMVSS No. 119 noncompliance is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is hereby granted and Cooper is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant tires that Cooper no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–19602 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0133; Notice 2]

General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: General Motors, LLC (GM) has determined that certain model year (MY) 2011, 2012 and 2013 Chevrolet Volt passenger cars sold with windshield sunshades as a ''Limited Personalization Option,'' do not fully comply with paragraph S4.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. FMVSS 302, *Flammability of Interior Materials.* GM has filed an appropriate report dated August 27, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

ADDRESSES: For further information on this decision contact Mr. Mike Cole, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2334, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. GM's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, GM has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on January 21, 2014 in the **Federal Register** (79 FR 3471). No comments were received. To view the petition, and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2013–0133.''

II. Vehicles Involved: Affected are approximately 3,426 MY 2011, 2012 and 2013 Chevrolet Volt passenger cars that were manufactured from 12/14/2010 to 06/26/2013 and sold to retail customers with windshield sunshades as a ''Limited Personalization Option.''

III. Noncompliance: GM explains that the noncompliance is that the subject vehicles were delivered as new vehicles to retail customers with windshield sunshades that do not meet the maximum burn rate requirement of paragraph S4.3 of FMVSS No. 302.

IV. Rule Text: Refer to the entire text of Paragraph S4 of FMVSS No. 302 for contextual restrictions as well as the specific requirements of subparagraph S4.3.

V. Summary of GM's Analyses: GM stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

a. When tested as a finished part (i.e., with the inner and outer layers tested as though they form a composite), the sunshade's burn rate of 35mm/minute is significantly less than the FMVSS No. 302 maximum burn rate of 102 mm/minute. The outer layer is composed of self-extinguishing material that meets all of the requirements of FMVSS No. 302. While the layers of the assembly are not bonded at every point of contact, they are held together and encased with FMVSS No. 302 compliant self-extinguishing trim and stitching around the entire perimeter of the sunshade. Additional double rows of stitching create vertical accordion fold lines in the sunshade. The stitching segments the inner layer into smaller pieces that are separated by double layers of the FMVSS No. 302 compliant self-extinguishing outer layer material.

b. Only the inner layer, by itself, does not meet the FMVSS No. 302 burn rate, and at 110 mm/minute, it is only marginally above the 102 mm/minute requirement.

c. The sunshade has a storage bag which is made of FMVSS No. 302 compliant material. When the sunshade is stored in the provided bag while the vehicle is in use, the external surface that is presented to the occupant compartment is well within the FMVSS requirement, and two layers of FMVSS No. 302 compliant material would have to be penetrated to reach the marginally noncompliant inner layer.

d. Even if the sunshade was not placed in its storage bag when not in use, the external surface that is presented to the occupant compartment is still FMVSS compliant, and this layer would still need to be penetrated to reach the marginally noncompliant inner layer. In addition, folding it alone reduces the sunshade's surface area to approximately one eighth of the unfolded surface area, further reducing the exposure to any potential ignition source.

e. GM stated its belief that the purpose of FMVSS No. 302 is ''to reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes.'' FMVSS No. 302, paragraph S2. The sunshade is designed to be used only when the vehicle is parked, and it is extremely unlikely that the inner layer would ever come in contact with an ignition source. As such, it is extremely unlikely that a vehicle occupant would ever be exposed to a risk of injury as a result of the noncompliance.

f. Because the sunshade is intended to help reduce sun load during hot weather conditions, it may be removed from the vehicle entirely during colder months, further reducing the exposure of the sunshade to the interior of the vehicle.

g. GM stated its belief that NHTSA has previously granted several inconsequential noncompliance petitions that GM believes can be applied to a decision on its petition. See GM's petition for a complete discussion of its reasoning.

h. There are no known field events involving ignition of sunshades. GM is not aware of any crashes, injuries or customer complaints involving this windshield sunshade.

GM has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles delivered with windshield sunshades will comply with FMVSS No. 302.

In summation, GM believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA Decision:

NHTSA Analysis: NHTSA agrees with GM that the noncompliant corrugated plastic material incorporated into the subject sunshades is unlikely to pose a flammability risk due to: the unlikelihood of exposure to an ignition source; the fact that the noncompliant material is fully encased by materials which comply with the flammability requirements of FMVSS No. 302; the fact that the sunshade is provided with a bag made of materials that comply with the flammability requirements of FMVSS No. 302 for storage of the sunshade when the vehicle is in use; and the fact that when tested separately the inner layer is only marginally above the 102 mm/minute requirement.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that GM has met its burden of persuasion that the FMVSS No. 302 noncompliance is inconsequential to motor vehicle safety. Accordingly, GM's petition is hereby granted and GM is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the

duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–19603 Filed 8–18–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35804 (Sub-No. 1)]

CSX Transportation, Inc., The Baltimore & Ohio Chicago Terminal Railroad Company, and Norfolk Southern Railway Company—Joint Relocation Project Exemption—Gary-Chicago International Airport Authority

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Exemption.

SUMMARY: The Board is granting an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323–25 for CSX Transportation, Inc., to obtain trackage rights from Norfolk Southern Railway Company (NSR) over a 1.7-mile portion of NSR's Gary Branch between approximately milepost TC 244.90 and milepost TC 246.60.[1]

DATES: This exemption is effective on August 14, 2014. Petitions to reopen must be filed by September 3, 2014.

ADDRESSES: An original and 10 copies of all pleadings, referring to Docket No. FD 35804 (Sub-No. 1), 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 Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn, (202) 245–0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision served on August 14, 2014, which is available on our Web site at *www.stb.dot.gov.*

Decided: August 14, 2014.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–19635 Filed 8–18–14; 8:45 am]

BILLING CODE 4915–01–P

[1] This transaction is related to the joint relocation project described in *CSX Transportation, The Baltimore & Ohio Chicago Terminal Co., & Norfolk Southern Railway—Joint Relocation Project Exemption—Gary-Chicago International Airport Authority,* FD 35804 (STB served May 21, 2014).

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Publication of Iran General License G

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice, publication of general license.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) published in the **Federal Register** General License G, which was issued under the Iranian transactions sanctions program on March 19, 2014. General License G authorizes certain academic exchanges between U.S. academic institutions and Iranian universities and the exportation or importation of certain educational services.

DATES: *Effective Date:* March 19, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Policy, tel.: 202–622–2402, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The text of General License G and additional information concerning OFAC are available on OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On March 19, 2014, OFAC issued General License G authorizing certain academic exchanges between U.S. academic institutions and Iranian universities and the exportation or importation of certain educational services. On March 20, 2014, OFAC made General License G available on the OFAC Web site (*www.treasury.gov/ofac).* With this notice, OFAC is publishing General License G in the **Federal Register.**

General License G

Certain Academic Exchanges and the Exportation or Importation of Certain Educational Services Authorized

(a) *Academic Exchanges.* Except as provided in paragraph (c) of this general license, accredited graduate and undergraduate degree-granting academic institutions located in the United States (collectively, ''U.S. academic institutions''), including their contractors, are authorized to enter into student academic exchange agreements with universities located in Iran (collectively, ''Iranian universities'') related to undergraduate or graduate educational courses, and to engage in all activities related to such agreements, including, but not limited to, the provision of scholarships to students enrolled in Iranian universities to allow such students to attend U.S. academic institutions.

(b) *Educational Services.* Except as provided in paragraph (c) of this general license,

(1) U.S. academic institutions, including their contractors, are authorized to export services:

(i) In connection with the filing and processing of applications and the acceptance of payments for submitted applications and tuition from or on behalf of individuals who are located in Iran, or located outside Iran but who are ordinarily resident in Iran;

(ii) related to the recruitment, hiring, or employment in a teaching capacity of individuals who are located in Iran, or located outside Iran but who are ordinarily resident in Iran, and regularly employed in a teaching capacity at an Iranian university, provided that no such individuals are employed in a teaching capacity within the United States without being granted appropriate visas by the U.S.

Department of State or authorization from the U.S. Department of Homeland Security; and

(iii) to individuals located in Iran, or located outside Iran but who are ordinarily resident in Iran, to sign up for and to participate in undergraduate level online courses (including Massive Open Online Courses, coursework not part of a degree seeking program, and fee-based courses) provided by U.S. academic institutions in the humanities, social sciences, law, or business provided that the courses are the equivalent of courses ordinarily required for the completion of undergraduate degree programs in the humanities, social sciences, law, or business, or are introductory undergraduate level science, technology, engineering, or math courses ordinarily required for the completion of undergraduate degree programs in the humanities, social sciences, law, or business.

(2) U.S. persons who are actively enrolled in U.S. academic institutions are authorized to (i) participate in educational courses or engage in noncommercial academic research at Iranian universities at the undergraduate level, or (ii) participate in educational courses at the graduate level or engage in noncommercial academic research at Iranian universities in the humanities, social sciences, law, or business at levels above the undergraduate level.

(3) U.S. persons are authorized to export services to Iran in support of the following not-for-profit educational activities in Iran: combating illiteracy, increasing access to education, and assisting in educational reform projects.

(4) U.S. persons, wherever located, are authorized to administer professional certificate examinations and university entrance examinations, including, but not limited to, multiple choice standardized tests, and to provide those services that are necessary or required for admission to U.S. academic institutions, to individuals who are located in Iran or located outside Iran but who are ordinarily resident in Iran.

(c) This general license does not authorize:

(1) The exportation or reexportation of any goods (including software) or technology (see 31 CFR 560.418 & Note 1 addressing releases of technology or software to foreign nationals) to (i) the Government of Iran, or (ii) Iran, except for technology or software released under this General License that is designated as EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774 (the ''EAR''), or constitutes Educational Information not subject to the EAR, as set forth in 15 CFR 734.9, and the release does not otherwise require a license from the Department of Commerce; or

(2) The exportation or reexportation of services to any person whose property and interests in property are blocked pursuant to any part of 31 CFR chapter V other than part 560.

Note 1 to General License G: Students from Iranian universities who are otherwise qualified for a non-immigrant visa are authorized to carry out in the United States those activities for which such a visa has been granted by the U.S. State Department pursuant to 31 CFR 560.505.

Note 2 to General License G: United States depository institutions or United States registered brokers or dealers in securities are authorized to process transfers of funds in furtherance of activities authorized by this general license so long as the transfer is consistent with 31 CFR 560.516.

Note 3 to General License G: United States depository institutions and private loan companies are authorized to engage in all transactions necessary to collect, accept, and process student loan payments from persons in Iran or ordinarily resident in Iran under 31 CFR 560.551.

Note 4 to General License G: U.S. persons are authorized to engage in certain publishing-related activities, including with persons from academic and research institutions and their personnel in Iran under 31 CFR 560.538.

Note 5 to General License G: U.S. persons are authorized, *inter alia,* to export, reexport, and provide certain services, software, and hardware incident to personal communications under General License D–1 of 31 CFR part 560.

Issued: March 19, 2014.

Dated: August 12, 2014.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–19614 Filed 8–18–14; 8:45 am]

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FEDERAL REGISTER

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Part II

Federal Communications Commission

47 CFR Part 54
Modernization of the Schools and Libraries "E-Rate" Program; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 13–184; FCC 14–99]

Modernization of the Schools and Libraries ''E-Rate'' Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) takes major steps to modernize the E-rate program (more formally known as the schools and libraries universal service support mechanism). Building on the comments the Commission received in response to the *E-rate Modernization NPRM,* and the *E-rate Modernization Public Notice,* as well as recommendations from the Government Accountability Office (GAO), the program improvements the Commission adopts as part of this document begin the process of reorienting the E-rate program to focus on high-speed broadband for our nation's schools and libraries.

DATES: Effective September 18, 2014, except for amendments in §§ 54.502(b)(2), (3), and (5), 54.503(c), 54.504(a) and (f), 54.507(d), 54.514(a), 54.516(a) through (c), and 54.720(a), which are subject to the Paperwork Reduction Act and will become effective upon announcement by the FCC in the **Federal Register** of OMB approval of the subject information collection requirements; and except for amendments in §§ 54.500, 54.501(a)(1), 54.502(a), 54.507(a) through (c) and (e) through (f), 54.516, and 54.570(b) and (c), which shall become effective on July 1, 2015; and amendments in §§ 54.504(f)(4) and (5) and 54.514(c), which shall become effective on July 1, 2016.

FOR FURTHER INFORMATION CONTACT: James Bachtell or Kate Dumouchel, Wireline Competition Bureau, Telecommunications Access Policy Division, at (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, in WC Docket No. 13–184; FCC 14–99, adopted on July 11, 2014 and released on July 23, 2014. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554. Or at the following Internet address: *http://www.fcc.gov/document/fcc-releases-e-rate-modernization-order.* The Further Notice of Proposed Rulemaking (FNPRM) that was adopted concurrently with the Report and Order is published elsewhere in this issue of the **Federal Register**.

I. Introduction

1. In this Report and Order we take major steps to modernize the E-rate program. In so doing, we recognize E-rate's extraordinary success as the federal government's largest education technology program. Over the last 17 years, the E-rate program has helped to ensure that our nation's schools and libraries are connected to the digital world. At the same time, we acknowledge and embrace our responsibility to make sure the program evolves as the needs of schools and libraries evolve. In particular, the E-rate program must evolve to focus on providing support for the high-speed broadband that schools need to take advantage of bandwidth-intensive digital learning technologies and that libraries need to provide their patrons with high-speed access to the Internet on mobile devices as well as desktops. Access to high-speed broadband is crucial to improving educational experiences and expanding opportunities for all of our nation's students, teachers, parents and communities. Building on the comments we received in response to the *E-rate Modernization NPRM,* 78 FR 51597, August 20, 2013, and the *E-rate Modernization Public Notice,* 79 FR 13300, March 10, 2014, as well as recommendations from the GAO, the program improvements we adopt as part of this Report and Order begin the process of reorienting the E-rate program to focus on high-speed broadband for our nation's schools and libraries.

2. The record clearly demonstrates the power of high-speed broadband connectivity to transform learning. High-speed broadband, to and within schools, connects students to cutting-edge learning tools in the areas of science, technology, engineering and math (STEM) education, necessary for preparing them to compete in the global economy. High-speed broadband also creates opportunities for customized learning, by giving our students and their teachers access to interactive content, and to assessments and analytics that provide students, their teachers, and their parents real-time information about student performance while allowing for seamless engagement between home and school. Finally, high-speed broadband expands the reach of our schools and creates opportunities for collaborative distance learning, providing all students access to expert instruction, no matter how small the school they attend or how far they live from experts in their field of study.

3. High-speed broadband is also a critical component of 21st Century libraries. In many communities, libraries are the only source of free, publicly available Internet access. As a result, high-speed broadband at libraries provides library patrons, many of whom have no other Internet access, the ability to participate in the digital world. Broadband services at libraries are crucial for enabling and fostering life-long learning, and they enable students at all stages of their education to perform research and complete their homework. Broadband at libraries is also crucial for students studying for and taking their General Educational Development (GED) tests and allows students to take and study for college and graduate-level courses. Broadband at libraries enables patrons to seek and apply for jobs; learn new skills; interact with federal, state, local, and Tribal government agencies; search for health-care and other crucial information; make well-informed purchasing decisions; and stay in touch with friends and family.

4. In adopting this Report and Order, we recognize the critical role the E-rate program plays in the lives of our students and communities and the importance of ensuring that the program supports sufficient, equitable, and predictable support for high-speed connectivity to and within schools and libraries. It is a crucial part of the Commission's broader mandate to further broadband deployment and adoption across our nation. We therefore adopt a number of the proposals made in the *E-rate Modernization NPRM* and begin the process of re-focusing the E-rate program on providing the necessary support to ensure our nation's schools and libraries have affordable access to high-speed broadband.

5. To maximize the benefits of the E-rate program to our nation's schools and libraries, we adopt the proposal made in the *E-rate Modernization NPRM* to establish clear goals and measures for the program. The three goals we adopt for the E-rate program are: (1) Ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries; (2) maximizing the cost-effectiveness of spending for E-rate supported purchases; and (3) making the E-rate application process and other E-rate

processes fast, simple and efficient. We also adopt approaches for measuring our success towards meeting those goals.

6. In addition, we adopt the following updates to the E-rate program aimed at furthering each of those goals:

- To ensure affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries, we:
  - Set an annual funding target of $1 billion for funding for internal connections needed to support high-speed broadband within schools and libraries;
  - test a more equitable approach to funding internal connections for applicants who seek support in funding years 2015 and 2016; and
  - reorient the E-rate program to focus on supporting high-speed broadband by phasing down support for voice services and eliminating support for other legacy services.
- To maximize the cost-effectiveness of spending for E-rate supported purchases, we:
  - Adopt transparency measures to encourage sharing of cost and connectivity data;
  - encourage consortia purchasing; and
  - emphasize that providers must offer the lowest corresponding price.
- To make the E-rate application process and other E-rate processes fast, simple and efficient, we:
  - Streamline the application process by:
    - Simplifying the application process for multi-year contracts;
    - exempting low-cost, high-speed business-class broadband Internet access services from the competitive bidding requirements;
    - easing the signed contract requirement;
    - removing the technology plan requirement;
    - requiring electronic filings; and
    - enabling direct connections between schools and libraries.
  - Simplify discount rate calculations by:
    - Requiring a district-wide discount rate;
    - modifying the definition of urban and rural;
    - addressing changes to the national school lunch program (NSLP); and
    - modifying the requirements for applicants using surveys.
  - Simplify the invoicing and disbursement process by:
    - Allowing direct invoicing by schools and libraries; and
    - adopting an invoicing deadline.
  - Create a Tribal consultation, training and outreach program.
  - require the filing of all universal service appeals initially with USAC.
  - direct USAC to adopt additional measures to improve the administration of the program by:
    - Speeding review of applications, commitment decisions and disbursements;
    - modernizing USAC's information technology systems;
    - adopting open data policies;
    - improving communications with E-rate applicants and providers.
  - Protect against waste, fraud, and abuse by:
    - Extending the document retention deadline; and
    - ensuring auditors and investigators access to an applicant's premises upon request.

7. The most fundamental step we take today is to overhaul the support system for internal connections, including the deployment of high-speed Wi-Fi in classrooms and libraries nationwide. When the E-rate program was created, the idea of wired connections to classrooms was revolutionary. Today, students and teachers can and do take their devices with them wherever they go, which means they need to have Internet connectivity throughout their schools. Likewise, in 1997, desktop computers offered state of the art connectivity in libraries. Now, library patrons bring their own devices and use those that belong to their libraries. By modernizing the E-rate program to expand schools and libraries access to more predictable E-rate funding that is sufficient to meet their needs for Wi-Fi connectivity, and other internal broadband connections.

8. Of course, Wi-Fi in classrooms and libraries requires broadband connectivity to schools and libraries. We therefore also take steps in this Report and Order to ensure that all eligible schools and libraries will continue to be able to receive E-rate support to purchase broadband services to their buildings.

9. At the same time, we are mindful of the importance of continuing to improve the E-rate program in order to achieve the goals we adopt herein. In order to ensure the E-rate program evolves to meet the connectivity needs of our nation's schools and libraries, we leave the record open in this proceeding to allow us to address in the future those issues raised in the *E-rate Modernization NPRM* that we do not address today. We also issue an accompanying Further Notice of Proposed Rulemaking (FNPRM) to seek comment on some additional issues.

II. Performance Goals and Measures

10. Based on overwhelming support in the record, and consistent with the Congressional directives in sections 254(b) and (h) of the Communications Act (the Act), we adopt three goals modeled on those proposed in the *E-rate Modernization NPRM:* (1) Ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries; (2) maximizing the cost-effectiveness of spending for E-rate supported purchases; and (3) making the E-rate application process and other E-rate processes fast, simple, and efficient. We also adopt associated performance measures and targets to determine whether we are successfully achieving these goals. Clearly articulating goals for the E-rate program, along with specific performance measures and targets, will help us focus our efforts as we modernize the E-rate program, monitor our progress over time, and adjust course as needed. In choosing these goals, performance measures, and targets, we also recognize the need to be sufficiently flexible to accommodate the evolving technological and connectivity needs of schools and libraries.

11. Establishing clear performance goals is also consistent with the Government Performance and Results Act of 1993 (GPRA), which requires federal agencies to engage in strategic planning and performance measurement. In 2007, the Commission adopted measures to safeguard the universal service fund (USF or Fund) from waste, fraud, and abuse as well as measures to improve the management, administration, and oversight of the USF generally. More recently, the Commission has adopted goals in the other USF programs it has modernized over the last few years. In the *E-rate Modernization NPRM,* while the Commission recognized the importance of these measures, it also acknowledged the subsequent finding by the GAO that the E-rate program, specifically, lacked sufficient performance goals and measures. In its 2009 report, the GAO emphasized that successful performance measures should be tied to goals, address important aspects of program performance, and provide useful information for decision making. The goals, measures, and targets we adopt today respond directly to the GAO's recommendations and place the E-rate program on a clear strategic path, consistent with the GPRA.

12. Throughout this Report and Order, we use these three goals as guideposts for our decisions about how to close the

gap between the broadband needs of schools and libraries and their ability to obtain those services. As part of the performance measures, we set connectivity targets by which we will evaluate progress towards meeting our goals. We also adopt reporting obligations for USAC and for E-rate program participants that will enable us to measure progress towards meeting the goals. While we identify specific reporting obligations, we delegate authority to the Bureau, working with the Office of the Managing Director (OMD), to finalize the format and timing of those reporting obligations.

13. Using the adopted goals and measures, we will, consistent with the GPRA, monitor the performance of the E-rate program over time, and regularly reassess our rules and policies to ensure that they are continuing to support our goals. If we find that the E-rate program is not making progress towards meeting the performance goals, we will consider corrective actions. Likewise, to the extent that the adopted targets and performance measures do not help us assess program performance, we will revisit them.

A. Ensuring Affordable Access to High-Speed Broadband Sufficient To Support Digital Learning in Schools and Robust Connectivity for All Libraries

1. Goal

14. We adopt as our first goal ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries. This goal is widely supported by commenters and implements Congress's directive in section 254(h) of the Act that the Commission ''enhance access to advanced telecommunications and information services'' to schools and libraries ''to the extent technically feasible and economically reasonable,'' and determine a discount level for all E-rate funded services that is ''appropriate and necessary to ensure affordable access to and use of such services.''

15. Our record demonstrates that high-speed broadband is essential for students, teachers, and library patrons seeking to take advantage of the rapidly expanding opportunities for interactive digital learning. As the Commission observed in the *E-rate Modernization NPRM,* the availability of high-speed broadband in schools transforms learning opportunities and expands school boundaries by providing all students access to high-quality courses and expert instruction. We also agree with commenters that high-speed broadband connections should be available to students and teachers *throughout* a school, enabling them to utilize online materials and blended learning throughout the day and as part of their curriculum.

16. High-speed broadband is also critical in libraries, where it provides patrons with the ability to access the Internet, search for and apply for jobs, engage with governmental entities, learn new skills, and engage in life-long learning. High-speed broadband to and within libraries is especially important in communities where many lack home access to broadband, including minority and low-income communities. Libraries in these communities provide broadband access during non-school hours to students who do not have home access to broadband.

17. The record demonstrates that schools and libraries, recognizing the importance of high-speed broadband to utilize the variety of Wi-Fi-enabled devices for educational purposes, are racing to deploy and upgrade their networks. Specifically, schools and libraries are working to upgrade local area networks (LANs) and wireless local area networks (WLANs or Wi-Fi networks) to deliver high-speed broadband to every student and patron device. School districts are increasingly implementing one-to-one student to device initiatives and bring your own device (BYOD) programs that require high-density Wi-Fi coverage in every classroom and common area. The WLAN upgrades necessary to support one-to-one digital learning may include upgraded switches, wireless routers, Cat 6 or fiber cabling, and 802.11n (or better) wireless access points (WAPs). Though the increasing number of Wi-Fi-enabled devices in schools provides exciting educational possibilities, 57 percent of school districts responding to a recent survey by the Consortium on School Networking do not believe that they have Wi-Fi capacity capable of handling a one-to-one deployment.

18. Libraries are also seeing a rapid increase in bandwidth demand driven by Wi-Fi-enabled devices and the public's need for broadband access. The percentage of libraries providing free Wi-Fi to the public grew from 37 percent in 2006 to 91 percent in 2012. Several commenters note that the public library is sometimes the only place offering free Internet access to the community. Many libraries report that patron-owned devices connected to their network will soon surpass library-provided devices. New technologies such as digital media labs, interactive learning tools for adult education, and videoconferencing services also contribute to increasing bandwidth demand in libraries.

19. Finally, it is also crucial that high-speed broadband to schools and libraries be affordable, consistent with section 254(b)(1). The record makes clear that, in some areas today, schools and libraries are unable to afford high-speed broadband services or the services they can afford provide insufficient bandwidth to support digital learning or provide their patrons with robust Internet access. We have collected voluminous data on the current state of connectivity to schools and libraries, and the prices schools and applicants are paying for their connectivity. The record reveals a wide variance in the speed and price of connectivity at schools and libraries nationwide. Location, access to fiber connections, financial resources, access to a research and education network (REN), statewide or regional coordination, ISP competition, and a well-informed IT staff are among the many factors that can affect a school's or library's ability to procure high-speed connectivity at a reasonable price.

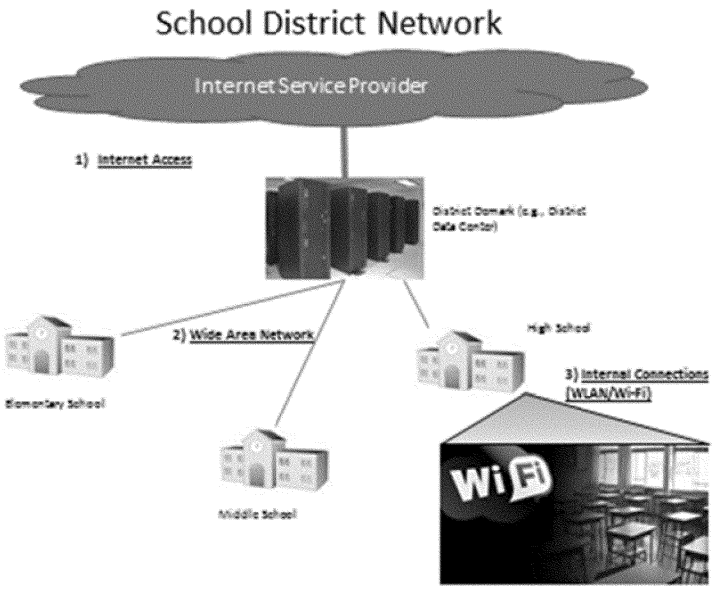
2. Measures

20. We will evaluate progress towards our first goal by comparing connectivity to and within schools and libraries with widely accepted connectivity targets that are based on digital learning and library needs. As illustrated in Figure 2, the connectivity needs of schools can be divided into three components:

- *Internet Access*—School districts and some library systems purchase Internet access for the entire district or system at a single point of aggregation. For the purposes of this measure, we refer to ''Internet access'' as the connection or connections that allow traffic to flow from that aggregation point to the public Internet. As part of the purchase of Internet access, the school district (or library system) may purchase dedicated connectivity (e.g., dedicated transport) from its point of aggregation to its Internet Service Provider's (ISP's) point of presence. For schools and libraries that are not connected to a district Wide Area Networking (WAN), Internet access simply refers to the school's or library's direct connection to the public Internet.
- *WAN/Last-Mile*—As just described, school districts and library systems frequently connect individual schools and libraries to a central aggregation point, such as a district, county, or regional data hub, that hosts the Internet demarcation point for the entire district, county, regional, or library system. We refer to these connections as WAN or last mile connections.

• *Internal Connections*—This category encompasses the infrastructure necessary to deliver Internet access from the edge of a school or library to the actual student, faculty, or patron end-user device. Internal connections include Wi-Fi.

Figure 2 – Taxonomy of Broadband Connectivity for Schools and Libraries



21. For each of these three network components, we adopt separate measures of progress, including distinct connectivity targets.

a. Internet Access

22. *Connectivity Targets.* We adopt the State Education Technology Directors Association's (SETDA) target recommendation of Internet access for schools of at least 100 Mbps per 1,000 students and staff (users) in the short term and 1 Gbps Internet access per 1,000 users in the longer term. We agree with those commenters who support both the shorter and longer-term connectivity SETDA targets as reflecting schools' bandwidth needs as they increasingly adopt digital learning strategies and one-to-one device initiatives. SETDA's long-term targets are also consistent with President Obama's initiative to connect 99 percent of students to high-speed broadband within five years.

23. We will measure Internet connectivity at the district level for school districts and at the school level for schools that are not members of a district (e.g., private schools). We recognize that the SETDA target for Internet access connectivity may not be appropriate for every school or school district, especially very large or very small districts or individual schools, and will take that into account when measuring success towards the targets we set today. Large school districts often keep a significant amount of traffic on their internal networks and are able to oversubscribe Internet connections, thereby requiring less per-student Internet access bandwidth. For example, the Los Angeles Unified School District's (LAUSD) network has approximately 750,000 total users and LAUSD is implementing a district-wide one-to-one initiative. LAUSD anticipates that 90 Gbps Internet access connectivity, or approximately 120 Mbps per 1,000 students, will deliver sufficient bandwidth to every classroom and device with the help of bandwidth optimization measures that compress data and eliminate redundant traffic. We will continue to analyze data on broadband demand.

24. This ongoing examination of our Internet connectivity targets should include regular input from schools and libraries. We therefore direct the Bureau to seek, as part of the application process, feedback from schools and libraries on the sufficiency of their Internet access bandwidth to meet their needs. The Bureau will consider all responses, in conjunction with usage and demand data, when refining the Internet connectivity targets.

25. With respect to libraries, we initially adopt as a bandwidth target the American Library Association's recommendation that all libraries that serve fewer than 50,000 people have broadband speeds of at least 100 Mbps and all libraries that serve 50,000 people or more have broadband speeds of at least 1 Gbps. We agree with commenters that the size of the community served by a library must factor into the library target.

26. *Affordability.* To measure affordability, we will track pricing as a function of bandwidth. We direct the Bureau, working with OMD and USAC, to regularly report normalized pricing (e.g., price per Mbps) for Internet access connectivity and to identify any outliers.

b. WAN

27. *Connectivity Targets.* We adopt as a target for WAN connectivity the total number of schools that have a connection capable of providing a dedicated data service scalable to the SETDA long-term WAN target of 10 Gbps per 1,000 students. At this time, the vast majority of districts and libraries that operate WANs do not have demand for, and therefore do not purchase, 10 Gbps circuits. Indeed, schools and districts have varying broadband needs that will increase at different rates. For example, some elementary schools may not require the same bandwidth per student as middle or high schools. Very small schools with

fewer than 100 students, particularly those that are part of small districts, may not require WAN connections scalable to 1 Gbps (equivalent to 10 Gbps per 1,000 students). However, in some instances small schools in small districts may require more bandwidth per student because they may not be able to take advantage of high oversubscription ratios or conserve bandwidth by using network optimization tools to the same extent as larger schools and larger districts. Conversely, large school districts may be able to optimize their networks to deliver very high speed broadband to the classroom without having WAN connectivity of 10 Gbps per 1,000 students. We therefore adopt a target that focuses on the *scalable capacity* of school district WAN connections to 10 Gbps per 1,000 students. In most cases, a 1 Gbps fiber connection can be readily scaled to 10 Gbps with upgraded networking equipment.

28. The WAN connectivity target that we adopt today is the result of careful analysis of the record and our programmatic experience. Several commenters agree that the SETDA WAN targets accurately reflect the rapidly increasing broadband demand in schools. Others argue that the SETDA WAN targets are too low given the increasing bandwidth demands of standardized testing, educational applications, streaming video, and the growing number of Wi-Fi-enabled devices in schools. Many school districts report that they have doubled their WAN bandwidth in recent years and are planning for future increases. Commenters opposed to adoption of the SETDA WAN targets express concerns about uniform targets for all schools because districts have widely varying student populations, broadband availability, and financial resources. Other commenters recommend that the Commission conduct a comprehensive analysis of schools' actual broadband needs before establishing specific bandwidth targets.

29. We find that a WAN connectivity target measured by the capacity of connections available to schools properly balances the concerns identified by commenters opposed to the SETDA bandwidth targets with the need to ensure that all schools have affordable access to high-speed broadband that supports digital learning. Several factors are driving the need to increase bandwidth to and within schools. School districts across the country are implementing one-to-one and BYOD programs that require more robust connectivity. Cisco notes that the density of devices and demand on the network in many schools surpasses the demand of other high-density environments such as hotels, restaurants, and corporate offices. The peak bandwidth usage of media-rich curriculum and streaming video applications far exceeds the usage of basic web browsing and email. Online assessments will require high-speed connections that are also highly reliable and secure. A target of ensuring that all schools connected to WANs have a connection scalable to 10 Gbps per 1,000 students will ensure that schools have access to bandwidth sufficient to meet growing demand while maintaining the flexibility to purchase the bandwidth that meets their needs.

30. We direct the Bureau to continue analyzing data on WAN connectivity. As with the Internet connectivity targets, this ongoing examination should consider input from schools and libraries. We therefore direct the Bureau to seek feedback from schools and libraries, as part of the E-rate application process, on its WAN connectivity and whether its WAN provides sufficient bandwidth to meet the schools' and libraries' needs.

31. For libraries, our record is not sufficiently developed to establish a performance measure and a WAN connectivity target at this time. However, to the extent that libraries are connected by a WAN, similar to our approach with schools, we will measure the total number of libraries that have a connection capable of providing a data service scalable to at least 10 Gbps.

32. *Affordability.* As with Internet access, we will measure affordability of WAN connections by tracking pricing as a function of bandwidth. We also direct the Bureau, working with OMD and USAC, to regularly report normalized pricing (e.g., price per Mbps) for WAN connectivity and to identify any outliers.

c. Internal Connections

33. *Connectivity Targets.* Pending the development of a suitable available bandwidth measure for internal connectivity, we find that a survey of school districts and libraries is the best method to gauge the sufficiency of internal connections at this time. Our record is not sufficiently well developed at this time to allow us to identify the appropriate level of bandwidth per device in either schools or libraries. We are also concerned that schools and libraries would find such a measure difficult to report, as the responsible individuals may not have access to the necessary technical data. We therefore decline to adopt such a measure at this time, but direct the Bureau to continue to develop the record on this issue.

34. Several commenters emphasize that Wi-Fi performance is best measured by throughput to the student or library patron device rather than classroom or library coverage. Other commenters suggest that the high-density Wi-Fi demands of schools require at least one high-capacity wireless access point (WAP) per classroom. Library commenters discuss increasing Wi-Fi demand, but generally did not endorse specific Wi-Fi targets. At this time, we do not think counting the number of WAPs is the right approach to measuring connectivity within schools and libraries. Several unique considerations impact WLAN design. For example, some school districts opt for very high-capacity WAPs that deliver ample bandwidth to multiple classrooms, while others have installed multiple lower-speed WAPs per classroom. Distribution of WAPs in libraries depends on specific factors such as user density and building design. Therefore, we agree with commenters that available bandwidth per device is a more suitable measure to determine whether internal connections are sufficient to support the needs of each individual user at a school or library. However, we need further information from schools and libraries before we adopt a specific measure. We therefore direct the Bureau to seek feedback from schools and libraries, as part of the survey, on the sufficiency of their LAN/WLAN capacity and coverage to support the educational or library activities conducted at their school or library site. The answer to this question will help provide the Commission with insight on progress towards the stated goal pending the development of a more technical measure.

35. *Affordability.* Consistent with our decision to use a survey to measure internal connections availability pending the development of a more precise measure, we direct the Bureau, as part of the survey, to also seek feedback from those schools and libraries that have insufficient WLAN capacity and coverage to support the educational or library activities conducted at their school or library site as to the reason for the lack of sufficient capacity and coverage (e.g., affordability of equipment, or lack of demand for Wi-Fi).

3. Reporting and Further Development of Measures and Targets

36. We direct the Bureau to revise the information collections from E-rate applicants and vendors to collect data regarding the specific measures

adopted. The Bureau should analyze data collected from applicants to track progress toward meeting program goals and to inform revisions to the performance measures and E-rate program rules, and if necessary, to the goals themselves. We also agree with commenters that data should be publicly accessible so that applicants can make informed decisions regarding broadband purchasing and network design.

37. In addition to the connectivity and affordability measures adopted, we agree with commenters who recommend that the Commission evaluate actual bandwidth usage and network performance statistics to continually refine our connectivity targets over time. Digital education and the technologies that deliver it are rapidly evolving. In such a dynamic environment, it is important that we understand changes in the bandwidth demands of school and library networks supported by E-rate as well as the performance of those networks. We direct the Bureau to work with school districts and libraries to develop network measurement methods that gather data on network usage and performance.

B. Maximizing the Cost-Effectiveness of Spending for E-Rate Supported Purchases

1. Goal

38. We adopt as our second goal maximizing the cost-effectiveness of spending for E-rate supported purchases, thereby minimizing the contribution burden on consumers and businesses and maximizing the benefit of each dollar spent on services for schools and libraries. Our rules require that applicants ''select the most cost-effective service offering.'' Moreover, when evaluating bids, applicants ''may consider relevant factors other than the pre-discount prices . . . , but price should be the primary factor considered.'' Commenters broadly support the Commission's proposal to adopt cost-effectiveness as a goal of the E-rate program, in recognition of the limited amount of E-rate funds available to meet the connectivity needs of all schools and libraries throughout the nation. This goal is also consistent with section 254(h)(2)(A) of the Act, which requires that support to schools and libraries be ''economically reasonable.'' As the Commission recognized in the *E-rate Modernization NPRM,* we have a ''responsibility to be a prudent guardian of the public's resources.''

2. Measures

39. We will focus our evaluation of progress towards this goal by measuring the prices paid for the E-rate services delivered to schools and libraries. We will separately measure and track the prices paid for the E-rate services delivered to schools and libraries for *connections to* and for *connections within* schools and libraries. Detailed pricing information is essential to our goal of maximizing cost-effectiveness as well as ''affordability'' under our first goal. We thus direct the Bureau and OMD working with USAC, as necessary, to develop the process by which we will measure, track, and report on the prices paid for E-rate services. In addition, we will continue to monitor the results of USAC's audits and other reports to track progress in reducing improper payments and waste, fraud and abuse.

40. For connectivity to school and library locations, we will measure and report on prices paid as a function of bandwidth (e.g., dollars per Mbps) and also as a function of number of users (or unique devices). In addition, we will track pricing as a function of various potential cost drivers, which may include physical layer type (e.g., fiber, copper, coax, fixed wireless), service type (e.g., DSL, cable modem, metro Ethernet, Internet access), geography (e.g., rural, urban), carrier, carrier type, and purchasing mechanism (e.g., individual school, district, regional consortium).

41. An equally important component of cost-effectiveness is the matching of capacity purchased with need. We direct the Bureau, working with USAC, to develop and maintain best practices and benchmarks regarding network utilization, network architectures, network performance, and network optimization and management.

42. For connectivity within schools and libraries, we will measure and report pricing as a function of number of users or unique devices. We will track pricing of eligible expenses associated with LANs and WLANs (e.g., Wi-Fi), including pricing of eligible network components (e.g., switches, routers, wireless access points, cabling), managed services, and other eligible services associated with LANs and WLANs. In addition to tracking the pricing and capacity, we will seek to track utilization and performance of these internal connections to more fully measure the value delivered with E-rate support. We will also track replacement and upgrade cycles and LAN/WLAN architectures to accurately measure cost-effectiveness.

C. Making the E-Rrate Application Process and Other E-Rate Processes Fast, Simple and Efficient

1. Goal

43. We adopt as our third goal making the E-rate application process and other E-rate processes fast, simple, and efficient. Each year, USAC reviews tens of thousands of funding requests from schools and libraries, and processes thousands of appeals, invoice requests, deadline extension requests, and additional inquiries from schools, libraries, and other parties requesting information. Simplifying and improving these procedures will help applicants receive their funding in a timely fashion, which will allow them to plan better and maximize the impact of their support. Simplification of the E-rate application process also eases the administrative burden on applicants—which is particularly important for smaller schools and libraries that lack extensive administrative support. Conversely, complexity and delay discourage participation and ultimately result in fewer schools and libraries fully investing in needed high-speed broadband connections.

44. Commenters overwhelmingly agree that making E-rate process fast, simple, and efficient is critical to the overall success of E-rate. Commenters specifically highlight, among other things, the importance of simplicity and transparency in the application submission and review process, and the need for timeliness in making funding commitments and paying invoices, reclaiming unused funds, and completion of the application and selective review processes. We recognize that there are a number of considerations that compete with our efforts to simplify the program for applicants, speed processing of applications and appeals, and minimize overhead costs. For example, we will need to appropriately balance our need for data to appropriately monitor program performance, with our efforts to minimize the application burden on applicants. Likewise, we must ensure that a simplified E-rate program does not open the door to waste, fraud, or abuse.

2. Measures

45. In 2007, the Commission adopted certain E-rate performance measurements related to the application and invoicing processes and the resolution of appeals submitted to USAC. Building on that work, in the *E-rate Modernization NPRM* the Commission sought comment on what additional measures we should adopt to

support the goal of making the E-rate application process and other E-rate processes fast, simple and efficient. While commenters are very supportive of streamlining and simplifying the administrative process, few offer actual performance measures to support this goal.

46. Based on our experience with the E-rate program, as an initial measure, we will evaluate progress towards our third goal by measuring the timely processing of funding commitments to eligible schools and libraries by USAC by tracking the processing time against an established target. Working with OMD, USAC has dramatically improved its rate of application processing for this funding year (funding year 2014). In both funding year 2013 and 2014, USAC received applications requesting between $2.6 and $2.7 billion in priority one E-rate support. By July 1, 2013, USAC had only committed approximately $181 million in support. By contrast, as of July 1, 2014, USAC has already committed approximately $1.22 billion in support. In 2013, USAC did not reach $1 billion in commitments until October.

47. We applaud the progress USAC and OMD have made in improving the timeliness of processing of funding commitments to eligible schools and libraries. In light of this progress, and to ensure continued progress and further expedite the commitment process and increase the timeliness of funding commitment decisions, we direct USAC to aim to issue funding commitments or denials for all ''workable'' funding requests by September 1st of each funding year. A September 1st deadline provides USAC with approximately five months beyond the application filing window deadline to review all timely filed and complete funding requests and gives applicants certainty regarding a funding decision for those timely filed and complete requests by the beginning of the school year. ''Workable'' means that a funding request is filed timely and is complete, with all necessary information, to enable a reviewer to make the appropriate funding decision, and the applicant, provider, and any consultants are not subject to investigation, audit, or other similar reason for delay in a funding decision. Funding requests from applicants that decline to respond to USAC inquiries over the summer may be considered ''unworkable'' for purposes of this performance goal, though USAC will process these applications as quickly as possible when school staff return for the year. USAC shall continue to report at least monthly on its progress toward this goal, based on the dollars of requests processed and the total count of schools and libraries represented in those requests, as well as any other specific metrics OMD identifies, and on any obstacles to achieving the application processing target.

48. In adopting this target, we recognize that even ''workable'' funding requests may be time consuming for USAC to process and may, after initial review, require further input from the applicant before USAC can issue a funding commitment. Our adoption of a specific application processing target should not affect in any way USAC's contacts with applicants to seek additional information concerning a funding request and USAC's thorough review of each application. USAC must continue to provide applicants with an opportunity to respond to their questions. While we seek to expedite USAC's processing of applications, we remain committed to guarding against waste, fraud, and abuse in the E-rate program. We note that failure of an applicant to timely respond to requested information could constitute an obstacle to receiving a funding decision by the target date. Therefore, we strongly encourage applicants to timely respond to USAC requests for information.

49. We will also evaluate our progress towards the third goal by having USAC survey applicants and service providers about their experience with the program. A survey will provide useful and useable information to USAC and to the Commission about what is working and what needs to be improved.

50. These performance measurements, taken together, will help provide greater certainty to applicants and providers, and will assist applicants in more timely deployment of eligible services. Additionally, these measures will help to ensure that the E-rate program is operated as efficiently as possible by minimizing the need for the submission and review of other requests, such as service delivery deadline extensions, service substitutions, service provider identification number (SPIN) changes and FCC Form 500 filings to change contract expiration dates, which are often necessitated due to the delay in the issuance of timely funding commitment decisions letters.

III. Ensuring Affordable Access to High-Speed Broadband Sufficient To Support Digital Learning in Schools and Robust Connectivity for All Libraries

51. Having set our goals for the E-rate program, we now turn to the process of modernizing the program to meet each of those goals. In this section, we begin to update the E-rate program to ensure that schools and libraries have affordable access to the high-speed broadband connections needed for digital learning. The record in this proceeding and our own analysis of the program lead us to a particular focus on the internal connections, including Wi-Fi, needed for robust broadband connectivity in all classrooms and libraries.

52. Wi-Fi is a transformative technology for education, allowing schools and libraries to transition from computer labs to one-to-one digital learning. Yet, in most funding years, the E-rate program has been able to provide priority two support for internal connections, including Wi-Fi, only to schools and libraries entitled to the highest discount levels. In funding year 2012, for instance, the program committed approximately $800 million for internal connections and was only able to fund applicants at the 90 percent discount level. As a result, nearly 60 percent of that funding went to urban applicants—almost double the share of students in urban schools nationwide. In 2013, for the first time ever, no E-rate support was available for internal connections.

53. By contrast, the E-rate program has always been able to meet demand for services that provide connectivity to schools and libraries. However, only about half of the $2.4 billion E-rate budget is used to support priority one funding requests focused on broadband connectivity to schools and libraries.

54. In short, the E-rate program has become increasingly ill-equipped to meet the demands of the modern classroom and library. Therefore, we now act to modernize E-rate to ensure more equitable, reliable support for Wi-Fi networks, and other internal connections supporting broadband services, within schools and libraries. While we focus in this Report and Order on providing funding for internal connections, we remain committed to ensuring schools and libraries have high-speed connections to their buildings. In order to help ensure E-rate funding is available to support high-speed broadband to and within schools and libraries, we also eliminate support for certain legacy, non-broadband services to help free up funding for these internal broadband connections. We begin, however, with a short review of our legal authority to set the list of E-rate supported services and define the mechanisms of E-rate support.

A. Legal Authority

55. Sections 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Communications Act collectively grant the Commission broad and flexible authority to set the list of

services that will be supported for eligible schools and libraries, as well as to design the specific mechanisms of support. This authority reflects Congress's recognition that technology needs are constantly ''evolving'' in light of ''advances in telecommunications and information technologies and services.''

56. In creating the E-rate program in 1997, in the *Universal Service First Report and Order,* 62 FR 32862, June 17, 1997, the Commission designated all commercially available telecommunications services as services eligible for support (or discounts) under the E-rate program. At the same time, the Commission determined that it could provide E-rate support for additional, non-telecommunications services, particularly Internet access, email, and internal connections, provided by both telecommunications carriers and non-telecommunications carriers. The Commission reasoned that such services enhance access to advanced telecommunications and information services for public and non-profit elementary and secondary school classrooms and libraries.

57. We update this eligible services framework for today's needs. Revisiting our approach to this issue is consistent with 254(c)(1)'s definition of universal service as an ''evolving level'' of service, which the Commission must revisit ''periodically,'' ''taking into account advances in telecommunications and information technologies and services.'' We are also guided by section 254(h)(2)(A)'s directive that we ''enhance, to the extent technically feasible and economically reasonable, access to *advanced* telecommunications and information services'' for schools and libraries.

58. Taken together, and considered in light of the Commission's ''responsibility to be a prudent guardian of the public's resources,'' these provisions lead us to take a more focused approach to the definition of E-rate eligible services today than was adopted in 1997. In particular, based on the record of this E-rate modernization proceeding, and as described in more detail, we find that E-rate support should be transitioned to focus specifically on those telecommunications and information services, including associated inside wiring, necessary to support broadband to and within schools and libraries. The Commission has long supported these types of services, and we think it clear that the statute authorizes their support. Section 254(c)(1) and (c)(3) each provide ample authority for the support of broadband telecommunications services, and sections 254(c)(3), (h)(1)(B), and (h)(2) provide authority to support advanced telecommunications and information services, including associated inside wiring.

59. At the same time, in order to focus E-rate funding on these services, we must redirect funding away from services that are less essential to education, less directly tied to educational purposes, and/or more likely to be affordable without E-rate support than when the program began, including fixed and mobile voice service. The statute also amply supports this decision. Even if the E-rate fund was not capped at its current level, we have a responsibility to be prudent stewards of universal service funds, knowing that that those funds are ultimately paid for by consumers. Because the amount of available E-rate funding is finite, we must make thoughtful decisions about what services are not just permissible to support, but are the most essential to support for schools and libraries. We have relied on the record to inform these choices.

60. As we focus E-rate support on high-speed broadband, we recognize that we will ultimately reach a point where E-rate no longer supports voice service, which we have defined as the 254(c)(1) supported service for purposes of the High Cost (Connect America Fund) and Lifeline programs. But nothing in section 254(c)(1) or elsewhere bars the Commission from establishing different supported services for different elements of the overall Universal Service Fund.

61. Indeed, in establishing the definition of the telecommunications services that are supported by the Federal universal service support mechanisms, the Commission is charged with considering the extent to which the telecommunications services meet the criteria section 254(c)(1)(A) through (D). This list of criteria implies that the definition of supported services can vary depending on the particular universal service program at issue. For example, section 254(c)(1)(A) requires the Commission, in designating supported services to consider the extent to which services ''are essential to education, public health, *or* public safety.'' Congress recognized that telecommunications services deemed essential for education (and by extension the E-rate program) may well not be the same as telecommunications services essential for health (or the Rural Health Care program). Likewise, what is consistent with the public interest, convenience and necessity in section 254(c)(1)(D) could vary depending on the specific universal service program at issue.

62. Moreover, reading section 254(c)(1) to bar the Commission from establishing different eligible services for different universal service programs would place section 254(c)(1) in tension with section 254(b), which requires the Commission to ensure that rates charged to consumers nationwide are ''just, reasonable, and affordable,'' and therefore to keep universal service contributions, typically passed through in customers' rates, as low as possible. We think the better reading of 254(c)(1) provides the Commission authority to support services in more granular ways, such as only in the specific USF programs where the Commission concludes that such a definition of supported services is warranted after considering the (c)(1) factors, and thereby minimize the overall USF burden on consumers who pay into the Fund.

63. Finally, in the sections that follow we change to some extent the mechanisms by which E-rate support is allocated and the discount levels provided under the program. Sections 254(c) and 254(h) give the Commission broad authority to design these mechanisms and set discount rates at the level ''appropriate and necessary to ensure affordable access to and use of'' E-rate supported services. This authority amply supports the changes we make here.

B. Providing More Equitable Funding for Broadband Within Schools and Libraries

64. In this section, we focus on providing schools and libraries more equitable access to funding for Wi-Fi networks and other internal connections that allow high-speed connectivity within schools and libraries. We begin by designating internal connections that support broadband connectivity as ''category two'' services, rather than ''priority two'' services in recognition of the importance of Wi-Fi networks in connecting students and library patrons. In the short term, in order to provide schools and libraries more access to category two funds over the next two funding years, we accept the recommendation of commenters who suggest that we focus the additional E-rate funds identified by the Bureau earlier this year on internal connections. Consistent with this focus, and with the record in this proceeding on the funding needs for Wi-Fi and other internal connections, we also set an annual budget target of $1 billion for category two services. Next, we increase the minimum contribution rate for these

category two services from 10 to 15 percent to encourage applicants to pursue the most cost-effective options. For applicants that apply for category two support during the next two funding years, we also test reasonable maximum per-student and per-library pre-discount budgets for category two services in order to ensure greater access to category two funding sufficient to deploy robust LANs and WLANs. Finally, we update our rules regarding eligible services to align with this new focus on providing E-rate support to services necessary for broadband connectivity and direct the Bureau to update the ESL accordingly.

1. Providing Support for Internal Connections

65. As an initial matter, we change the E-rate program's existing priority funding nomenclature. We agree with commenters that schools and libraries should take a ''whole network'' approach to planning their purchase of E-rate eligible services that bring connectivity both to the building and to devices. In place of the priority nomenclature, we designate the services needed to support broadband connectivity to schools and libraries as ''category one'' services, and those needed for broadband connectivity within schools and libraries as ''category two'' services because we recognize that deploying internal connections is an important element in connecting schools and libraries to high-speed broadband.

66. For category one services, we are confident that the changes we make to the E-rate program in this Report and Order will ensure that we can continue funding all eligible category one requests, as we continue to evaluate the long-term, overall program needs. For category two services, the additional funding announced by the Bureau earlier this year will allow the Commission to make $1 billion available over each of the next two years. Building on the use of the identified program funds for the next two years, and to give applicants longer-term visibility into our approach, we also set a funding target of $1 billion annually for category two services on an ongoing basis. In contrast to the current system, providing a target of $1 billion a year annually for category two services will ensure greater access to E-rate support for the Wi-Fi networks needed to connect 10 million students a year to 21st Century educational tools. We recognize the concern of some commenters, however, that, in the absence of a full review of long-term program needs, a hard funding allocation for category two services could put at risk our ability to provide sufficient support for category one requests. For that reason, the budget we adopt will remain a target, rather than a fixed allocation, as we continue to evaluate the long-term program needs, and we direct USAC to shift funds targeted for category two services to meet all eligible requests for category one services, in any funding year in which demand for category one services exceeds available funds. Given the availability of funding for the next two years, the need for continued analysis of longer-term trends in category one demand, as well as savings from the reforms we adopt today and future additional reforms, we do not increase the overall cap at this time, but seek additional comment on that issue in the accompanying FNPRM.

67. If demand for internal connections exceeds the available funding for category two services, we will prioritize access to internal connections funding based on concentrations of poverty. Those schools and libraries entitled to a higher discount will receive internal connections funding ahead of those entitled to a lower discount rate. If there is insufficient funding available to meet the need at a particular discount rate for category two, we will prioritize funding within a discount rate based on the percentage of students that are eligible for free and reduced school lunches within each applicant's school district. Funding for libraries will be prioritized based on the percentage of free and reduced lunch eligible students in the school district that is used to calculate the library's discount rate. Funding for individual schools that are not affiliated financially or operationally with a school district, such as private or charter schools that apply individually, will be prioritized based on each school's individual free-and-reduced student lunch eligible population.

68. This prioritization method maintains the core of the existing system that E-rate applicants are familiar with, and gives applicants serving the highest poverty populations first access to funds, while allowing us to fund within a discount-band even where funding is not sufficient to reach all schools in that band. As explained, however, and unlike the existing system, we adopt additional measures in an effort to provide the opportunity for a broader range of applicants to obtain funding for category two services.

69. In the event that requests for category one services are less than the available funding and demand for category two services is higher than the $1 billion target for category two services at the close of the funding year window, the Bureau, working with OMD and USAC, may redirect the excess funding to category two services in the same funding year. If USAC does not commit the entire category two budget for a funding year, or committed funds are not used or returned, such funds may be carried forward to be used in subsequent funding years. Each year such funds are available, we direct the Bureau, working with OMD and USAC, to determine the proportion of carry-forward funds to be used for category one and category two services.

2. Increasing the Minimum Applicant Contribution Rate for Category Two Services

70. In order to ensure more equitable access to limited internal connections funds, we will increase the minimum contribution applicants must make towards E-rate supported category two purchases from 10 to 15 percent. We agree with commenters that requiring applicants to pay a larger share of the cost of E-rate supported category two purchases will spread available universal service funds more widely and increase the incentive for applicants to find the most cost-effective options that meet their internal connection needs.

71. In deciding to reduce the top discount rate for internal connections from 90 percent to 85 percent, as with other changes we are making to the E-rate program, we remain mindful of the challenges faced by our most vulnerable schools and libraries in areas with the highest levels of poverty. Taken together, the changes we make in this Report and Order should benefit all schools and libraries, including those receiving the highest discount rate. At the same time, we have taken a measured approach in making changes that could negatively impact applicants entitled to the highest discount rates. For example, we reduce the top discount rate only for category two services, and only by five percent. Likewise, we phase down support for voice services over several years, to give applicants time to adjust to the loss of support for such services. We also seek to counterbalance potential reductions in funding by adopting proposals aimed at driving down the prices all applicants will pay for E-rate supports services, including increased pricing transparency and encouraging consortia purchasing and bulk buying.

72. We expect that requiring higher matches will lead applicants that have been eligible for 90 percent discounts for priority two services to pursue lower prices for eligible category two services

more aggressively. Commenters note that applicants in the highest discount level spend more in pre-discount dollars than those that have a larger required match. Consistent with this analysis, E-rate Central, a member of USAC's 2003 Task Force on Waste, Fraud, and Abuse, observes ''many examples of excessive spending by applicants at the highest discount levels, often driven by overly aggressive sales efforts by vendors targeting the poorest schools and libraries.'' Thus, as the Iowa Department of Education argues, requiring applicants to ''[h]av[e] more 'skin in the game' . . . will guard against waste, fraud, and abuse.'' We therefore set the highest discount level for category two services at 85 percent. Applicants that would have been eligible for discounts of 86 to 90 percent will now be eligible for an 85 percent discount, and those eligible for a discount of 85 percent or less will see no change. This decision is consistent with a similar change to the Rural Health Care program that requires recipients of the new Healthcare Connect fund to contribute 35 percent of the costs of the support services, which the Commission found ''appropriately balances the objectives of enhancing access to advanced telecommunications and information services with ensuring fiscal responsibility and maximizing the efficiency of the program.''

73. Although some commenters recommend even higher minimum applicant contribution rates—20, 25 or even 30 percent (80, 75 or 70 percent maximum discount rates, respectively)—we recognize the concerns voiced by some stakeholders that we not raise the net cost to the most disadvantaged schools and libraries above levels that they can afford. Therefore, in order to minimize the impact of this change on these schools and libraries, we reduce the maximum discount rate only by five percent and only for category two services as a first step. We note that the per-student and per square foot applicant budgets for funding year 2015 and 2016 described below mitigate some of the concerns about overspending at this time. Other commenters agree that the discount level should be changed, but ask for it to be a temporary change. We see no reason, however, why the greater incentives for cost-effective purchasing introduced by a slightly higher applicant match would be appropriate in the near term but less so in the future; to the contrary, we believe such incentives will remain important over time, whereas changing the discount rate from year-to-year could distort efficient decision making. Finally, because we are only reducing the maximum discount rate by five percentage points, and only for category two services, we make this change fully effective for funding year 2015 rather than phasing it in over multiple years.

3. Setting Applicant Budgets

74. In order to provide broader and more equitable support for category two services, we adopt budgets for applicants who apply for category two discounts during the next two funding years, as we continue to evaluate long term program needs. Under this approach, schools in districts that seek category two funding during funding years 2015 or 2016 will be eligible to request E-rate discounts on purchases of up to $150 (pre-discount) per student for category two services over a five-year period. Likewise, library systems and libraries that seek category two funding in funding years 2015 or 2016 may request E-rate discounts on purchases of up to $2.30 (pre-discount) per square foot over a five-year period. If an applicant receives funding for category two services in funding year 2015 or 2016, the five-year budget will apply in the subsequent five funding years, in lieu of the existing ''two-in-five'' rule.

75. We agree with commenters that E-rate must maintain its historic focus on poverty in distributing support. Therefore, as described, we will continue to use the discount matrix to calculate applicants' E-rate support on their eligible costs, and applicants that have a higher percentage of students eligible for NSLP will continue to receive a larger proportion of support. For example, over a five-year period, schools or districts at the 80 percent level will be able to request up to $120 in E-rate support per student (an 80 percent discount on $150 in services) and be required to pay 20 percent of the cost of eligible category two services that they purchase. Districts at the 20 percent level will be able to seek up to $30 per student over a five-year period, and be required to pay 80 percent of the costs of the eligible category two services that they purchase. Similarly, a library with 10,000 square feet would be eligible for discounts on purchases of up to $23,000, so a library at the 80 percent discount level could request up to $18,400 in E-rate funding, while a library at the 20 percent discount level could request up to $4,600 over a five-year period.

76. We recognize that this approach represents an important change to our handling of applicant requests, and we are committed to ensuring that the new five-year budgets not in any way compromise the program's fundamental commitments to providing sufficient support and to permitting local flexibility to address localized conditions, even as they expand access to program funds. Therefore we will consider funding years 2015 and 2016 to be a two-year test period, subject to further review by the Commission.

a. Methodology

77. It would be impossible to identify, building-by-building, the precise amount of funding each eligible school and library will require in a given year to deploy or upgrade LANs and WLANs necessary to support broadband services within their buildings. As commenters note, building size, construction characteristics, where applicants are in their upgrade cycle, and other factors make each deployment unique. We can, however, establish a multi-year budget for category two services that will serve our goal of ensuring affordable access to high-speed broadband for schools and libraries by ensuring that (a) eligible schools and libraries have greater access to E-rate funding for internal connections necessary to distribute high-speed broadband within their buildings and (b) that category two budgets will be sufficient to ensure that eligible schools and libraries will be able to afford the deployment or upgrade of those internal connections. In setting such a budget, and the related budget-cycle, to fund internal connections, we find support from a broad array of cost data in our record.

78. *Budget Cycle.* As an initial matter, for applicants that receive support in funding years 2015 or 2016, we establish a five-year budget cycle for category two services. The record demonstrates that most category two equipment has a typical lifecycle of approximately five years. After that point, schools and libraries likely will need additional support to upgrade their networks. This five-year budget cycle will give applicants the flexibility to determine when to make upgrades or changes.

79. *School Budget.* We set a pre-discount budget of $150 per student over five years for schools. The record demonstrates that $2,500 per classroom, which is equal to just under $150 per student based on a ratio of 17 students per classroom, should be a sufficient budget to deploy LANs/WLANs to elementary and secondary school classrooms and common areas across the nation. States and districts submitted into our record specific cost data for recent upgrades to state-of-the-art deployments that were largely under this per-classroom amount. Likewise,

participants at the E-rate Modernization Workshop described spending differing amounts per classroom below this $2,500 range, from $1,300 to an average of $1,900 per classroom. North Carolina, which is in the middle of a statewide upgrade to Wi-Fi in its schools and libraries, originally estimated the upgrade cost at $2,200 per classroom, and has found actual deployment costs below this initial estimate, ranging from approximately $2,100 per classroom for a comprehensive high school upgrade to $900 per classroom for a more limited high school upgrade. In some parts of Mississippi, the $500 cost per classroom is well below this budget.

80. Based on NCES data for average class sizes and other sources, commenters estimate that there are 18 to 20 students per classroom in the United States, an estimate supported by consultations with district technology officials and equipment vendors. Data in the record from a sample of states and districts suggests that the true number is slightly lower, however. In particular, statewide data from three states representing almost five million students (approximately 10 percent of all students in the country) give an average of 17.8 students per classroom, likely because not all classrooms are in use at all times of the day. Several individual districts also submitted classroom counts, both rural and urban, with an average of 19.6 students per classroom. Combined, the state and district data provide information on schools serving over 5.6 million students, with an average of 18 students per classroom. We believe it makes sense to use a relatively conservative estimate to ensure support levels are sufficient for schools with smaller class sizes, such as smaller rural schools. Accordingly, in translating the various per-classroom cost estimates in our record into per-student costs (and vice-versa), we use an estimate of 17 students per classroom. Dividing $2,500 by 17 gives a per-student budget of $147, which we round up to $150 for simplicity of administration.

81. A pre-discount budget of $150 per student over five funding years, or $30 per student annually, is also consistent with the market rate for elementary and secondary school managed Wi-Fi solutions, described. Because these costs include installation and maintenance, we find them to be a strong, market-driven representation of all-inclusive, per-student LAN/WLAN deployment costs. For example, Education Networks of America (ENA) currently provides managed Wi-Fi to 82 percent of public and charter high schools in Idaho for $21 per student and teacher per year, including installation, management, maintenance, and content filtering. C-Spire Fiber has several deployments in Mississippi that average an annual cost of $19 to $29 per student for the managed Wi-Fi product it is piloting. In Ohio, several Information Technology Centers offer a managed Wi-Fi service to member school districts for $9–15 per student per year plus vendor installation charges.

82. Commenters also submitted three different Wi-Fi cost models into our record: The EdSuperHighway/CoSN ConnectED Cost Model, the EdSuperHighway/CoSN Ongoing Cost Model, and the Cisco Model. The first of these, the EdSuperHighway/CoSN ConnectED Cost Model, produces the lowest estimate of required costs, producing a nationwide, average cost of approximately $21 per student per year, well below the budget we set here. This model assumes substantial existing infrastructure however, the extent of which will vary greatly between districts, so it is poorly suited to setting reasonable, nationwide budgets that will be sustainable on an ongoing basis. We thus do not rely on this model.

83. The remaining models confirm our conclusion based on the record evidence discussed that a pre-discount $150 per student five-year budget we adopt here is reasonable. In contrast to the EdSuperHighway/CoSN ConnectED Cost Model, the EdSuperHighway/CoSN Ongoing Cost Model and the Cisco Model each attempt to estimate the full, ongoing costs of internal connections deployments, averaged over the lifecycle of the equipment used. Both models consist of two basic components: An overall framework for estimating costs and a set of inputs for various costs and equipment lifecycles. Although they differ somewhat, the frameworks of both models appear to provide generally reasonable approaches to estimating Wi-Fi deployment costs. The deployment and maintenance cost estimates generated by the EdSuperHighway/CoSN Ongoing Cost Model and the Cisco Model differ, with EdSuperHighway/CoSN estimating an annual average cost of $869 per classroom, or $44 per student, and Cisco estimating an annual average of $1,081 per classroom, or $59 per student. The staff's sensitivity analysis of the key cost drivers, however, shows that the range of reasonable cost estimates that can be produced by the basic model frameworks is quite a bit wider than shown by these two data points. Specifically, with plausible changes to a small number of inputs, the models could support annual cost estimates ranging from approximately $22 all the way to $75 per student. The $150 per student five-year budget we adopt here falls comfortably within this range, albeit toward the lower end. The EdSuperHighway/CoSN Ongoing Cost Model and the Cisco Model thus help confirm the conclusions we draw from the diverse data on real world deployment costs and the market-driven costs of managed Wi-Fi services, and, based on these data sets, we are comfortable choosing an estimate toward the lower end of the range produced by the models.

84. In sum, the record suggests $150 per student is a reasonable budget, with many schools able to complete Wi-Fi deployments or upgrades for less than that amount. Some schools may still choose to spend more than $150 per student on their wireless deployments based on individual design decisions, and nothing in the approach we adopt prevents these decisions. Because the evidence shows that $150 per student has proven sufficient in numerous deployments over several geographic areas, however, we limit E-rate discounts to this budget.

85. In finding that $150 per student over five years should provide sufficient support for category two services, we acknowledge that some cost variation exists across or even within LAN or Wi-Fi networks. For example, different building construction materials and variations in labor costs can affect upgrade costs. However, in contrast to some other costs, such as the costs of digging trenches for fiber deployment, the majority of the costs of LAN and Wi-Fi networks are commodity equipment costs, and therefore cost variation for efficient upgrades is far less than that for connectivity to schools and libraries. For the same reason, schools' costs for LAN or Wi-Fi networks generally should scale linearly by the number of classrooms (and therefore the number of students). We therefore conclude that a per-student system of setting budgets for category two funding (combined with a poverty-based discount rate and subject to the funding floor, as discussed below) reasonably suits the manner in which category two costs are incurred.

86. *Library Budget.* We set a pre-discount budget of $2.30 per square foot over five years for libraries. Square footage provides a simple to calculate, predictable, and reasonably accurate method of setting budgets. Some commenters suggest that we should use patron counts, average daily users, peak hour users, or other metrics to help set reasonable internal connections budgets for libraries. We decline to adopt any of these other suggested metrics at this time because (a) we have identified no

available sources of data on these metrics for all libraries, and (b) patron count, average daily users, and peak hour users may vary dramatically and could be difficult to measure. As a result, using these metrics at this time could reduce predictability, complicate the application process, and slow down application reviews.

87. We choose $2.30 per square foot over five years as the budget amount based on three data sets in our record. First, Vermont libraries submitted state data showing the average equipment cost for deploying wireless networks in 35 libraries in the state to be approximately $0.81 per square foot. Second, the Urban Libraries Counsel (ULC) urged the adoption of a budget of $4 per square foot for libraries, which was supported by a number of libraries. Finally, the ALA filed an analysis reporting per square foot costs for a variety of libraries in the range of $1.79 to $2.29, which focused more specifically on E-rate eligible costs.

88. Considering the range of all the cost data in the record and recognizing that the $2.30 budget is a cap, not a grant, we find that ALA's recommendation of $2.30 per square foot, taken with the $9,200 funding floor over five years as set below, is a reasonable budget level. The ALA recommendation is based on a more thorough analysis and specifically limited to E-rate eligible costs. While we note that a number of libraries supported the ULC proposal, in general, these commenters did not provide sufficiently detailed data for the Commission to ensure that the estimates included only E-rate eligible services. Further, four ULC member libraries that did provide more specific cost data in response to requests from Commission staff indicate a range of $0.82 to $3.08 per square foot. Even so, we consider ULC's data in evaluating all the cost data in the record and selecting the $2.30 per square foot funding budget.

89. Finally, we note that nationwide, schools have a median of approximately 150–175 square feet per student. The $150 per-student budget we adopt therefore equals about $0.86 to $1.00 per square foot for schools. The budget we select for libraries today is substantially above this amount. Therefore, we believe that $2.30 represents a generous figure that will not unnecessarily restrict library funding. Since our record suggests that usage density is unlikely to be substantially higher in libraries than it is in schools, the school costs in our record provide additional support for our finding that ALA's proposed $2.30 per square foot funding budget will provide sufficient support for library deployments.

90. Notwithstanding this analysis, we recognize that the library data are less robust than that for schools. Accordingly, in the accompanying FNPRM we seek additional comment on these issues.

91. *Funding Floor.* To ensure the category two budgets we set are sufficient to meet the minimum demand that certain schools and libraries might have regardless of size, we also establish a pre-discount funding floor of $9,200 in category two support available for each school or library. While WLAN costs tend to scale by classroom size, schools and libraries will need the baseline funding to purchase a router and/or switch, at least one small wireless access point, and cabling necessary to deploy WLANs in even the smallest buildings. Our record is not, however, as well developed on this point as we would like, and so we take the conservative approach of adopting ALA's recommended floor of $9,200, based on ALA's consultation with its library members. Our record indicates that $9,200 should be sufficient to cover the costs to purchase necessary equipment, cabling, and installation for these libraries. We set the floor for schools at the same level to ensure equity and because the costs of deployment in small schools and libraries should be similar. Increasing the floor by this amount has a minimal budget impact. Therefore, all schools and libraries, including smaller schools and libraries, will be eligible to request pre-discounted support for up to at least $9,200 for category two services over any given five-year period.

92. *Per-Entity Basis.* Applicants will be required to seek support for category two services on a school-by-school and library-by-library basis, although school districts will use a single district-wide discount rate for all of their schools, as will library systems for all of their libraries. Under this approach, school districts, whether public or made up of more than one independent school under central control, will have the flexibility to request support for any school or group of its schools each funding year, using the number of students in any school getting LAN/WLAN upgrades to determine the maximum eligible pre-discount amount in a given funding year for that school. This flexibility will allow districts to decide how to sequence deployment of LANs/WLANs based on their individual needs. For example, a large district may choose to upgrade one fifth of its schools in each of the five funding years, while a small district may request support to upgrade all of its schools in one funding year. To the extent that a district seeks or receives funding commitments for less than the category two budget for E-rate support available to a school, it may request additional category two E-rate support up to that budget in the following four funding years. The costs for services shared by multiple entities shall be divided between the entities for which support is sought in that funding year. Likewise, library systems that include multiple libraries will have the flexibility to request support for all or a portion of their library branches each year, using the floor area of the libraries being updated to determine the maximum budget available each year.

93. Similarly, eligible schools that operate independently of a public school district, such as a private or charter school, are eligible for E-rate discounts on the purchase of eligible internal connections services up to $150 per student (or a minimum of $9,200). If an independently operated school seeks or receives less than the maximum amount of internal connections E-rate support available to that school in year one, it may request additional internal connections E-rate support up to that maximum in the following four funding years. Likewise, libraries that are not part of a library system may request E-rate support for a pre-discount purchase of up to the greater of $9,200 or $2.30 per square foot, and any amount less than that will be available in the following four funding years. For example, a 10,000 square foot library may request support for a purchase of up to $23,000 over five years. If it seeks E-rate support for a purchase of $13,000 in the first funding year, it may request discounted support for another $10,000 in eligible services over the next four years.

94. *Application of Budgets to Funding Years 2015 and 2016 and Five-Year Funding Cycle.* The question of applicant budgets is closely linked to the question of the long-term funding levels for category two services. As described, at this time we set funding for category two as a budget target rather than a firm allocation. In light of the funding identified by the Bureau earlier this year, we are confident we can meet this target for the next two funding years, and therefore we apply the budget approach adopted here to those two funding years. We will evaluate the longer-term application of this approach in conjunction with our evaluation of the overall, longer-term program needs.

95. While the budget approach will only apply to applicants that receive funding in funding years 2015 and 2016,

we clarify that the budget themselves are five-year budgets. In other words, for schools in districts seeking funding in years 2015 and 2016, we adopt a rolling funding cycle of five years for category two services and remove the two-in-five rule that applied to priority two internal connections. As explained, Wi-Fi equipment has a lifecycle of approximately five years. Therefore, excluding any priority two support received before funding year 2015, schools in districts that seek category two support in funding years 2015 or 2016 will calculate their available support budget as $150 per student, multiplied by their discount, less any E-rate support received in the prior four years. In the first funding year that an applicant requests category two support, the full amount of the pre-discount $150 per student budget will be available to request. In later years, applicants will calculate the available budget based of $150 per student less any support received in the prior four funding years. Applicants that receive support in funding year 2015 will have $150 per student available divided over funding years 2016, 2017, 2018, and 2019. Applicants that receive support in funding year 2016, but not in funding year 2015, will have a budget of $150 per student divided over funding years 2017, 2018, 2019, and 2020. Likewise, libraries in library systems that receive support in funding years 2015 or 2016 will calculate support over the five-year funding cycle using the number of square feet less any support received in the prior four funding years. This approach will allow schools and libraries to plan for how best to upgrade their facilities, and plan for future upgrades based on their own prior spending. In contrast, adopting a shorter budget, such as a two-year budget, would create a mismatch between the budget cycle and real equipment lifecycles, and would likely encourage applicants to inefficiently front-load expenses in the next two years.

b. Reasons for a Multi-Year Budget Approach

96. Our decision to limit applicants' total category two requests based on a five-year budget reflects broad consensus in the record that some reasonable limits on requests are necessary to spread support more broadly than under the current system. In the *E-rate Modernization Public Notice,* the Bureau outlined three options for such limits, and invited comments on alternatives. The five-year budget that we adopt here is a middle course between two of these options—an annual per-student allocation and a one-in-five rotating funding schedule. After carefully evaluating the arguments for these and other options, we conclude that the approach we adopt today will bring several important benefits to applicants and the program.

97. First, the approach we take to distribute category two funding provides greater predictability. Since funding year 1999, applicants have had no certainty from year-to-year that category two services would be supported. As such, administrators, budget managers, and technology planners have been discouraged from planning for E-rate support for Wi-Fi in their schools and libraries because annual funding was far from assured. Some commenters express concern regarding the predictability of other approaches, such as a rotating approach or a one-in-five approach. On the other hand, some commenters support an allocation approach in order to provide needed certainty. Unlike in previous years, when there was no funding for internal connections, or funding went to connect a small percentage of the nation's students and library patrons, the approach we adopt today provides greater predictability and will be able to provide support for 10 million students and thousands of libraries each year.

98. Second, the approach we adopt today maintains the E-rate program's priority for the highest poverty schools and libraries. We continue to use poverty measures when distributing support under this approach. Applicants with the highest percentage of students eligible for free and reduced lunch will receive a greater proportion of E-rate support and be eligible earlier in the five-year cycle if demand exceeds the annual budget for category two services.

99. At the same time, this approach guarantees a broader distribution of funding for internal connections—adjusted as appropriate to reflect greatest levels of poverty—by setting reasonable limits on category two requests in order to deploy Wi-Fi networks to a far greater number of eligible applicants. Many applicants debate the costs and benefits of different distribution approaches, but focus on a core principle that distribution must be made more equitable. As we noted earlier, the existing priority two methodology has resulted in E-rate funding for priority two services being distributed only to schools and libraries with the highest discount levels. Additionally, a disproportionate amount of available funding has gone to urban schools. Commenters point out that some proposals, like a one-in-five limitation, would not help to achieve a more equitable distribution of support. Similarly, an increase in the cap without these additional measures to encourage efficient purchasing would not achieve more equitable distribution. This five-year budget approach should provide sufficient support per student or per square foot for far more schools and libraries to access needed funding, but places a limit on less cost-efficient spending requests.

100. Importantly, this approach to funding category two connectivity also provides flexibility to districts, schools, and libraries to deploy and maintain Wi-Fi as best suits their own circumstances. Many commenters argue that flexibility is essential for setting reasonable budgets each year, and this five-year budget approach allows applicants to decide the rate at which school networks are updated. This approach allows applicants to plan how to deploy their networks over five years, whether by requesting support for all or just a portion of entities each year, or by purchasing a managed Wi-Fi service through which a third party provider installs and manages the necessary LAN and WLAN.

101. Finally, the approach we take today promotes cost-effective purchasing by applicants while providing support that the record demonstrates should be sufficient to support these badly needed deployments. In the past, applicants at the top discount levels had an incentive to overbuy or use less cost-effective network design. A limit on category two support will encourage more cost-efficient purchasing.

102. In contrast to the approach we adopt here, we find the alternative approaches that commenters suggest as well as those outlined by the Bureau in the *E-rate Modernization Public Notice*—such as maintaining the existing system but temporarily eliminating support for applicants that have recently received support, a rotating schedule of funding for different discount bands, or single-year budgets, implemented with or without the existing discount matrix—would each be less effective at solving the structural problems with how the E-rate program has historically funded internal connections. For instance, as pointed out by commenters, both the rotating eligibility approach and the one-in-five approach outlined by the Bureau in the *E-rate Modernization Public Notice* lack certainty for schools and libraries absent incentives for more cost-efficient purchasing in the highest discount bands, and would likely fail to distribute support more broadly than is the case today. In contrast, providing

applicants with a constant, single-year budget would fail to account for the reality that individual applicants will have different needs in different years, depending on where they are in their upgrade cycle.

c. Other Applicant Budget Issues

103. *Student Count.* We move to a district-wide calculation of applicants' discount rates. In order to determine the budget available each funding year, districts should calculate the number of students per school at the time that they calculate their district-wide discount rate annually. We recognize that there will be some instances, such as the construction of a new school, that will make calculating the number of students more difficult for districts. We will permit schools and school districts to provide a reasonable estimate of the number of students who will be attending a school under construction during a particular funding year and seek support for the estimated number of students. However, if an applicant overestimates the number of students who enroll in that school, it must return to USAC by the end of the next funding year any funding in excess of that to which it was entitled based on the actual number of enrolled students. This means a school at the 80 percent discount level, which estimates that it will have 1,000 students, may request E-rate support of up to $120,000. If, however, enrollment after the school opens is only 750 students, the school will have to return any committed support exceeding $90,000. We note, however, that there may be funding years in which an entity loses students and therefore spent more than its available budget in the prior four funding years. In these instances, we will not require repayment of any E-rate support, but there will be no available funding for that funding year. Students who attend multiple schools, such as those that attend educational service agencies (ESAs) part-time, may be counted by both schools in order to ensure appropriate LAN/WLAN deployment for both buildings.

104. *Cost-Effective Purchasing.* Our goal in setting a per-student limit is to ensure schools and libraries can purchase the internal connections they need while discouraging them from purchasing unnecessary equipment or using an inefficient network design. At the same time, we emphasize that the pre-discount $150 budget per student is not a block grant. Applicants may only request funding for discounts on eligible category two services, and schools must continue to pay the non-discounted portion of the supported services. These requirements remain in place. We will not, however, second guess schools' and libraries' decisions to purchase additional equipment or services with other sources of funding if they determine that it is the most cost-effective service offering for what they have decided they need.

105. *Rural Remote Applicants.* We decline to adopt the request made by some commenters that we provide additional category two funding or a rebuttable presumption allowing USAC or the Bureau to waive the budget for applicants in rural remote areas at this time. As described, we find that LAN/WLAN costs are largely based on the costs of equipment, and therefore tend to have consistent prices nationwide. To the extent there are price variations, it is often the case that internal connections upgrades are less expensive in rural areas because labor costs are lower, permitting is easier, and buildings are newer and/or easier to renovate. Therefore, we conclude that the benefits of additional funding for rural remote areas are outweighed by the added administrative burden and the additional costs to the Fund of providing such additional support.

4. Setting an Annual Funding Target for Internal Connections

106. Based on the five-year school and library budgets we find sufficient above, total category two pre-discount requests over the next five-years will amount to no more than $8.8 billion to deploy LANs and WLANs in schools and libraries throughout the country. After accounting for the non-discounted share paid by applicants, with a 15 percent minimum applicant contribution, we estimate that E-rate discounts will support approximately 67 percent of the total pre-discount cost of $8.8 billion for eligible category two services. In addition, we estimate that there will be schools and libraries that do not seek funding or request less than the full budgeted amount to upgrade and maintain their LANs/WLANs over time. We therefore reduce the five-year budget by approximately 15 percent to avoid over-budgeting and set the five-year budget at $5 billion, plus annual inflation adjustments. We adopt an annual target of $1 billion, plus any annual inflationary changes, for category two services, which is equal to one-fifth of the five-year estimate of E-rate support. In addition to this annual budget, the Bureau may allocate any available carry forward funding to meet category two demand.

5. Focusing Support on Broadband

a. Core Components of Broadband Internal Connections

107. In order to help deploy LANs/WLANs necessary to permit digital learning in schools and libraries throughout the nation, we focus the category two ESL on broadband. With one narrow exception, we limit internal connections support to those broadband distribution services and equipment needed to deliver broadband to students and library patrons: Routers, switches, wireless access points, internal cabling, racks, wireless controller systems, firewall services, uninterruptable power supply, and the software supporting each of these components used to distribute high-speed broadband throughout school buildings and libraries. Some form of each of these services has previously been designated as eligible for E-rate support, and we find they are necessary to ensure delivery of high-speed broadband services to students and library patrons via LANs/WLANs. We do not limit these eligible services by form, and therefore agree that equipment that combines functionality, like routing and switching, is also eligible. Similarly, we recognize that some functionalities can be virtualized in the cloud, such as cloud wireless controllers, and therefore will permit such services to be eligible for purchase by schools and libraries.

108. To focus support on only those internal connections necessary to enable high-speed broadband connectivity, beginning in funding year 2015, we eliminate E-rate support for the priority two components that had been in the following ESL entries: Circuit Cards/Components; Interfaces, Gateways, Antennas; Servers; Software; Storage Devices; Telephone Components, Video Components, as well as voice over IP or video over IP components, and the components, such as virtual private networks, that are listed under Data Protection other than firewalls and uninterruptible power supply/battery backup. In recognition of our need to be a ''prudent guardian of the public's resources,'' we find that eliminating these priority two components from the ESL ensures that there is more E-rate support available to deploy the LANs/WLANs needed to improve digital learning in schools and libraries. It is also consistent with section 254(h)(2)(A) of the Act, which requires that support to schools and libraries improve access to advanced services in a manner that is ''technically feasible'' and ''economically reasonable.'' We direct the Bureau to release for comment a draft ESL for funding year 2015

consistent with this Report and Order, and encourage applicants to carefully review the eligible components included in the modernized category two section in that draft ESL. Some components that had been listed in the ESL as priority two may be relocated or described in updated or more generic terminology.

109. Also, despite support from some commenters, we decline at this time to designate further network security services and other proposed services in order to ensure internal connections support is targeted efficiently at the equipment that is necessary for LANs/WLANs. Many commenters agreed that a limited list of eligible services would help ensure available funds are targeted and therefore available to more applicants. As we noted, we leave the record open on these services to allow for further comment as we evaluate the changes in the first funding year.

b. Basic Maintenance, Managed Wi-Fi, and Caching

110. *Basic Maintenance.* For funding years 2015 and 2016, we will continue to provide support for basic maintenance services subject to each school or library's overall budget on E-rate eligible category two services. In the *E-rate Modernization NPRM,* the Commission proposed phasing out support for basic maintenance because the same high-discount school districts received ample funding, while most school districts received none. Commenters point out however, that basic maintenance is needed to ensure networks operate properly, particularly as networks become more complicated. We believe that we can achieve the stated goal of broader funding distribution through other means, including a reasonable and equitable limit on the total amount of E-rate support available per student and per square foot which will discipline districts and libraries in basic maintenance purchasing decisions. In particular, applicants are unlikely to seek support for unnecessary basic maintenance given these limits on the total amount available, but providing support to ensure these networks function effectively may aid those districts with limited resources. Support will only be available for maintenance on equipment and services on the ESL and not for any of the legacy services phased out in this Report and Order.

111. *Managed Wi-Fi.* In light of the applicant budgets for funding years 2015 and 2016, we are persuaded by commenters who argue that managed Wi-Fi, which we call managed internal broadband services in the rules to cover the operation, management, or monitoring of a LAN or WLAN, should be eligible for internal connections support. In the past, applicants could seek internal connections support only for the purchase of internal connections and basic maintenance. Unlike the traditional approach to internal connections, for managed Wi-Fi service contracts, schools and libraries obtain LANs/WLANs as a service for a period of three to five years from a third party who manages the entire system, providing operations and maintenance for the life of the contract. In other cases, the school or library may own the equipment, but have a third party manage it for them.

112. The record demonstrates that applicants would benefit from greater flexibility to choose among managed Wi-Fi options. In particular, the variations of managed Wi-Fi services can provide substantial benefits and cost savings to many schools and libraries, particularly small districts and libraries without a dedicated technology director available to deploy and manage advanced LANs/WLANs quickly and efficiently. Therefore, pursuant to our authority under section 254 of the Act, we find that providing support for managed internal broadband services, including managed Wi-Fi, will ''enhance . . . access to advanced telecommunications and information services'' for schools and libraries, and we direct the Bureau to include managed internal broadband services on the ESL for funding years 2015 and 2016.

113. Under the five-year applicant budget approach we adopt, a district, school, or library will be able to seek annual support for a managed Wi-Fi service, up to an average pre-discount rate cost of $30 per student per year or one-fifth of the budget available to libraries based on floor area. This is consistent with the price of managed Wi-Fi services in the market today and limits the likelihood of waste or abuse in these managed Wi-Fi contracts. As noted below, we will allow districts and libraries to sign multi-year contracts, but we will not make multi-year commitments. Our short-term budget will be sufficient to fund these smaller multi-year contracts and we will continue to evaluate whether additional changes are needed in the long-term, but emphasize that there is no guarantee of funding.

114. We disagree with commenters who argue that managed Wi-Fi should be a category one service. Despite our recognition that virtualization and management may send some amount of information beyond the walls of the school or library building in order to manage the internal networks, we find that services used to distribute bandwidth throughout the school are internal connections services. We therefore remove the presumption in our rules that such a service is not an internal connection.

115. Competitive bidding rules still apply to procurement of managed Wi-Fi services. We encourage districts to request bids in technologically neutral ways and compare the cost-effectiveness of bids for self-provisioned networks with those for managed Wi-Fi contracts. We also encourage schools and libraries considering managed Wi-Fi to evaluate the value of joining a consortium of schools and libraries to increase their buying power and drive down costs.

116. We also clarify that E-rate support for managed Wi-Fi is limited to those expenses or portions of expenses that directly support and are necessary for the broadband connectivity within schools and libraries. Eligible managed Wi-Fi expenses include the management and operation of the LAN/WLAN, including installation, activation, and initial configuration of eligible components, and on-site training on the use of eligible equipment. Eligible managed Wi-Fi expenses do not include a managed voice service, for example. For bundled pricing that includes eligible and ineligible expenses, applicants are required to cost allocate eligible from ineligible services to ensure only eligible services are supported.

117. Finally, we delegate to the Bureau the authority to determine how best to interpret managed services for the purposes of the ESL as we gain experience with funding of these services through the E-rate program. Wireless access as a managed service is a market that is still being developed, and we believe it will facilitate the efficient and effective support of these services to provide the Bureau flexibility to adjust our approach as this market develops. As always, parties may appeal any Bureau decision to the full Commission.

118. *Caching.* Due in part to the applicant budgets for funding years 2015 and 2016 limiting waste or abuse, we agree with commenters who argue that caching functionality should be eligible for internal connections support. Caching functionality enables the local storage of information so that the information is accessible more quickly than if it is transmitted across a network from a distant server. By placing previously requested information in temporary storage, caching functionality can, in certain

circumstances, optimize network performance, and potentially result in more efficient use of E-rate funding. The record indicates that caching functionality can be an integral component of some LANs and WLANs. As commenters point out, caching can provide a more affordable way to achieve bandwidth goals. This is consistent with the goal we adopt in this Report and Order, as well as the Commission's authority to ensure affordable access to E-rate supported services. As such, we disagree with commenters who argue that caching functionality should not be supported by E-rate funds. Instead, we designate caching functionality as an eligible service that ''enhance(s), to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services'' for schools and libraries. As with the core components of broadband internal connections, we agree that equipment that combines caching functionality with other functionalities is also eligible. However, equipment that combines caching functionality with an ineligible functionality must be cost allocated. We therefore delegate to the Bureau the authority to define caching functionality, as well as the necessary software or equipment, such as caching servers, for the purposes of the funding years 2015 and 2016 Eligible Services List. As always, parties may appeal any Bureau decision to the full Commission.

119. *Eligibility After Funding Years 2015 and 2016.* We make these determinations about eligibility in light of the applicant budgets we set out that mitigate some of our concerns about waste or abuse. We therefore direct the Bureau to include basic maintenance, managed internal broadband services, and caching functionality on the ESL for funding years 2015 and 2016. The Commission will evaluate the benefits and drawbacks of these eligibility determinations in future funding years as it continues its work modernizing the program. Absent Commission action, in funding year 2017 and in subsequent funding years, support for basic maintenance, managed internal broadband services, and caching functionality, as an internal connection, will be available only to those applicants that received support in funding years 2015 and 2016 and are operating under a five-year applicant budget.

6. Other Issues

120. *Category Two Installation Can Begin on April 1.* We also amend our rules for category two non-recurring services to permit applicants to seek support for category two eligible services purchased on or after April 1, three months prior to the start of funding year on July 1. This will provide schools with the flexibility to purchase equipment in preparation for the summer recess and provide the maximum amount of time during the summer to install these critical networks. We agree with commenters who note that the last day of school is often in May or June and schools need to be able to use the entire summer recess to ensure the networks are ready when students return to school. This is consistent with our previous decision to allow advance installation and construction under certain conditions.

121. *Administration.* In accordance with this section, we make necessary changes to §§ 54.500, 54.502, 54.505, and 54.507 of our rules. We recognize that these represent major changes to the structure and distribution of support for internal connections. Because unanticipated technical or operational issues may arise that require prompt action, we reaffirm the delegation of authority to the Bureau to interpret our rules ''as necessary to ensure that support for services provided to schools and libraries . . . operate to further our universal service goals.''

C. Phasing Down and Ending Support for Legacy and Other Non-Broadband Services

122. In funding year 2013, approximately 50 percent of priority one E-rate funding was committed to high-speed broadband services, while approximately one third went to fixed voice and mobile services. Phasing down support for voice services and eliminating support for certain legacy services will allow us to focus E-rate program funding on the high-speed broadband needed by schools to enable digital learning and by all libraries to meet the broadband needs of their patrons. After the first two years of the phase down, the Bureau will issue a report evaluating the impact of the reduction in support for voice services. If the Commission takes no further action, the voice services phase down will continue.

1. Phasing Down Support for Voice Services

123. Many commenters support reducing E-rate support for voice services to focus the E-rate program on broadband. We agree that voice services, while important for schools and libraries, are not as essential as high-speed broadband is for meeting the educational needs of students and library patrons. Instead of immediately eliminating support for voice services, we will reduce voice support each funding year by subtracting the discount rate applicants receive for voice services by 20 percentage points every funding year. In funding year 2015, the discounts applicants receive for voice services will be reduced by 20 percentage points from their discount rates for other eligible services, and in funding year 2016, the discounts applicants receive for voice services will be 40 percentage points lower than their discount rates for other eligible services. In each subsequent funding year, the discounts applicants receive for voice services will be reduced by an additional 20 percentage points. Over the first two years of the phase down for voice services support, we direct the Bureau to evaluate the impact of the phase down on eligible schools and libraries and study the transition of eligible schools and libraries to VoIP services and issue a report to the Commission as we continue to reduce voice support by 20 percentage points each year. If, by the opening of the funding year window for funding year 2018, the Commission takes no further action, the voice phase down will continue.

124. Voice services have been eligible for E-rate program funding since the Commission determined that the E-rate program should support all commercially available telecommunications services in the *Universal Service First Report and Order.* When the Commission established the E-rate program in 1997, the goal was to provide schools and libraries discounts on the broadest class of telecommunications services and advanced services available at that time, and to provide schools and libraries the flexibility to purchase new technologies as they became available. However, the options for Internet access then were generally limited to dial up modem services offered over POTS lines, and the data links provided by T–1 and T–3 lines.

125. Today, a much broader array of high-speed broadband services are available to and needed by schools and libraries to support modern digital learning initiatives. Moreover, support for voice services today consumes approximately one third of E-rate commitments while many schools and libraries are unable to access the funding they need for internal connections to provide high-speed broadband throughout schools and libraries. In order to meet our goal of funding high-speed broadband services to support digital learning in schools

and robust connectivity for all libraries, we conclude that we can no longer continue to fund voice services at the same discounts rates as applied to other eligible services that provide broadband access. Instead, we will gradually reduce E-rate funding for voice services and shift these funds to support those services that provide high-speed broadband. Accordingly, we remove the reference to E-rate supporting ''all commercially available telecommunications services'' in § 54.502(a) of our rules so that it is clear to applicants that the telecommunications services that are supported by E-rate are listed in the ESL, rather than potentially sending a confusing message that any telecommunications service available on the market is eligible for E-rate discounts. This is important now that we are phasing down support for voice services and eliminating support for some of the services associated with telephone service as explained herein. We also add to the rules our schedule for phasing down support for voice services.

126. We recognize that many schools and libraries consider E-rate support for voice services an important part of their overall budgets. However, several factors should help ameliorate the impacts of gradually phasing down support for these services. First, voice is now a competitive offering in many areas, and the availability of VoIP services, particularly for those with broadband, provides a cost-effective option for many schools and libraries. This expansion of competition, particularly from VoIP offerings, represents a substantial shift since the E-rate program was created in 1997. Whereas changes in the voice market are reducing the costs of voice service over time, the shortage of funding for broadband services has increasingly become an impediment to balancing all of the Commission's requirements under section 254(h). Second, because we will initially reduce the maximum discount available for voice services to 70 percent in 2015, and 50 percent in 2016, our approach strikes a balance between those commenters supporting elimination of discounts for voice services with those school and library commenters that stressed the importance of retaining some level of support over a defined period of time. Third, as a result of the other measures we take in this Report and Order, the applicants affected by this change will have opportunities to seek funding for broadband infrastructure that may not have been available to them previously. To some degree, this may offset changes in their overall budgets. Finally, our decision does not alter the Commission's requirement that providers of eligible services must provide supported services at a lowest corresponding price (LCP). While voice service remains a supported service, the Commission's LCP rule serves as a safeguard for affordability because service providers cannot submit bids for or charge E-rate applicants a price above the LCP for E-rate services; E-rate discounts are then applied to a service provider's LCP.

127. Several stakeholders suggest that in lieu of gradual transition, we give schools one or two years more of full support for voice service, but then eliminate support for voice altogether in funding years 2016 or 2017. While that approach might benefit recipients seeking voice support for the next one or two funding years, it would eliminate funding for voice services altogether before the Commission has had a chance to study the impact of the gradual phase down of support for voice services on eligible schools and libraries. The approach we take today is more gradual while allowing us to begin redirecting E-rate funding to broadband next year. We agree that our revised interpretation of section 254 requires us to redefine eligible services and shift support away from voice services and towards broadband services, but eliminating support in 2016 or 2017 would cause a more abrupt change in schools and library budgets in those funding years, which we believe many applicants would find difficult to absorb—particularly those serving the highest poverty communities. Phasing down support for voice services over several funding years preserves some funding for applicants at least for the next several funding years, with the most economically disadvantaged schools and libraries receiving the highest discounts as they consider alternatives in the marketplace.

128. In the *E-rate Modernization Public Notice,* the Bureau sought comment on phasing out support for voice services by 15 percentage points per funding year. We now conclude that a per-year reduction of 20 percentage points is appropriate because we find a more straightforward percentage point decrease should be easier for applicants to calculate, and will help ensure that sufficient funding for is available for supported services. Beginning in funding year 2015, when the maximum discount rate for category one services will be 90 percent, eligible applicants shall receive a maximum discount rate of 70 percent for voice services. We disagree with those commenters who argue that reductions will be difficult for applicants to understand and for USAC to administer. The discount rate for voice services will be based on an applicant's already established discount rate and will require only a simple 20 percentage point subtraction from the discount rate any applicant would otherwise be required to calculate to receive support from the program. We change the FCC Form 471 to enable applicants to seek support for voice services using a separate funding request number (FRN) from other eligible services starting in funding year 2015. Combining voice and non-voice services in a single FRN would cause delays in processing if USAC had to separate out the services during the application review process.

129. The reduced discount rates for voice services will apply to all applicants and all costs incurred for the provision of telephone services and circuit capacity dedicated to providing voice services including: Local phone service, long distance service, plain old telephone service (POTS), radio loop, 800 service, satellite telephone, shared telephone service, Centrex, wireless telephone service such as cellular, and interconnected VoIP. Although there was some support in the record for excluding VoIP from the voice services phase down, we agree with those commenters that assert that retaining a higher level of funding for VoIP services while reducing the discount rate only for non-IP voice services would provide VoIP providers a competitive advantage in serving schools and libraries. Because the marginal cost of delivering VoIP services should be lower once schools and libraries have robust broadband, we expect the price of these services to continue to drop over the coming years, alleviating the need to retain higher discounts for VoIP funding. Similarly, a few commenters argue that we should retain support for wireless telephone services, while others support eliminating wireless telephone services in funding year 2015. As with VoIP services, eliminating support for wireless telephone service in 2015, or subjecting wireless telephone services to a separate phase out track, would provide non-wireless providers a competitive advantage over wireless providers in serving schools and libraries.

130. Some commenters argue that, because the *USF/ICC Transformation Order,* 76 FR 76623, December 8, 2011, included voice telephony service in the definition of universal service, we are compelled to include voice telephony as an eligible service for E-rate support

under sections 254(c)(3) and 254(h)(1)(B) of the Act. However, as explained, nothing in section 254(c)(1) bars the Commission from establishing different supported services for different elements of the overall Universal Service Fund, and in this Report and Order, consistent with the purpose of the E-rate program, we find that it is necessary and appropriate to phase down voice services.

131. During the initial two years of the phase down of support for voice services, we direct the Bureau to study the impact of these discount reductions for voice support on E-rate recipients and to study the transition of eligible schools and libraries to VoIP services. The Bureau shall report its findings to the Commission by October 1, 2017, after completion of funding year 2016. If, at the conclusion of this study, no further action is pursued by the Commission before the application filing window opens for funding year 2018, the phase down will continue.

2. Eliminating Support for Telephone Features, Outdated Services, and Non-Broadband Services That Do Not Facilitate High-Speed Broadband

132. Pursuant to sections 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Act, we eliminate support for other legacy and non-broadband services effective for funding year 2015. Our decision to stop supporting these services reverses prior Commission and USAC decisions, however, we find many of these services to be important, but not essential to education, and E-rate funding is not sufficient to support these services at the risk of not being able to fund the services identified herein that advance our program goals. Within the Commission's authority under section 254 of the Communications Act to designate telecommunications and additional services rests our equal authority to withdraw services from eligibility, especially as the needs of schools and libraries evolve. The record supports our decision.

133. Beginning in funding year 2015, we will no longer provide E-rate support for components of telephone service, outdated services such as paging and directory assistance, and services that may use broadband but do not provide it, including email, voice mail, and web hosting. Applicants may continue to seek support for individual data plans and air cards, but only when they can demonstrate, consistent with our current rules, that the purchase of such services is the most cost-effective way to connect students on school premises or library locations to the Internet.

a. Telephone Features and Outdated Telephone Services

134. The record supports eliminating E-rate support for paging, and telephone service components such as text messaging and directory assistance beginning in funding year 2015. There is widespread agreement among commenters that paging service is largely outdated and can be retired from funding. Similarly, there is agreement that the features listed as ''Telephone Service Components'' should no longer receive E-rate support. The Telephone Service Components to be removed from the ESL are directory assistance charges, text messaging, custom calling services, direct inward dialing, 900/976 call blocking, and inside wire maintenance plans.

135. Although a few commenters argue that paging serves an educational purpose because sometimes it is the only way to reach a key staff member in an emergency, other commenters asserted that paging is not really critical, and has been replaced by other services. Similarly, a few commenters argue that we should continue to support text messaging because students prefer it for quick communication, and it is used for a variety of work related tasks for administrators and teachers in way that does not disrupt the classroom. These are all valid assertions and while we recognize that these services are worthy to certain applicants, we conclude that continuing to fund them diverts funding away from the high-speed broadband services that have become essential to schools and libraries.

136. Notably, those commenters recommending a longer adjustment period for the phase down of funding for voice services did not request a commensurate phase down timeline for telephone components, or assert that a transition period would be critical for schools and libraries. This is consistent with our view that a protracted phase out for telephone components is not necessary, and that these services should be eliminated from the list of those that are eligible for E-rate support beginning in funding year 2015. Funding commitment data is not available for several of the telephone features we will eliminate, however, funding year 2012 commitments totaled approximately $898,045.00 for paging and text messaging. Some commenters point out that removing these services will not result in sizable cost savings for the Fund. However, we agree with other commenters who argue that we should eliminate support for these features and services because it will allow us to direct some additional funds towards meeting our high-speed connectivity targets without imposing undue hardship on applicants.

137. We recognize that removing telephone components from the ESL in funding year 2015 will require some providers to change their billing practices or require some applicants to cost allocate the cost of those services from their requests for support. However, because these services are typically provided as an add-on or enhanced services for an extra fee, they are often presented as separate line items on telephone bills. Accordingly, it should not be overly burdensome for applicants to seek funding for the voice component of the telephone service only, and provide a cost allocation for any telephone features we remove from the ESL. Under the Commission's rules, if a product or service contains ineligible components, costs should be allocated to the extent that a clear delineation can be made between the eligible and ineligible components. The clear delineation must have a tangible basis and the price for the eligible portion must be the most cost-effective means of receiving the eligible service. For telephone feature costs that are bundled with the cost of voice services, one way to determine the cost of the feature is for an applicant to seek an appropriate cost allocation from its service provider. We find that the benefits of streamlining support for voice services by removing funding for these services to enable that support to be used for essential educational purposes outweigh any burdens applicants may face in the next few funding years as they adjust to these changes, which the record leads us to predict generally should be minimal.

b. Email, Web Hosting, Voicemail

138. We eliminate E-rate support for email, web hosting, and voicemail beginning in funding year 2015 and delete the reference to ''electronic mail services.'' As many commenters recognize, these services are applications delivered over broadband service, and do not themselves deliver high-speed broadband. There is also evidence in the record that applicants seeking E-rate support for these services may not be getting the most cost-effective solutions, and that some service providers package web hosting and email service offerings to E-rate customers in a way that has created a risk that E-rate funds will pay for ineligible services. We recognize that email, web hosting and voicemail services may be important services for the day-to-day operations of many schools and libraries and that some of

them have come to rely on E-rate support for those services. However, continuing to fund these services diverts E-rate funding away from essential high-speed broadband services. Therefore, removing E-rate support for email, web hosting, and voicemail services aligns with our restructuring of the E-rate program under section 254.

c. Data Plans and Air Cards for Mobile Devices

139. Data plans and air cards for mobile devices will continue to be eligible for E-rate support only in instances when the school or library seeking support demonstrates that individual data plans are the most cost-effective option for providing internal broadband access for portable mobile devices at schools and libraries. We agree with commenters that it is generally not cost effective for applicants to purchase on-campus use individual data plans that provide service on a one plan per-device basis when a school or library has robust internal wireless networks that provide Internet connectivity to multiple devices within a school or library. Some commenters also contend that these individual data plan services generally do not provide users with enough high-speed connectivity to access certain educational and informational materials.

140. Some schools and libraries already have wireless networks that support one-to-one device initiatives. Moreover, with the increased availability of E-rate funds as a result of our decisions in this Report and Order, many more will be able to install high-speed internal broadband networks to support one-to-one learning programs in schools and reliable public Internet access in libraries. We consider funding for individual data plans or air cards for individual users to be not cost effective when those users can already access the Internet through internal wireless broadband networks on wireless-enabled devices without the help of stand-alone data plans or air cards. In general (i.e., assuming no showing of cost effectiveness), for applicants that receive data plans bundled with voice, only the voice services in the plan will remain eligible for funding in accordance with the phase down reductions we implement; the applicant must remove from its funding request the costs associated with all other services in a bundled plan that are ineligible.

141. We recognize that there are a few locales where WLANs are impracticable or difficult to install, such as library bookmobiles. There may also be some schools or libraries where installation of a wireless network is possible but would be more costly than using individual data plans because the school or library location serves a very small number of students or patrons. Therefore, we will allow applicants to seek funding for individual data plans where the applicant is able to demonstrate that individual data plans are the most cost-effective option for providing internal broadband access for mobile devices. In order to ensure that individual data plans are the most cost-effective option, applicants that seek funding for individual data plans must be able to demonstrate either that installing a WLAN is not physically possible, or must provide a comparison of the costs to implement an individual data plan solution versus a wireless local area network solution. The cost comparison may be established through the competitive bidding process by seeking and comparing bids on both internal wireless networks and individual data plans. Applicants should be prepared to demonstrate to the Commission and USAC that individual data plans are the most cost-effective option for their situation by submitting the cost comparison information upon request.

3. Impact on Multiyear Contracts

142. In response to commenters asking that we permit funding for phased-out services until multi-year contracts expire for those services, we decline to provide exceptions or allow ''grandfathering'' for multi-year contracts. This decision will simplify the elimination of funding for these components and services for applicants and for USAC, and is consistent with our need to transition funding in the program to high-speed broadband without undue delay. Although the Commission permits applicants to enter into multi-year contracts for eligible services, the Commission has never adopted a rule insulating applicants and service providers from changes in program rules simply because a multi-year contract was utilized.

IV. Maximizing the Cost-Effectiveness of Spending for E-Rate Supported Purchases

143. To maximize the cost-effectiveness of spending for E-rate supported services, we focus in this section on driving down costs for the services and equipment needed to deliver high-speed broadband connectivity to and within schools and libraries. There is widespread agreement in the record about the importance of encouraging cost-effective purchasing in the E-rate program. Every dollar spent inefficiently for E-rate supported services is one less dollar available to meet schools' and libraries' broadband connectivity needs.

144. Moreover, there appears to be substantial room for improvement in E-rate-supported purchasing. Although E-rate applicants are required to seek competitive bids for E-rate supported services and to select the most cost-effective bid they receive, there remain large variations in the amount of money spent on similar services. Some variation is to be expected due to differences in local needs and conditions, such as between large urban schools and small rural schools. However, pre-discount prices also vary in ways that are unexpected. For instance, prices paid for telecommunications and Internet access in urban areas are often higher than those in rural areas. This is the opposite of what we would generally expect, given that the economies of scale and distance should generally make broadband deployment more expensive to smaller districts in rural America. In major metropolitan areas, the quartile of schools paying the most for 100 Mbps of Internet access services pays nearly three times more than the quartile paying the least and the quartile paying the most for 1 Gbps WAN connections pays nearly four times more than the quartile paying the least. Even in the same state, prices for rural broadband services can vary widely. For example, the Idaho Commission for Libraries explains that prices range from $3.33/Mbps/month to $397.56/Mbps/month in its state's rural libraries, while ALA notes that the cost for a T1 line can vary from a few hundred dollars to more than two thousand dollars per month in Pennsylvania.

145. This variation suggests there is more we can do to drive down prices for E-rate services. It also suggests that applicants need more information about purchasing decisions. Therefore, in this section, we adopt changes to increase pricing transparency, encourage consortium purchasing and amend our LCP rule to clarify that potential service providers must offer eligible schools, libraries and consortia the LCP.

A. Increasing Pricing Transparency

146. To assist schools and libraries in finding the best prices for E-rate supported services, we adopt transparency requirements for E-rate recipients and vendors beginning in funding year 2015. We agree with those commenters who argue that transparency is an essential tool to help applicants make educated buying

decisions. Transparent pricing will give schools and libraries greater visibility into pricing and technology choices for their peers, which we expect will help applicants in negotiations with equipment and service providers.

147. Shining a light on prices paid for E-rate supported services will help the Commission and third parties ensure that variations in prices paid are in accordance with the program rules and that schools and libraries are purchasing E-rate supported services cost effectively. As several commenters explain, the public should have a simple method to ensure that their students are getting the high-speed connectivity needed for digital learning at the lowest price. Making the pricing data publicly available will also improve analyses performed by the Commission, state coordinators, and third parties regarding the program's effectiveness and whether more needs to be done to improve cost-efficient purchasing by schools and libraries. Finally, pricing transparency will help third parties identify best practices for purchasing and reduce waste across the program.

148. Therefore, to increase pricing transparency in the E-rate program, we will make information regarding the specific services and equipment purchased by schools and libraries, as well as their line item costs, publicly available on USAC's Web site for funding year 2015 and beyond. This information is currently collected on FCC Form 471, Block 5, Item 21 (''Item 21s''). In addition, we agree with commenters that the information contained in the Item 21s should be standardized to provide meaningful information that is easy to compare across applications. We delegate authority to the Bureau to revise and oversee form standardization, while directing the Bureau to be mindful of the need to keep all forms as simple as possible in light of our goal of streamlining administration of the program. Because pricing and purchasing information will be of greatest benefit if it is available in electronic, searchable forms, we also direct OMD to work with USAC to ensure ready availability of the information in these forms, such as through publicly available APIs and/or bulk data files posted on USAC's Web site.

149. A few commenters express concern that a state law, local rule, or an existing long-term contract may explicitly prohibit pricing disclosure. In light of these concerns, we will allow applicants to opt out of making pricing data public where such applicants can certify and cite to a specific statute, rule, or other restriction barring publication of the purchasing price data, such as a court order or a contract in existence prior to adoption of this order. Applicants making this certification shall retain necessary documentation to demonstrate the restriction in the event of a Program Integrity Assurance (PIA) review or audit. Contracts executed after the effective date of this Report and Order, however, may not contain such restrictions, and any such restrictions will have no effect.

150. We recognize the arguments of some commenters that price transparency increases the risk of anti-competitive behavior by service providers. It is true that in certain market conditions, publication of prices can raise the risk of collusion or price harmonization. But given the level of public scrutiny of the E-rate program, we think price transparency will shine a light on any anti-competitive behavior. Moreover, the benefits to applicants from better pricing information are likely to outweigh any increased risks of collusion or price harmonization among providers. As many commenters note, some pricing information is already publicly available through state master contracts and state public records laws in a piecemeal fashion—a state of affairs that carries most of the collusion risks of broader publication with many fewer benefits. Sophisticated vendors interested in their competitors' pricing are most likely to be able to avail themselves of public records laws, while individual school and library applicants are less likely to have the practical ability to navigate these processes. In contrast, centralized, easily accessible data about pricing for purchased services will be more useful for applicants and program oversight, while doing little to increase the risk of collusion. For all these reasons, on balance, we conclude that increasing pricing transparency is likely to increase competition and drive down prices.

151. Some commenters also argue that transparency will reduce the number of vendors competing to provide E-rate supported services because vendors will leave the program rather than allow their prices to be made public. Again, we are not persuaded. As described, in many states pricing information is already publicly available in some fashion, and there is no evidence in the record that this has lowered participation in those states. Moreover, schools and libraries, like all community anchor institutions, are valuable customers. Indeed, greater pricing transparency should help those vendors offering the best prices attract market interest in their services and equipment, which should help foster a competitive marketplace.

152. We also disagree with the argument that school districts and libraries will find pricing information too confusing to be useful. As many commenters note, individual school districts or libraries often have unique characteristics that make the prices available to them lower or higher than national or regional averages. For example, small rural schools may legitimately face higher prices for broadband connectivity than large urban schools because of their distance from the nearest fiber, the dearth of other broadband customers in their immediate vicinity, and lack of competitive options. But E-rate applicants are already required to make judgments regarding the costs of proposed services. To the extent a school or library arms itself with price information from its peers and requests a price that a vendor believes is unreasonably low for some equipment or service, we are confident that the vendor will be appropriately incented to explain any unique circumstances that justify its higher price. In sum, even acknowledging that applicants will face varying circumstances that affect the prices available to them, we find that transparency will aid applicants in making smarter spending judgments in accordance with their obligation to select cost-effective services.

153. Although we require publication of prices for goods and services purchased by applicants, we decline at this time to require public disclosure of other pricing information, including available pricing from service providers or bid responses. Many commenters argue that submitting bid information is burdensome, and the goods and services selected by applicants should represent the most cost-effective solution for their needs following a competitive bidding process, with price as the primary factor. Therefore, we are persuaded that the current burden to applicants of submitting comprehensive bid information to USAC outweighs any incremental benefit to the public from the publication of prices for non-winning bids, which, by definition, were not the most cost-effective choice. At the same time, we take this opportunity to remind applicants and vendors that they are responsible for the retention of all documents related to their applications, including bids submitted in response to a solicitation, in accordance with our rules. Applicants still may be required to provide all bid responses during PIA

review of an application or during an audit.

154. We also decline to require disclosure of pricing information for past funding years. Pricing information on Item 21s has not been published in the past, and the Commission has redacted pricing information from Freedom of Information Act responses at the request of service providers claiming it was proprietary information. Given stakeholders' expectations when prior-year applications were submitted, we will continue to treat recent Item 21 information as potentially sensitive for funding year 2014 and before. However, this Report and Order serves as notice to all service providers that the receipt of E-rate support will be conditioned on disclosure of this pricing information beginning in funding year 2015.

155. Finally, we terminate the program the Commission created in the *Second Report and Order,* 68 FR 36931, June 20, 2003, testing an online list of internal connections equipment eligible for discounts. USAC no longer updates the database in part because of the burdens it placed on USAC and vendors. Meanwhile, the publication of pricing data as provided will provide a less burdensome and more accurate representation of the goods and services being purchased by applicants with E-rate support, as well as the prices paid. We received no comments objecting to termination of the eligible products database.

B. Encouraging Consortia and Bulk Purchasing

156. Consortium purchasing can drive down the prices paid by schools and libraries for E-rate supported services. In this section, we reduce or eliminate some of the existing barriers to applicants' participation in consortia. As an initial matter, we direct Commission staff to work with USAC to prioritize review of consortia applications. We also adopt rules to make it easier for applicants to take advantage of consortium bidding and clarify some apparent misconceptions about consortia participation. In response to concerns raised by E-rate applicants about the current method for allocating E-rate support among members of an E-rate consortium, in the accompanying *FNPRM,* we propose to amend the way consortia determine the amount of support to be received by their members to ensure that E-rate applicants that choose to join a consortium do not risk receiving less support, and seek comment on other ways to encourage consortium purchasing.

1. Speeding Review of Consortium Applications

157. In order to address applicants' complaints that consortia applications have historically received reviews late in the application review process, we direct OMD and the Bureau, working with USAC, to prioritize application review for state and regional consortia applicants. OMD and USAC have already undertaken an initiative to speed review of all E-rate applications, with a particular focus on broadband applications. We applaud that work and want to build on the positive results, particularly with respect to state and regional consortia applications. We expect that the improved processing times for consortia applications will result in more funding commitments flowing faster to schools and libraries, which will motivate more applicants to join consortia in future funding years.

2. Preferred Master Contracts

158. To further encourage applicants to take advantage of bulk buying opportunities, we delegate authority to the Bureau to designate preferred master contracts for category two equipment. The Bureau may make such a designation for the purpose of (a) exempting the preferred master contract from the FCC Form 470 filing requirement and (b) requiring applicants to include the preferred master contract in their bid evaluations even if the master contract is not submitted as a bid in response to the applicant's FCC Form 470. The Bureau has authority to institute either one or both of these exceptions for a preferred master contract and must re-evaluate its decision to designate a contract as a preferred master contract every two funding years.

159. We authorize the Bureau to designate a master contract as a preferred master contract if it offers eligible entities nationwide the opportunity to obtain excellent pricing for category two services as reported on FCC Form 471. National availability of the equipment offered on a preferred master contract will ensure that all E-rate applicants have the opportunity to take advantage of its pricing.

160. We limit preferred master contracts to equipment used in category two internal connections at this time. Commodities such as the equipment used in internal connections lend themselves to bulk purchasing arrangements, and can be shipped nationwide. The more varied nature of services, such as broadband services and internal connection installation services, makes implementing bulk purchase arrangements more complicated. We therefore choose not to authorize the designation of preferred master contracts for such services at this time.

161. We agree with commenters who support national bulk buying opportunities because of the unmatched economy of scale national purchasing allows. In order to help ensure such scale (and thus maximize the benefit to applicants and the E-rate program), we authorize the Bureau to limit the number of master contracts it designates as preferred. Recognizing, however, that E-rate applicants may still be able to negotiate better pricing from vendors not associated with a preferred master contract, we decline to require applicants to purchase services from a preferred master contract at this time.

a. FCC Form 470 Exception

162. Allowing applicants to take internal connections equipment from a preferred master contract without filing an FCC Form 470 will ease the administrative burden on applicants without compromising cost-effectiveness. Several commenters encouraged us to eliminate the FCC Form 470 filing requirement for certain master contracts because of the administrative burdens associated with competitive bidding. Although competitive bidding is vital to limiting waste and ensuring that services are provided at the lowest possible rates, in the limited case of equipment available on a preferred master contract, we find that it is not necessary for applicants to file an FCC Form 470 because the terms of the preferred master contract assure us that applicants will receive the best possible pricing on the services they order. We cannot at this time exempt master contracts that are not preferred master contracts from any competitive bidding requirements because we do not have the same assurances with respect to pricing for all master contracts.

163. Applicants who wish to take services from a preferred master contract without filing an FCC Form 470 would indicate on their FCC Form 471 that they are purchasing services from a preferred master contract instead of citing to an FCC Form 470.

b. Bid Evaluation Requirement

164. Requiring applicants to include preferred master contracts in bid evaluations helps ensure that applicants make cost-effective purchases while enabling them to select the services that best suit their needs. Applicants will only be required to include equipment available on a preferred master contract in their bid evaluations if it is the same

equipment the applicant sought on its FCC Form 470. Applicants would still have the ability to select bids submitted by service providers in response to the FCC Forms 470, as long as the applicants' evaluation treats the price of eligible equipment as the primary factor in bid selection and the selected bid is the most cost-effective.

3. Authority To Seek Consortium Bids

165. To further increase cost-effective purchasing by applicants, we next amend our rules to permit a consortium lead to identify on its consortium's FCC Form 470 the schools, school districts and libraries for which it has authority to seek competitive bids for E-rate eligible services even if it does not have authority to order services for those entities. Our rules currently require the FCC Forms 470 and FCC Forms 471 be signed by a person authorized to order eligible services for the applicants and do not distinguish between authority for E-rate consortium leads to seek bids and authority for consortium leads to purchase the services. As a result, consortium members who are unwilling to cede authority to purchase E-rate eligible services to the consortium lead release their own FCC Form 470 and likely do not attract the number of competitively priced bids, if any, from competitive vendors. By aggregating potential demand in the bidding process, and using the FCC Form 470 process to attract bidders, a consortium can drive down the price of eligible services even for its members who wish to order services on their own. This rule change will take effect for funding year 2015. Our rules will continue to permit consortium leads to purchase services on behalf of some or all of their members and we encourage consortium leads to seek both forms of authorization, as appropriate.

4. Correcting Misconceptions

166. We also take this opportunity to correct misconceptions about consortia applications that appear to have prevented some applicants from joining consortia, and to remind applicants and service providers about already-existing rules that should work to encourage participation in consortia. We remind applicants that E-rate rules do not require a consortium to solicit or select a single vendor to provide service to all consortium members and that applicants can authorize a consortium lead to act on their behalf for multiple years.

167. *Consortia selection of multiple service providers.* Some commenters argue that consortia purchasing may actually increase prices by excluding smaller service providers who are not able to serve the full needs of a consortium. In light of these comments, we remind all stakeholders that consortia do not need to solicit or select a single vendor able to provide service to all members of a consortium. Rather, a consortium may invite vendors to bid on services to a subset of consortia members, and may find that a combination of different service providers offer the most cost-effective solution for consortium members. Even though a larger service provider may enjoy economies of scale and scope, it will not necessarily be able to provide competitively priced service in every area in which a consortium's members are located. Therefore, consortia applicants should make clear in their FCC Forms 470 and any associated RFPs that they are not required to select a single provider that can meet the needs of all members. While some consortia select a single service provider, many others select a combination of service providers to meet the needs of their consortium members. In light of the apparent confusion on this issue, we direct USAC to remind applicants and vendors, during USAC training and other outreach, that consortia can solicit bids from service providers to cover a portion of the services sought by the consortia.

168. *Multi-year authorization.* We also clarify that applicants can authorize a consortium lead to act on their behalf for multiple years, and need not reaffirm that authorization every funding year. In order to ensure that a consortium lead is not seeking bids or applying for support on behalf of schools and libraries without their knowledge or consent, our rules have required and continue to require FCC Forms 470 and FCC Forms 471 to be signed by a person authorized to seek or order services for the applicants. To show that it is authorized to seek or order eligible services for the applicants, a consortium lead may provide copies of relevant state statutes or regulations requiring members to participate in the consortium or some other proof that each consortium member is aware that it is represented in the application.

169. Another common way for a consortium lead to demonstrate its authority to seek or order eligible services on behalf of its members is to solicit letters of agency (LOAs) from consortium members. Some commenters ask us to ease consortia's administrative burdens by reducing the frequency with which applicants provide LOAs or eliminate the practice of applicants providing LOAs to consortium leads. We decline to eliminate the LOA practice altogether because, in many circumstances, an LOA could be the only means a consortium lead has to demonstrate its authority to seek or order services on behalf of a specific consortium member. We can, however, clarify that applicants may provide consortia leads with LOAs that cover multiple funding years as long as those years are specified in the LOA and as long as the authorization includes the type of services covered by the LOA.

5. Other Rules Changes

170. We also add a definition of ''consortium'' in our rules that is based on the definition of ''library consortium'' that has long been a part of our rules. In the definition, we also make it clear that consortia may include health care providers eligible under the Rural Health Care program and public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities. This change does not alter requirements for applicants and service providers.

C. Offering the Lowest Corresponding Price

171. In order to help ensure that E-rate applicants make cost-effective purchasing decisions, we remind service providers that they not only must charge eligible schools, libraries, and consortia the LCP when providing E-rate services, but also must offer eligible entities the LCP when submitting competitive bids to provide E-rate supported services.

172. The LCP rule prohibits an E-rate provider from ''charg[ing]'' E-rate applicants a price higher than the lowest price that provider charges to non-residential customers who are similarly situated to a particular school, library, rural health care provider or consortium that purchase directly from the service provider. In authorizing the creation of the E-rate program, Congress imposed an obligation on telecommunications carriers to provide services to schools and libraries at rates less than the amounts charged for similar services to other parties. To ensure that schools, libraries and consortia participating in the E-rate program receive all services at the lowest rates available, the Commission extended this requirement to apply to all providers of E-rate supported services. The LCP rule benefits E-rate applicants and the Fund by ensuring that the price for E-rate supported services is no more than the market price for those services, absent a showing by a provider that it faces

demonstrably higher costs to serve a particular school or library.

173. While the LCP rule does not expressly mention an obligation to ''offer'' eligible entities the LCP, this obligation was articulated in the *Universal Service First Report and Order* where the Commission described the LCP provision as requiring service providers to ''offer'' services that comply with the LCP. To ensure that applicants receive the best possible bids from service providers in response to their FCC Forms 470, consistent with the Commission's intent, we take this opportunity to reemphasize that our LCP rule, as it is now codified in our rules, means that providers must both (i) submit bids to applicants at prices no higher than the lowest price they charge to similarly-situated non-residential customers for similar services; and (ii) charge applicants a price no higher than the LCP. In abundance of caution, we also modify our LCP rule to better reflect the dual nature of this obligation.

174. Because the LCP rule makes prices more affordable for schools and libraries, as contemplated by the statute, we also take this opportunity to agree with those commenters who support stepped-up enforcement of our LCP rule. We therefore direct the Enforcement Bureau to devote additional resources to investigating, and where appropriate, bringing enforcement actions against service providers who violate the LCP rule.

V. Making the E-Rate Application Process and Other E-Rate Processes Fast, Simple and Efficient

175. In this section, we focus on making the E-rate application process and other E-rate processes fast, simple and efficient. There is broad agreement on the need to simplify the administration of the E-rate program in order to reduce the burden on applicants, make the most efficient use of E-rate funding, and foster greater participation in the E-rate program. We therefore adopt a host of programmatic changes in this section, including simplifying the application process by, among other things, providing a process for expediting the filing and review of applications involving multi-year contracts; eliminating technology plans for internal connections; simplifying and clarifying applicants' discount rate calculations; simplifying the invoicing and disbursement process; and requiring all USF requests for review to be filed initially with USAC. As we streamline the program, we remain mindful of our need to gather relevant data from applicants and to protect against waste, fraud, and abuse. Accordingly, in this section, we also adopt measures to protect against waste, fraud, and abuse.

176. We also direct USAC to take steps to reduce the administrative burden on applicants by processing and managing applications more efficiently, modernizing its E-rate information technology (IT) systems, timely publishing all non-confidential E-rate data in an open and standardized format, and communicating more clearly with E-rate applicants and service providers. We recognize that, as part of this modernization effort, USAC, working with OMD and the Bureau, already has made great strides, and we expect that they will continue to work together closely to push these reforms forward.

177. USAC, working with the Bureau and OMD, will implement the administrative changes we adopt today in funding year 2015, unless otherwise noted. In the *Universal Service Third Report and Order,* 62 FR 56118, October 29, 1997, the Commission delegated authority to the Bureau to issue orders interpreting our E-rate rules as necessary to ensure that support for services provided to schools and libraries operate to further our universal service goals. We re-affirm that delegation. We also direct the Bureau, working with OMD and other Commission staff, to make changes to the E-rate forms, as needed, and to provide direction to USAC to implement the changes, including providing clarification and guidance in the case of any ambiguity that may arise. These changes, taken together, will result in a program that is easier to navigate for applicants and vendors, will improve program efficiency by eliminating unnecessary complexities, and will constrain USAC's administrative expenses, ultimately resulting in a cost savings to the E-rate program that can be used for the benefit of schools and libraries.

A. Simplifying the Application Process

178. We agree with those commenters who support simplifying the E-rate application process as an important part of streamlining the administration of the E-rate program. We therefore adopt a simplified application process for multi-year contracts; eliminate the requirement for technology plans; ease the signed contract requirement to allow applicants to seek E-rate support once they have entered into a legally binding agreement with a service provider; exempt from our competitive bidding requirements purchases of commercially available high-speed broadband services that cost less than $3,600 per year; require the use of electronic filings; and enable direct connections between schools and libraries.

1. Simplifying the Application Process for Multi-Year Contracts

179. As an initial matter, we simplify the application process for funding requests that involve multi-year contracts for eligible services. This simplified application process will be available to any applicant, beginning in funding year 2015, when: (1) The applicant has a multi-year contract for E-rate supported services that is no longer than five years, and (2) any changes in the requested services or to the terms and conditions under which those services are provided are within the scope of the establishing FCC Form 470 and the applicable contract. As the Commission proposed in the *E-rate Modernization NPRM,* applicants that elect to use the multi-year contract funding review process will only be required to submit a complete FCC Form 471 for the first funding year in which they are seeking E-rate support under the multi-year contract. All applicants, even those currently in the middle of a multi-year contract, will be required to file a complete FCC Form 471 once. In subsequent funding years covered by a multi-year contract, applicants will be permitted to use a streamlined application process that will be shorter, require less information from the applicants, and be approved through an expedited review process, absent evidence of waste, fraud, or abuse.

180. By minimizing pre-commitment application review by USAC in subsequent years of a multi-year contract, we anticipate USAC will be able to review applications more quickly while lowering the administrative burdens on applicants and without increasing the likelihood of waste, fraud and abuse. While applicants taking advantage of this new process will benefit greatly from expedited review and the reduced administrative burden, this process does not guarantee funding in subsequent years, even for the same services. E-rate funding will continue to be committed and disbursed on an annual basis. Applicants must be eligible for E-rate support in each of the years funding is sought, and the services must be eligible for support in each such year.

181. We agree with those commenters who suggest that five years is an appropriate maximum length of time for contracts seeking to use a multi-year contract application process. Commenters note that a five-year contract length is consistent with other

procurement models in the education industry. We therefore find that the three-year limit the Commission proposed in the *E-rate Modernization NPRM* is too restrictive. Although we do not adopt a maximum contract length in this Report and Order, in the accompanying FNPRM we do seek further comment on setting a maximum contract length for E-rate supported services.

182. To facilitate these changes to our application process, we direct the Bureau and OMD to work with USAC to revise the application process for multi-year contracts so that an applicant is not required to complete the full FCC Form 471 after the first year the applicant seeks funding for services provided pursuant to a multi-year contract that has a maximum term of five years. Under this revised application process, applicants must file a complete FCC Form 471 in the first year of a multi-year contract that is eligible for this streamlined review process, but in subsequent contract years applicants will only need to provide basic information identifying the applicant, confirm that the funding request is a continuation of an FRN from a previous funding year based on a multi-year contract, and identify and explain any changes to their application, such as changes in the discount rate, the membership of a consortium, or the services ordered. (All such changes must be within the scope of the establishing FCC Form 470 and the underlying agreement.) While USAC and the Commission staff, of course, remain able to request other information necessary to reach a commitment decision, we direct USAC to aim to minimize such requests.

183. Although some commenters would prefer to file a single FCC Form 471 to cover multiple years of a multi-year contract, we find that a streamlined filing and review process for subsequent contract years of a multi-year contract balances the applicant's desire for expedited review and administrative convenience with USAC's need to confirm basic information about the request in subsequent years, and to verify an applicant's interest in applying for funds for that funding year. USAC will review the initial FCC Form 471 applications associated with multi-year contracts as thoroughly as it reviews applications covered by one-year contracts. In subsequent years of a multi-year contract, however, where USAC has already reviewed a funding application for the first year of a multi-year contract, USAC will be able to streamline its pre-commitment review. If there are no changes to the services purchased, conducting the same review for each subsequent year of the contract is not likely to identify errors in the application.

184. While we amend our rules to simplify applicants' use of multi-year contracts, we decline to allow applicants to receive multi-year funding commitments. In the *E-rate Modernization NPRM,* the Commission sought comment on allowing multi-year funding commitments. The Commission cited to its recent decision to allow multi-year funding commitments in the *Healthcare Connect Fund Order,* 78 FR 38606, June 27, 2013, in which the Commission noted that, by eliminating the need for applicants to file every year, multi-year funding commitments would reduce uncertainty and minimize the administrative burden for applicants and for USAC. Despite support from commenters for similar multi-year funding commitments in the E-rate context, important differences between the Healthcare Connect Fund and the E-rate program prevent us from adopting multi-year funding commitments in the E-rate program. Unlike the Healthcare Connect Fund, demand for E-rate funds significantly outstrips supply. Further, there is no record yet on the effect of the *Healthcare Connect Fund Order* on the Healthcare Connect Fund or as a constraint on funding available for other applicants in the fund. Although multi-year commitments may slightly increase administrative efficiency for applicants and USAC, obligating funds years in advance of their use would be detrimental to the management of the program. Moreover, the multi-year contract application process we adopt today should allow the E-rate program and applicants to achieve many of the efficiencies of a multi-year funding commitment process.

2. Eliminating the Technology Plan Requirements

185. In the interest of reducing the administrative burden on E-rate applicants, beginning with funding year 2015, we eliminate from our rules the technology plan requirements for applicants seeking E-rate support for category two services. The Commission previously eliminated the technology plan requirements for priority one services, and having considered the record, we now agree with commenters that the burden of our requirement that applicants for internal connections and basic maintenance of internal connections have certified technology plans outweighs the benefits, particularly for small applicants with limited resources.

186. We agree with those commenters who argue that technology planning is an important step in the process of long-term planning on how best to procure and utilize internal connections. We are certain though that, even absent this rule, technology planning will continue to occur because technology has become a central part of school and library infrastructure, and technology planning has become integrated into applicants' core strategic planning. We also expect that the structural changes we make to the E-rate program's approach to providing support for internal connections and basic maintenance of internal connections will encourage good planning. We strongly encourage all applicants, both large and small, to carefully review existing plans given the many changes to the E-rate program that we adopt in this Report and Order. However, we find that the burden of getting formal approval and certification of these technology plans outweighs the benefits to the program.

3. Exempting Low-Dollar Purchases of Commercially Available Business-Class Internet Access From Competitive Bidding Rules

187. We create an exemption in our competitive bidding rules for applicants seeking E-rate support to purchase commercially available, business-class Internet access services that cost $3,600 or less for a single year. An Internet access service will be eligible for this exemption only if it offers bandwidth speeds of at least 100 Mbps downstream and 10 Mbps upstream for a pre-discount price of $3,600 or less annually, including any one-time installation and equipment charges, and the service and price are commercially available. Based on our review of commercial offerings online, this $3,600 annual limit is a reasonable maximum that will allow some applicants to purchase commercially available business-class Internet access. We clarify that the $3,600 annual limit is the pre-discount amount for the service per school or library. So, for example, a library system with three library branches could qualify for this exemption if it purchased 100 Mbps downstream and 20 Mbps upstream Internet access service for each of its three branches at a cost of $250 per month for each branch. Each school or library building must receive the eligible service at a cost of less than $3,600 annually and applicants may not average the cost of services across a number of schools or libraries. This exemption will become effective in funding year 2015. As explained, applicants may purchase services with a

multi-year contract, such as a two-year term, but we will not make multi-year commitments. Applicants will therefore still be required to file an FCC Form 471 in the second year of the service.

188. We recognize that competitive bidding is an essential component of the E-rate program. At the same time, the record supports a finding that administrative costs associated with the Commission's competitive bidding rules and requirements may deter program participation by entities requesting low-dollar Internet access services. We are particularly concerned that smaller schools and libraries may not be purchasing high-speed Internet connectivity through the E-rate program due to these administrative costs. Consistent with the goals we adopt today to increase broadband and streamline the administrative process, we expect this limited exemption to competitive bidding will encourage additional bandwidth purchases and increased program participation. This exemption is likely to be particularly attractive to small applicants that face a disproportionate administrative burden from the competitive bidding process and encourage these entities to increase bandwidth speeds in the short term. Moreover, the bandwidth speeds required to qualify for this program are consistent with the goals we have outlined in this Report and Order, albeit typically for ''best efforts'' class services rather than dedicated connections. We believe that such ''best efforts'' service will frequently be sufficient for smaller entities with fewer students or patrons or in rural areas where fiber has not been deployed. For example, ALA notes that ''[o]ver half of all rural libraries have internet speeds of 4 Mbps or less . . . and only 17 percent of rural libraries have speeds greater than 10 Mbps.'' As of 2012, only nine percent of all libraries have speeds greater than 100 Mbps. For these entities and others, this exemption will provide a simple and efficient method to purchase business-class Internet access and quickly increase connectivity speeds.

189. With respect to their purchase of such services, applicants will be exempt from the competitive bidding rules under § 54.503(a) through (c), the certification requirement under § 54.504(a)(1)(vi), and the corresponding rule on the selection of a provider of eligible services under § 54.511(a) of our rules. Such applicants will use the FCC Form 471 to certify to their purchase of an eligible commercially available business-class Internet access service. We remind applicants of their obligation to comply with record retention rules when purchasing eligible Internet access. We also caution applicants and vendors that our gift rules will continue to apply even where a purchase arrangement is exempt from the competitive bidding process.

190. We find that purchasing high-speed Internet access with at least 100 Mbps/10 Mbps for no more than a pre-discount price of $3,600 is a cost-effective service offering, particularly in light of the benefits for smaller schools and libraries. In order to ensure that the benefits of removing the administrative burden continue to outweigh the costs of exempting competitive bidding, we also delegate authority to the Bureau to lower the annual cost of broadband services or raise the speed threshold of broadband services eligible for this competitive bidding exemption, based on a determination of what rates and speeds are commercially available and will meet the needs of at least some subset of schools and libraries. We decline to adopt a *de minimis* exemption for other eligible services at this time, but we keep the record open on this issue and look forward to learning from the experience of applicants who take advantage of the exemption from competitive bidding that we adopt today.

4. Easing the Signed Contract Requirement

191. In order to further increase the efficiency of the administrative process and simplify the application process for applicants, we revise § 54.504(a) of our rules to require that applicants have a signed contract or other legally binding agreement in place prior to submitting their FCC Forms 471 to USAC. The rule had required applicants to submit their FCC Forms 471 requesting support for services ''upon signing a contract for eligible services.'' While this rule ensures that applicants have negotiated and agreed to contractual terms prior to the filing of an FCC Form 471 requesting support for E-rate services, there are many instances where applicants have an agreement in place with their service provider or are already receiving services, but have difficulty obtaining signatures prior to the submission of their FCC Forms 471. Although we received no comments on this issue, in many instances, applicants have sought a waiver of this rule after having failed to obtain signatures prior to the submission of their FCC Forms 471. The Commission has consistently waived the requirement of a signed contract for petitioners who have demonstrated that they had a legally binding agreement in place for the relevant funding year. Rather than requiring applicants to seek such waivers, we now revise our rules to require applicants to have a signed contract or other legally binding agreement in place prior to filing their FCC Forms 471. This revision to our rules will be effective beginning in funding year 2015.

192. Applicants and service providers should understand that, although no longer required, a signed contract will constitute the best evidence that a legally binding agreement exists. Absent the existence of a signed contract, in determining whether a legally binding agreement is in place, we direct USAC to consider the existence of a written offer from the service provider containing all the material terms and conditions and a written acceptance of that offer as evidence of the existence of a legally binding agreement. For example, a bid for the services that includes all material terms and conditions provided in response to an FCC Form 470 would be sufficient evidence of an offer and an email from the applicant telling the service provider the bid was selected would suffice as evidence of acceptance. In addition, after a commitment of funding, an applicant's receipt of services consistent with the offer and with the applicant's request for E-rate support will also constitute evidence of the existence of a sufficient offer and acceptance. A verbal offer and/or acceptance will not be considered evidence of the existence of a legally binding agreement. Revising the rule in this manner will provide applicants with sufficient flexibility to finalize their service agreements after filing their FCC Forms 471 while protecting the Fund against waste, fraud, and abuse. We also remind parties that they must retain all relevant documents for 10 years, consistent with our revised document retention rules.

5. Requiring Electronic Filing of Documents

193. We also agree with commenters who suggest that, in order to streamline the administration of the program, we should require E-rate applicants and service providers to file all documents with USAC electronically and USAC to make all notifications electronically, and therefore direct USAC, in consultation with the Bureau and OMD, to phase in such a requirement over the next three funding years. As the Commission noted in the *E-rate Modernization NPRM,* the electronic submission of FCC forms will improve the efficiency of submitting and processing applications, resulting in faster commitments and disbursements of E-rate funding. Furthermore, electronic filing will reduce the

program's administrative costs because USAC will not have manually entered data into its electronic system from paper submissions. Electronic filing will result in fewer errors on forms and other communications between USAC and applicants and service providers. Therefore, beginning in funding year 2017, we will require the submission of all filings and notifications electronically.

194. Some commenters argue that E-rate applicants and service providers should have the option of filing paper copies. We recognize that applicants vary widely in connectivity, technical resources and administrative resources, and a limited exemption to our mandatory electronic filing requirement would allow applicants and USAC to reap many of the benefits of electronic filing while allowing the program to respond to the needs of all applicants and service providers. We will therefore allow applicants who can demonstrate that they have insufficient resources to make electronic filings to file paper copies of applications and other documents. We direct the Bureau and OMD, working with USAC, to determine the circumstances under which applicants may be exempt from this mandatory electronic filing requirement and the process for applicants to seek permission to file paper copies of documents.

6. Enabling Direct Connections Between Schools and Libraries

195. In the interest of promoting access to high-speed broadband connections in the simplest and most efficient manner possible, we take action consistent with a suggestion made by the ALA, and supported by other commenters, that we allow rural schools and libraries eligible for E-rate support to establish direct connections for the purpose of accessing high-speed broadband services. As ALA explains, in many rural communities, a library with low bandwidth may be in close proximity (e.g., across the street) to a school with significantly higher bandwidth and could be easily added to the school WAN. We find that allowing these connections will afford some schools and libraries that presently lack access to high-speed broadband the opportunity to quickly and efficiently benefit from such connections.

196. We recognize that it will likely be necessary to waive some of our rules to allow E-rate support for such connections. However, the record is not fulsome enough for us to determine with certainty what rules will need to be waived for each particular direct connection project. We therefore encourage applicants to file waiver requests for the purpose of seeking E-rate support for such direct connections. We also direct the Bureau to expeditiously consider such waiver requests and, as appropriate, to waive our rules, as is necessary, to grant such requests, including the rule that would otherwise require both the school and the library to apply for E-rate support. We further direct the Bureau to report back to us on any such projects so that we may consider whether to amend our rules in the future to allow for such projects.

B. Simplifying Discount Rate Calculations

197. In the interest of making the E-rate application process and other E-rate processes fast, simple and efficient, we adopt four changes to the procedures for applicants to use in calculating their E-rate discounts. First, we require school districts to calculate and use district-wide discount rates for each application, thus eliminating the need to calculate different discount rates depending on which schools in a district are receiving services. Second, we modernize our definitions of ''rural'' and ''urban'' for purposes of determining applicants' discount rates. Third, we provide direction on how schools and school districts that receive funding under the new community eligibility provision (CEP) of the United States Department of Agriculture's (USDA) National School Lunch Program (NSLP) should calculate their E-rate discount rates. Finally, in order to protect the program against waste, fraud and abuse, we also direct USAC to require schools that calculate discount eligibility based on projections from school-wide surveys to base their E-rate discount rate only on the surveys they actually collect.

1. Adopting District-Wide Discount Rates

198. Consistent with our goal of making the E-rate application process and other E-rate processes fast, simple and efficient, we adopt the proposal in the *E-rate Modernization NPRM* to amend our rules to require each school district to calculate and use a single district-wide discount rate, rather than calculating and using building-by-building discount rates. This requirement will be effective beginning with funding year 2015. The record demonstrates that E-rate applicants find the current building-by-building discount calculation approach to be confusing, time-consuming, and fraught with the potential for errors. It is also a significant source of delay in USAC's application review process. We agree with commenters that adopting a district-wide discount rate will simplify and streamline the E-rate application process for applicants as well as USAC, while creating a more equitable system of determining the discount schools and libraries should receive for eligible services.

199. Requiring the use of a district-wide discount ensures the E-rate program provides higher discount rates for higher poverty school districts, while more closely matching the E-rate funding mechanism to the actual accounting practices and organizational structure of school districts. Individual schools within a district do not have their own local taxing authority nor do they generally have a budget that is legally separate from the district's budget. Moreover, the tax base of a district is the entire district population, not just the population associated with a subset of schools. While individual schools within a district may have more or fewer student eligible for NSLP, school districts develop consolidated budgets and allocate resources to support comprehensively all of the district's students. As such, we find that it is more appropriate to gauge a district's relative need for funding based on its entire student population.

200. The record demonstrates the many benefits of adopting a district-wide discount. For example, districts will no longer need to complete multiple steps to calculate the appropriate discounts for each building. Districts will also no longer need to file separate FCC Forms 471 for different combinations of schools that produce different discount level requests. Also, by using a district-wide discount, districts will no longer have to make difficult determinations regarding non-instructional facilities (NIFs). For example, adopting a district-wide discount approach will eliminate the confusing and possibly misleading calculation for a NIF with a classroom that requires the applicant to rely on a snapshot of students on a single day for the specific discount. Consortia applications will also be simpler and more equitable since each member of the consortium, whether an individual school or an entire district, will use the discount level for the district in which it is located, calculated on a district-level basis.

201. The record also demonstrates that a district-wide approach will reduce the administrative burden on USAC by removing the need to identify and verify each school's discount rate. Commenters note that associated USAC efforts to validate the calculation are

time-consuming. Reducing the burden of verifying each school's discount rate should speed the review process, and therefore help speed funding decisions to the benefit of all applicants.

202. Modifying our rules so that schools calculate a district-wide discount rate should also benefit libraries, which already use the district-wide discount rate of the school districts in which they are located. We anticipate libraries will benefit from this change because school districts will have to determine their district-wide discount rates to submit their FCC Forms 471 and thus libraries should have an easier time getting that information in a timely fashion from the relevant school districts.

203. Several commenters express concern that a district-wide discount calculation could deprive schools and libraries in higher poverty neighborhoods of internal connection funding. However, the revisions we make in this Report and Order to funding internal connections will provide predictable support for internal connections for all schools and libraries, and provide a greater discount for higher poverty school districts and the libraries located in those school districts.

204. School districts rarely purchase broadband on a school or neighborhood basis but instead buy on a larger scale. Cost efficiencies and budgeting realities result in school districts purchasing telecommunications and Internet services on a district-wide basis or in geographic areas within that district that align with service provider availability. Although commenters also express concern that school districts will be unable to target E-rate resources to schools and libraries in lower-income neighborhoods if a district-wide discount calculation is in place, the Commission's decision to adopt a district-wide discount will not affect school districts' ability to apply for funding based on the connectivity needs of individual schools. We also take this opportunity to remind school districts that they are under an obligation to ensure ''that the most disadvantaged schools and libraries that are treated as sharing in the service receive an appropriate share of benefits from those services.''

205. In light of the benefits to school districts and libraries of adopting a district-wide discount, we revise § 54.505(b)(4) of our rules to require school districts to calculate their E-rate discounts by: Dividing the total number of students in the district eligible for NSLP by the total number of students in the district and comparing that single figure against the discount matrix to determine the school district's discount rate for E-rate supported services. All public schools and libraries within that public school district will receive the same discount rate. For the sake of simplicity, library systems that have branches or outlets in more than one public school district should use the address of the central outlet or main administrative office to determine which public school district the library system is in, and should use that public located in school district's discount rate when applying as a library system or on behalf of individual libraries within that system.

206. In addition, our adoption of a district-wide discount allows us to permit applicants to add schools within their districts that were inadvertently omitted from a district's E-rate funding applications even post-commitment. Our rules currently require schools and libraries to list on their FCC Forms 471 every entity that will receive E-rate supported services under that application. Even when a school district is intending to use the requested service to serve all the schools in its district, it sometimes inadvertently omits an eligible school from the application. The district has the opportunity to correct such an omission if it catches the error when it receives from USAC its Receipt Acknowledgement Letter (RAL), which summarizes the district's application and funding requested. However, if it does not notice the error by the time its funding commitment letter is issued, but it is later discovered by USAC as part of a post-commitment review—for example, an audit or other assessment—that eligible school technically is not allowed to receive E-rate funding, under the current procedures, even though it is an eligible school and the services were meant to serve the entire district. This procedure exists because omission of one school from a discount rate calculation can change the discount the district receives, as each school's discount is calculated separately. With our move to a district-wide discount calculation, districts will be including all the students from all their schools in their discount calculation. As such, we find that an applicant can add eligible schools within its district that were inadvertently omitted from its applications, even after the deadline for making changes to the FCC Form 471.

207. We recognize that some schools use a federally approved alternative mechanism, such as a survey alternative, to determine their discount percentage. We do not anticipate any negative ramifications to districts with any such schools because, regardless of the method a school district uses to establish its discount, it must determine a district-wide percentage of students eligible for the free and reduced lunch program from the total student population.

208. While we do not specifically define the term ''school district,'' an applicant should determine its discount using all E-rate eligible students in schools that fall under the control of a central educational agency. Commenters note that private and charter schools generally operate independently of the main public school district and are individually responsible for their finances and administration. We therefore agree with commenters that these educational entities and local public school districts should calculate their discounts separately if not affiliated financially or operationally with a school district. Independent charter schools, private schools, and other eligible educational facilities that are seeking support for more than one school building should factor all students in facilities under the control of their central administrative agency into the discount calculation.

209. Consortia applications will continue to use a simple average of all members' discounts to calculate the overall consortium discount, but will now be required to use each member's district-wide discount. Consistent with current Commission rules, we require that for services used only by an individual institution, the applicable discount rate for the services will be determined based on the applicable district-wide discount rate for that individual school or library, not the consortium's overall discount rate. We realize that there will be shared services that cannot, without substantial difficulty, be identified with particular users or be allocated directly to particular entities. In those situations, we will continue to require the state, school district, or library system to ''strive to ensure'' that each school and library in a consortium receives the full benefit of the discount on shared services to which it is entitled. Using the district-wide average, should help prevent consortia applications from being held up due to changes in building status, such as school closings and consolidations, so long as there is no indication of waste, fraud or abuse at the invoicing stage. We realize, however, that using a district-wide average in place of the individual consortium member discount still does not provide a ''weighted average'' for consortia members that better indicates the discount to which members would have been entitled if they had applied

for E-rate services on their own. Therefore, we seek additional comment on a proposal to use a weighted average in the accompanying FNPRM.

2. Updating the Definition of ''Rural''

210. In keeping with our commitment to ensuring that rural schools and libraries are able to afford E-rate supported services, we adopt the U.S. Census Bureau (Census) definitions of rural and urban for the purpose of determining whether an E-rate applicant qualifies for an additional rural discount. In so doing, we adopt one of the approaches the Commission proposed in the *E-rate Modernization NPRM* to modernizing the definitions of ''rural'' and ''urban'' in § 54.505(b)(3) of our rules. While many commenters supported an alternative proposal to adopt the U.S. Department of Education's National Center for Education Statistics (NCES) definition for determining whether a school is rural, we find that using Census data avoids several administrative challenges that would arise were we to adopt the NCES classification system. For instance, commenters noted that there can be delays in obtaining NCES codes for new schools and some E-rate-eligible entities do not have an NCES designation. Using Census data ensures that all E-rate-eligible schools and libraries, even those without an NCES code (or the library-equivalent FCES code) can readily determine their urban/rural status. We also note that the Census definition fully overlaps with the geography defined by NCES as ''rural.''

211. Our current definition of ''rural'' for purposes of the E-rate program is outdated. By contrast, the Census data is relatively new and, the urban boundaries are adjusted annually to remain current. The Census definition classifies a particular location as rural or urban based on population density and geography, and other criteria involving non-residential development. For the 2010 Census, the Census Bureau defined urban areas as the densely settled core of census tracts or blocks that met minimum population density requirements (50,000 people or more), along with adjacent territories of at least 2,5000 people that link to the densely settled core. ''Rural'' encompasses all population, housing, and territory not included within an urban area. Therefore, beginning with funding year 2015, schools and libraries located in areas that are not located in urban areas, as defined by the most recent decennial Census, will be considered rural for the purposes of the E-rate program. We direct USAC to post a tool on its Web site that will allow schools and libraries to obtain information regarding whether they are classified as urban or rural under the new definition. We note that the Census Bureau already offers a tool on its Web site that provides the urban/rural status of any U.S. address.

212. In the *E-rate Modernization NPRM,* we sought comment on how to treat school districts and library systems with a combination of rural and urban schools and libraries. We conclude that any school district or library system that has a majority of schools or libraries in a rural area that meets the statutory definition of eligibility for E-rate support will qualify for the additional rural discount. This approach mirrors the methodology used by NCES to determine whether a school district is urban or rural and is supported by commenters in the record. This approach is also consistent with the method the FCC uses in the rural health care program context. We further direct USAC to take steps to minimize the burden of reporting rural or urban classification in conjunction with the requirement to phase in all-electronic filing over the next three years.[1] For example, USAC should ensure that the FCC Form 471 allows applicants to certify that the location of the schools or libraries listed have not changed from the previous year's filing, or does not require applicants to provide classification data in cases where the applicant's status as ''urban'' or ''rural'' does not affect their discount rate.

3. Addressing the NSLP Community Eligibility Provision

213. Consistent with our goal of making the E-rate application process and other E-rate processes fast, simple and efficient, beginning with funding year 2015, we will allow schools and school districts that are participating in the NSLP CEP to use the same approach for determining their E-rate discount rate as they use for determining their NSLP reimbursement rate. Specifically, schools utilizing the CEP shall calculate their student eligibility for free or reduced priced lunches by multiplying the percentage of directly certified students by the CEP national multiplier. This number shall then be applied to the discount matrix to determine a school district's discount for eligible E-rate services. Libraries' discount percentages will continue to be based on that of the public school district in which they are physically located. Schools participating in the CEP will not be considered to have a greater than 100 percent student eligibility for purposes of determining the district-wide discount rate for E-rate services, priority access to category two services, or for any other E-rate purposes.

214. Traditionally, schools that participate in the NSLP collect, on an annual basis, individual eligibility applications from each of their students seeking free or reduced-priced lunches. Schools use the NSLP eligibility data for many other purposes, including calculating an applicant's E-rate discount rate. However, schools increasingly have the option of participating in the CEP, which neither requires nor permits schools to collect individual student eligibility information. A school is eligible for community eligibility if at least 40 percent of its students are ''directly certified,'' i.e., identified for free meals through means other than household applications (for example, students directly certified as receiving benefits from the Supplemental Nutrition Assistance Program). To compensate for low-income families not reflected in the direct certification data, schools apply a standard, national factor (multiplier), currently set at 1.6, to their identified student population in order to determine the total percentage of meals for which they will be reimbursed by the USDA. Schools are required to renew their direct certification numbers once every four years. If, during the four-year cycle, a school's percentage of identified students increases, the school may use the higher percentage in determining USDA reimbursement. If the percentage of identified students decreases, the school may continue to use the original percentage for the remainder of the four-year eligibility period.

215. We agree with commenters who recommend that we allow schools and school districts that participate in the CEP to determine their discount rate for E-rate by treating the number of directly certified students multiplied by the national multiplier as the percentage of students eligible for NSLP. The record demonstrates that the CEP provides an estimate of the percentage of students eligible for free and reduced-price meals in participating schools comparable to the poverty percentage that would be obtained in a non-CEP school, and does not unfairly inflate E-rate discounts on eligible services. As E-Rate Central notes in its comments, schools and school districts electing the CEP already have high low-income populations and most are already at the current 90 percent discount level. Thus, a multiplier that raises the percentage of students eligible for NSLP from, for example, an 81 percent to 89 percent level, would have

[1] *See supra* section VI.A.5.

no effect on the school's E-rate discount rate.

216. Allowing schools and school districts that participate in the CEP to use their CEP data to determine eligibility for E-rate support will also, as the West Virginia Department of Education explains, help to alleviate confusion and additional burdens on schools and school districts by eliminating the need for additional paperwork and administrative costs. Moreover, by relying on a USDA change intended in large part to reduce paperwork and other burdens on schools, this decision is consistent with our other measures taken in this Report and Order to alleviate applicant administrative burdens. Additionally, as the State E-rate Coordinators' Alliance notes, permitting the use of the CEP data for E-rate discount eligibility provides a predictable means of calculating the discount level for new CEP schools.

217. We realize that the USDA has the statutory authority to change the multiplier to a number between 1.3 and 1.6, and to apply a different multiplier for different schools or local educational agencies beginning on or after July 1, 2014. To simplify schools' administrative burden, we will require CEP applicants to use the same multiplier under the E-rate program for determining their poverty level as required by the USDA for their reimbursement under the CEP. Unlike applicants to the current E-rate program, CEP applicants will not be required to calculate their discount rate every year, but for clarity and administrative ease, shall use the calculation that they use during the course of a four-year CEP cycle. However, if an applicant adjusts that calculation for purposes of the CEP, it must also adjust it for purposes of E-rate support.

4. Modifying the Requirements for Using School-Wide Income Surveys

218. We also direct USAC to revise its procedures to require schools and school districts seeking to calculate their E-rate discounts by using a school-wide income survey to base their E-rate discount rate only on the surveys they actually collect beginning with funding year 2015. Under the E-rate program, instead of using NSLP data, schools and school districts can choose to use a federally approved alternative mechanism, such as a survey, as a proxy for poverty when calculating E-rate support. Until now, a school using a school-wide income survey needed to collect surveys from at least 50 percent of its students. It could then calculate the percentage of NSLP-eligible students from the returned surveys, and project that percentage of eligibility for the entire school population, for purposes of determining its discount rate under the E-rate program. We agree with New Hope that allowing schools to use an alternative method for determining eligibility is essential. However, we are concerned that permitting schools to project the number of NSLP-eligible students may provide an artificially higher eligibility percentage. Therefore, in order to help protect against incentives to artificially inflate eligibility percentages, beginning with funding year 2015, schools electing to use a school wide income survey to determine the number of students eligible for NSLP must calculate their discount based only the surveys returned by their students that demonstrate that those students would qualify for participation in the free and reduced school lunch program to determine the school's discount level. For example, a school with 100 students that distributes and collects 60 surveys showing that 52 students meet the eligibility criteria for the free and reduced lunch program would be considered to have a 52 percent eligibility percentage and therefore qualify for an 80 percent discount rate.

219. We considered the proposal offered by the Alaska Department of Education & Early Development to allow projections based on a 75 percent return rate. We agree that would be more accurate than the current 50 percent return rate. But, on balance, we find that it is more equitable to base the discount rate for schools that conduct surveys on the actual number of students whose survey responses demonstrate that they meet the NSLP criteria. We thus direct USAC to amend its procedures to require actual survey results for determining a school's NSLP-eligibility from the surveys. We also take this opportunity to remind applicants that, upon request from any representative (including any auditor) appointed by a state education department, USAC, the Commission, or any local, state or federal agency with jurisdiction over the entity, they are required to provide copies of all returned surveys supporting their discount eligibility.

C. Simplifying the Invoicing and Disbursement Processes

220. Consistent with our goal of reducing the administrative burdens on applicants and service providers, we take several measures related to the invoicing process to simplify and expedite funding disbursement. First, we revise our rules to allow an applicant that pays the full cost of the E-rate supported services to a service provider to receive direct reimbursement from USAC. Second, we adopt rules codifying USAC's existing invoice filing deadline, while allowing applicants to request and automatically receive a single one-time 120-day extension of the invoicing deadline. Taken together, these modifications will yield an invoicing process that is simpler and clearer, while still providing protections against waste, fraud, and abuse.

1. Allowing Direct Invoicing

221. In response to widespread support in the comments, we revise §§ 54.504 and 54.514 of our rules to allow an applicant that pays the full cost of the E-rate supported services to a service provider to receive direct reimbursement from USAC, beginning with funding year 2016. We agree with the commenters who argue this change would improve the administrative process by eliminating unnecessary invoicing steps, which in turn would speed disbursements to schools and libraries. We also agree with applicants and service providers who argue that revising the invoicing process to allow applicants to receive direct reimbursement from USAC is a common-sense approach to simplifying the administration of the E-rate program. Further, we agree with those commenters who argue that providing an option for reimbursing schools and libraries that have paid upfront for E-rate supported services is consistent with section 254 of the Act. As the courts have found, section 254 of the Act gives the Commission broad discretion in administering the E-rate program. Nothing in the Act prevents the payment of universal service funds directly to applicants in the schools and libraries program. The only requirement in the Act regarding reimbursement is that the service provider is made whole, either through an offset against their contribution obligations, or using the Commission's universal service mechanism. We find that the revised Billed Entity Reimbursement (BEAR) process we adopt today provides sufficient documentation to demonstrate that the applicant has fully paid for the requested services and is entitled to direct reimbursement from USAC, thereby satisfying Congress's statutory requirement.

222. Under the current E-rate program's Billed Entity Applicant Reimbursement (BEAR) process, if an applicant agrees to pay its service provider in full before USAC has reimbursed the provider for E-rate supported services, the applicant must submit an FCC Form 472 (BEAR form)

to USAC but only after getting approval from the service provider. After making a funding commitment and receiving invoices for eligible services, USAC will then process payments to the service provider, which in turn passes funds through to the applicant. The BEAR process requires significant coordination between the applicant and service provider for the applicant to receive payment. If a service provider is unable to process a BEAR form because, for example, the service provider has gone out of business or has filed for bankruptcy protection prior to the applicant submitting the BEAR form, another service provider (the Good Samaritan) can agree to serve as the conduit and receive payment from USAC for purposes of passing the payment through to the applicant. By removing the requirement that E-rate funds pass through the service provider to the applicant, we remove the need for a Good Samaritan procedure.

223. This change we adopt today will only affect applicants that avail themselves of the BEAR process and elect to pay the entire cost of the discounted service in advance of USAC's reimbursement. Some commenters express concern that applicants should continue to have the option of the SPI process, paying only their portion of the price of eligible services and requiring the service provider to wait for payment from USAC for the remaining portion of the price of the eligible services. We take this opportunity to reiterate that E-rate applicants continue to have the option of electing BEAR or SPI reimbursement. Thus, when the applicant pays only the discounted cost of the services directly to the service provider through the SPI process, the service provider will continue to file a SPI form with USAC to receive reimbursement.

224. Under the revised BEAR process we adopt today, an applicant filing an FCC Form 471 and selecting reimbursement through the BEAR process will be required to have on file with USAC current and accurate information concerning where payments should be sent. In accordance with the Debt Collection Improvement Act of 1996 (DCIA), all universal service disbursements must be made by electronic funds transfer. Accordingly, schools and libraries that choose to utilize the BEAR process must provide USAC with bank account information from a bank that can accept electronic transfers of money. We expect there will be additional information that USAC will also need to process payment to applicants, and we direct the Bureau and OMD to work with USAC to collect from applicants that use the new BEAR process all the information USAC will need to process such payments while protecting the integrity of the program. Further, for purposes of program integrity, payments will not be made to consultants, but only directly to schools or libraries.

225. We direct the Bureau and OMD to work with USAC to implement the new direct reimbursement process. We recognize that the current FCC Form 472 requires a service provider to certify that: (1) It must remit the discount amount authorized by the fund administrator to the Billed Entity Applicant; (2) it must remit payment of the approved discount amount to the Billed Entity Applicant; and (3) it is in compliance with the rules and orders governing the schools and libraries universal service support program. Because service providers will no longer serve as a pass-through for payment, they will not be required to approve every FCC Form 472. However, the service provider certifications on the current FCC Form 472 are crucial for protecting the program against waste, fraud and abuse. We therefore revise § 54.504(f) of our rules by adding a paragraph requiring each service provider to certify on the FCC Form 473 that the service provider has complied with the E-rate invoicing rules and regulations. Specifically, the service provider will be required to certify that the bills or invoices that it provides to applicants are accurate, and that the services it provides are eligible for E-rate support.

2. Adopting Invoicing Deadlines

226. We also codify USAC's existing invoice filing deadline to allow applicants to request and automatically receive a single one-time 120-day extension of the invoicing deadline. Codifying the invoicing deadline will provide certainty to applicants and service providers. Providing certainty on invoicing deadlines will also allow USAC to de-obligate committed funds immediately after the invoicing deadline has passed, providing increased certainty about how much funding is available to be carried forward in future funding years. The invoice deadline extension rule will be effective beginning in funding year 2014.

227. As the Commission has explained, filing deadlines are necessary for the efficient administration of the E-rate program. We agree with commenters that the current invoice deadline—the latter of 120 days after the last day to receive service, or the date of the FCC Form 486 notification letter—provides the right balance between the need for efficient administration of the program, and the need to ensure that applicants and service providers have sufficient time to finish their own invoicing processes. We also agree that codifying the existing deadline provides certainty to program participants, while generally providing sufficient flexibility based on an applicant's or service provider's specific circumstances.

228. At the same time, we agree with commenters that there may be circumstances beyond some applicants' or service providers' control that could prevent them from meeting the 120-day invoice filing deadline. Therefore, we adopt a rule allowing applicants to seek and receive from USAC a single one-time invoicing extension for any given funding request, provided the extension request is made no later than what would otherwise be the deadline for submitting invoices: The latter of 120 days after the last day to receive service, or the date of the FCC Form 486 notification letter. By adopting such a rule, we eliminate the need for applicants and service providers to identify a reason for the requested extension and the need for USAC to determine whether such timely requests meet certain criteria, which will ease the administrative burden of invoice extension requests on USAC. In the interest of efficient program administration, USAC shall grant no other invoicing deadline extensions. Moreover, in considering waivers of our new invoicing rules, we find that it is generally not in the public interest to waive our invoicing rules, and therefore the Bureau should grant waivers of those rules in extraordinary circumstances.

229. In light of our codification of the invoice deadline, we direct USAC, working with OMD, to determine the appropriate de-obligation date for funds against which an invoice has not been received for a particular funding year, taking into account the existence of pending appeals, holds, investigations, and other matters. Our goal is to have USAC establish, working with OMD, a date on which the bulk of undisbursed funds from a given funding year can be de-obligated. By de-obligating those funding commitments, USAC will have greater certainty with respect to the amount of funds from past funding years that can be carried forward for future requests.

230. With respect to appeals or requests to USAC or the Commission seeking permission to submit invoices after USAC's invoicing deadline for earlier funding years, we direct USAC

and the Bureau to consider whether such requests were made in good faith and within a reasonable time period after the services were provided or whether other extraordinary circumstances exist that support such a request. In the *Canon-McMillan Order,* the Bureau established a precedent of granting relief to petitioners demonstrating good faith in complying with the invoicing deadline despite submitting very late invoices. At the same time the Bureau recognized that invoice filing deadlines are necessary for the efficient administration of the E-rate program and that as schools and libraries continue to participate in the E-rate program, participants should ''become more experienced with the invoice requirements of the program.'' Until now, USAC had allowed unlimited invoice extensions under certain circumstances, and the Bureau, acting on delegated authority, has been generous when deciding invoicing deadline appeals. As reflected in the rules we adopt today, we find that while USAC's procedures were reasonable in the past, firmer limits on invoicing extensions are required at this time. Therefore, with respect to invoicing deadlines for earlier funding years, absent extraordinary circumstances justifying the failure to timely submit invoices, we expect the Bureau and USAC to deny any requests or appeals seeking an invoicing deadline extension of more than 12 months after the last date to invoice.

D. Creating a Tribal Consultation, Training, and Outreach Program

231. As part of our overall effort to modernize the E-rate program, we take several actions today to raise the profile of the E-rate program and ensure that Tribal schools and libraries are able to participate effectively in the program. Specifically, we commit to enhance the Commission's Tribal consultation, training, and outreach, and we seek to gain a better understanding of the current state of connectivity among Tribal schools and libraries to enable the Commission to take steps that will reduce the digital divide and promote high-speed broadband connectivity to Tribal lands.

232. The Commission recognizes the historic federal trust relationship and responsibilities it has with federally recognized Tribal Nations. Accordingly, we have a longstanding policy of promoting Tribal self-sufficiency and economic development and have developed a record of helping to ensure that Tribal Nations and those living on Tribal lands obtain access to communications services. It is well documented that communities on Tribal lands have historically had less access to both basic and advanced forms of telecommunications services than any other segment of the U.S. population. We recognize that a digital divide persists and extends not only to residents of Tribal lands, but also to Tribal anchor institutions such as schools and libraries located on Tribal lands. Given the challenges many Tribal Nations face in lacking access to even basic services, we recognize the important role of universal service support and the E-rate program in helping provide telecommunications services to and on remote and underserved Tribal lands. We thus take these actions today to gain a better understanding of the current state of connectivity among Tribal schools and libraries and to empower Tribal Nations to meet the high-speed broadband needs of their schools and libraries.

233. *Consultation.* We find that more extensive government-to-government consultation with Tribal Nations is necessary to understand both the need for E-rate support on Tribal lands and how to successfully connect Tribal schools and libraries with modern high-speed communications. One benefit of consultation will be the opportunity to collect better data on the connectivity needs of Tribal schools and libraries. While some data was provided in response to the *E-rate Modernization NPRM,* we need to know much more about connectivity and the use of E-rate support on Tribal lands. In particular, we recognize the need for data on how E-rate has impacted connectivity on Tribal lands to date, which Tribal schools and libraries receive E-rate and for what uses, what services are available to those schools and libraries, what the price structure is on Tribal lands, what speeds are available and needed on Tribal lands, and where broadband infrastructure still is most needed. We recognize that, without Tribal-specific data, we cannot make the most informed decisions for provision of E-rate support to Tribal Nations.

234. Many Tribal commenters agree and advocate for the need to collect data to ensure that all schools and libraries, including Tribal schools and libraries, have affordable access to high-speed broadband that supports digital learning and educational mandates. NCAI also advocates for coordination with certain inter-Tribal organizations to collect the necessary data. We therefore delegate authority to the Office of Native Affairs and Policy (ONAP), in coordination with the Bureau and OMD, to conduct government-to-government consultation for the purpose of determining how best to gather data on current connectivity levels and help the Commission better determine the need for E-rate support among Tribal schools and libraries. We expect that ONAP's experience in working with Tribal Nations will inform their decisions on how best to conduct this consultation, in coordination with the Bureau and OMD. Our hope is that, by gaining a better understanding of the current state of connectivity among Tribal schools and libraries, we will be in a better position to more effectively meet the high-speed broadband needs of the Native Nations of the United States.

235. *Training.* We find that training tailored to the specific and often unique needs of Tribal schools and libraries is necessary to ensure that Tribal Nations are informed and empowered to participate fully in the E-rate program. In response to several Tribal-specific inquiries in the *E-rate Modernization NPRM,* commenters stressed the need to adopt E-rate program reforms that serve to increase access to high-speed broadband technologies for Tribal lands, specifically Tribal anchor institutions, and encouraged both rule changes and administrative changes. For example, NNTRC requested Tribal-specific training and outreach to ensure that Tribal schools and libraries are aware of the E-rate program and have at least a basic understanding of the E-rate process, services, and eligibility, all to ensure that Tribal Nations have equal access to participation in the E-rate program. The Confederated Tribes of the Colville Reservation stated that Tribal Nations are unable to fully benefit from the E-rate program due to a lack of available training on the program. Further, a 2011 study of Tribal libraries by the Association of Tribal Archives, Libraries, and Museums (ATALM) found that the top three barriers to Tribal library participation in the E-rate program are lack of awareness of the program, uncertainty about eligibility, and a complicated application process. This study found that, while 46 percent of Tribal libraries are the only source of free public Internet access in their communities, less than 5 percent of Tribal libraries benefit from the E-rate program (as compared to 51 percent of public libraries).

236. USAC currently conducts a series of applicant trainings during the fall of each year, usually located in large cities and focused on issues of general importance to E-rate applicants. As part of the training we adopt today, we envision that ONAP, in coordination with USAC, would help provide E-rate specific training to schools and libraries. We therefore direct USAC to work with ONAP to develop and provide Tribal-

specific E-rate training targeted to Tribal schools and libraries. We direct ONAP, in consultation with the Bureau and OMD to advise USAC on the most appropriate timing and mechanism to provide such training, outreach, and materials to Tribal schools and libraries. We also direct ONAP to coordinate with USAC to incorporate and distribute USAC E-rate training materials when mobilizing the Native Learning Lab.

237. *Outreach.* In conjunction with the training described, we direct USAC, in close coordination with and under the guidance of ONAP, the Bureau, and OMD, to create a formal Tribal liaison at USAC to assist with Tribal-specific outreach, training, and assistance. We expect that USAC's Tribal liaison will coordinate closely with ONAP, the Bureau, and OMD on all Tribal training initiatives. The Tribal liaison's responsibilities will require direct communication with Tribal schools and libraries throughout the E-rate process and will include helping to conduct and coordinate Tribal-specific trainings and training materials, initiating and responding to Tribal ''Helping Applicants To Succeed'' requests and visits, fielding questions from Tribal schools and libraries regarding the E-rate program and process, and attending national and regional Tribal conferences or meetings where Tribal school and libraries are present. The creation of this position at USAC and the required coordination with ONAP, the Bureau, and OMD, will further our goal of ensuring that Tribal schools and libraries can participate fully and effectively in the E-rate program.

E. Requiring Filing of Appeals With USAC

238. Consistent with our goal of streamlining the administration of the E-rate program and improving the E-rate appeals process, we revise § 54.719 of our rules to require parties aggrieved by an action taken by a division of USAC, including the Schools and Libraries Division, to first seek review of that decision by USAC before filing an appeal with the Commission. The standards for evaluating the merits of these appeals will be unchanged and affected parties will still have the right to seek Commission review of such decisions, as provided in the Commission's rules. This rule change will become effective 30 days after the publication of this Report and Order in the **Federal Register**.

239. Currently, any party may seek Commission review of an action taken by USAC without first seeking review of that decision by USAC. One result of the current system is a growing number of E-rate appeals with the Commission. While we have made a concerted effort to reduce the backlog of appeals, a backlog remains and we continue to receive numerous appeals on a monthly basis. The appeals backlog is further exacerbated by the fact that aggrieved parties often decline to seek review from USAC and appeal directly to the Commission.

240. We find that requiring parties to first file appeals of USAC decisions with USAC itself before seeking Commission review will improve efficiency in the appeals process. It will reduce the number of appeals coming to the Commission, and allow USAC an initial opportunity to correct any of its own errors, and to receive and review additional information provided by aggrieved parties without having to involve the Commission staff. We remind parties filing an appeal with USAC to follow USAC's appeals guidelines and provide USAC with all relevant information and documentation necessary for USAC to make an informed decision on an appeal. USAC cannot waive our rules; therefore parties seeking only a waiver of our rules are not governed by this requirement, but instead must seek relief directly from the Commission or the Bureau.

F. Directing USAC To Adopt Additional Measures To Improve the Administration of the E-Rate Program

241. We adopt a number of additional measures to ease the burden upon applicants, expedite commitments, and ensure that all applicants receive complete and timely information to help inform their decisions regarding E-rate purchases. In particular, we adopt a specific application review and funding commitment target for all category one funding requests as a performance measure in evaluating our progress towards this goal; continue to work on modernizing USAC's E-rate Information Technology (IT) systems; require the publishing of all non-confidential E-rate data in open, electronic formats; and direct USAC to make its communications simpler and clearer so that applicants and service providers will have no difficulty understanding the information and direction that USAC provides them.

1. Speeding Review of Applications, Commitment Decisions and Funding Disbursements

242. Many of the rule revisions we adopt today will help speed review of applications, funding commitment decisions and funding disbursements. In this proceeding, we received many comments complaining about the delay in receiving funding commitments. We recognize that those delays have real and substantial impacts on schools and libraries' willingness and ability to purchase high-speed broadband services. USAC, working closely with OMD, has already committed to overhaul its application review process for the current funding year 2014 and the initial results are impressive. As noted, by July 1, 2013, USAC had only committed approximately $181 million in support. By contrast, as of July 1, 2014, USAC has already committed approximately $1.22 billion in support. In 2013, USAC did not reach $1 billion in commitments until October.

243. We applaud the work that USAC and OMD have done in the last few months. Building on that momentum, we adopt a specific application review and funding commitment target for all funding requests as a performance measure in evaluating our progress toward meeting our goal of streamlining the administrative process. We believe that establishing a specific target will help to hold USAC further accountable for more quickly reviewing and issuing category one funding commitments in future funding years. We again remind applicants that failure to timely respond to requested information by USAC could delay the issuance of a commitment, and we therefore encourage applicants to respond expeditiously and completely to all information and documentation requests by USAC.

2. Modernizing USAC's E-Rate Information Technology Systems

244. We also direct USAC and OMD to continue to work on modernizing USAC's E-rate IT systems. Numerous commenters express frustration with USAC's E-rate IT systems, and recommend that USAC create an online portal with pre-populated information for returning applicants and service providers to reduce administrative burden and errors, and to provide applicants and service providers with easy access to historic information as well as information about the status of their funding and invoice requests.

245. OMD and the Bureau have already begun the process of working with USAC to modernize its E-rate IT systems. We recognize that this is a long-term project. We therefore direct OMD and the Bureau to continue USAC's IT modernization work, with a focus on easing the administrative burdens on E-rate applicants and service providers, while protecting against waste, fraud and abuse, and on collecting high-quality data that will assist us in measuring our progress

towards the goals we adopt today. We note that measuring progress towards our goals, particularly the first two goals, will require USAC to collect a wealth of data from applicants and service providers in a manner that will allow us the flexibility to manipulate and analyze that data in a variety of ways.

3. Requiring Open and Accessible E-Rate Data

246. We direct USAC to timely publish through electronic means all non-confidential E-rate data in open, standardized, electronic formats, consistent with the principles of the Office of Management and Budget's (OMB's) Open Data Policy. USAC must provide the public with the ability to easily view and download non-confidential E-rate data, for both individual datasets and aggregate data. We further direct USAC to design open and accessible data solutions in a modular format to allow extensibility and agile development, such as providing for the use of application programming interfaces (APIs) where appropriate and releasing the code, as open source code, where feasible. USAC's solutions must be accessible to people with disabilities, as is required for federal agency information technology. The solutions must also, on a going-forward basis, incorporate international standards and best practices for security and privacy controls.

247. The record supports USAC releasing E-rate data in as open a manner as possible so that the schools and libraries that receive support from the program and their associated service providers can track the status of their E-rate applications and requests for reimbursement and so that they and the public at large can benefit from greater program transparency and public accountability. Making non-confidential E-rate data open and accessible will allow members of the public to develop new and innovative methods to analyze E-rate data, which will benefit all stakeholders, including this Commission as we continue to improve the program. Releasing E-rate data in this manner should also enable greater integration with other datasets such as those maintained by NCES and those maintained by IMLS. This integration will create opportunities for new and innovative analyses about connectivity to and within our nation's schools and libraries.

4. Adopting Plain Language Review

248. We are concerned that many of USAC's standard communications are excessively lengthy and difficult to understand. Because the E-rate program has a wide range of large and small stakeholders, USAC should be particularly careful to communicate in a simple, direct, and user-friendly manner. Plain language is an essential tool for communicating information effectively to the public about decisions and benefits. We therefore direct USAC to work with OMD to implement a full review and revision, as appropriate, of USAC's most commonly used correspondence using plain language, before the beginning of funding year 2016. We find that this review and the improvement to USAC's communications that result will reduce applicant confusion and ensure parties have the information necessary to comply with or appeal USAC's decisions. These requirements will be effective beginning in funding year 2015.

G. Protecting Against Waste Fraud and Abuse

249. While we seek to modernize the E-rate program and ease the burdens upon applicants and service providers, we are extremely mindful of our commitment to ensuring the program's integrity by protecting against waste, fraud and abuse. We believe that proper documentation is crucial for demonstrating applicant and vendor compliance with E-rate rules, and for uncovering waste, fraud and abuse in the program, whether through compliance audits or investigations. Therefore, we revise our document retention requirements and compliance procedures and clarify that applicants must permit inspectors on their premises as described below.

1. Extending the E-Rate Document Retention Requirements

250. We revise § 54.516(a) of our rules to extend the document retention period from five to 10 years after the latter of the last day of the applicable funding year, or the service delivery deadline for the funding request. As the Commission explained in the *E-rate Modernization NPRM,* the current five year document retention requirement is not adequate for purposes of litigation under the False Claims Act (FCA), which can involve conduct that occurred substantially more than five years prior to the filing of a complaint. We recognize commenters' concerns that extending the mandatory document retention period to 10 years may create additional administrative burdens and incur document storage costs. However, we agree with the San Jacinto School District that electronic storage of documents can dramatically reduce these costs. We therefore strongly encourage schools, libraries, consortia, and service providers to take advantage of digital storage mechanisms. As the Commission did in both the *USF/ICC Transformation Order and FNPRM,* 76 FR 78384, December 16, 2011, and *Lifeline Reform Order,* 77 FR 12784, March 2, 2012, we conclude that the benefits to the integrity of the program outweigh the burdens of extending our document retention rules to 10 years. Our action thus ensures greater consistency across the various universal service programs.

251. We also modify § 54.516 of our rules to refer to ''schools, libraries and consortia'' rather than just ''schools and libraries,'' thereby providing clarity that all applicants (as well as all service providers) are required to comply with our document retention and other auditing rules.

2. Allowing Access for Inspections

252. To support E-rate compliance audits and enforcement investigations, we also revise § 54.516 to clarify that E-rate applicants and service providers must permit auditors, investigators, attorneys or any other person appointed by a state education department, USAC, the Commission or any local, state or federal agency with jurisdiction over the entity to enter their premises to conduct E-rate compliance inspections. Allowing auditors and investigative personnel to inspect an applicant's premises is necessary to ensure that the applicant is in compliance with E-rate rules. The list of entities entitled to appoint representatives to enter the premises of an applicant or service provider parallels the list of entities entitled to seek production of records from applicants and service providers.

VI. Delegation To Revise Rules

253. Given the complexities associated with modernizing the E-rate program, modifying our rules, and the other programmatic changes we adopt in this Report and Order, we delegate authority to the Bureau to make any further rule revisions as necessary to ensure the changes to the program adopted in this Report and Order are reflected in our rules. This includes correcting any conflicts between new and/or revised rules and existing rules as well as addressing an omissions or oversights. If any such rule changes are warranted the Bureau shall be responsible for such change. We note that any entity that disagrees with a rule change made on delegated authority will have the opportunity to file an

Application for Review by the full Commission.

VII. Procedural Matters

A. Final Regulatory Flexibility Analysis

254. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *E-rate Modernization NPRM* in WC Docket No. 13–184. The Commission sought written public comment on the proposals in the *E-rate Modernization NPRM,* including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

B. Need for, and Objectives of, the Proposed Rule

255. The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Specifically, under the schools and libraries universal service support mechanism, also known as the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, Internet access, and internal connections.

256. In July 2013, the Commission issued a Notice of Proposed Rulemaking seeking public comment on proposals to update the E-rate program to focus on 21st Century broadband needs of schools and libraries. Then, in February 2014, the Wireline Competition Bureau issued a Public Notice seeking focused comment on issues raised in the *E-rate Modernization NPRM.* In this Report and Order, the Commission adopts a number of the proposals put forward in the *E-rate Modernization NPRM* and discussed in the *E-rate Modernization Public Notice.*

257. This Report and Order continues the Commission's efforts to promote broadband access for schools and libraries. In it, we adopt goals and measures for the E-rate program to (1) ensure affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries, (2) maximize the cost-effectiveness of spending for E-rate supported purchases, and (3) make the E-rate application process and other E-rate processes fast, simple and efficient.

258. The rule changes we adopt support these goals and fall into three conceptual categories. First, we ensure affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries by providing more reliable and equitable funding for broadband without schools and libraries and by phasing down support for legacy services. Second, we maximize the cost-effectiveness of spending for E-rate supported purchases by increasing transparency in the purchasing process, encouraging consortium purchasing, and amending the lowest corresponding price (LCP) rule. Third, we make the E-rate application process and other E-rate processes fast, simple, and efficient by simplifying the application process; simplifying discount rate calculations; simplifying the invoicing and disbursement process; requiring filing of appeals with USAC; directing USAC to adopt additional measures to streamline the administration of the E-rate program; and protecting against waste, fraud, and abuse.

C. Summary of Significant Issues Raised by Public Comments to the IRFA

259. No comments specifically addressed the IRFA.

D. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply

260. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

261. Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

262. Small entities potentially affected by the proposals herein include eligible schools and libraries and the eligible service providers offering them discounted services.

263. *Schools and Libraries.* As noted, ''small entity'' includes non-profit and small government entities. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally ''a non-profit institutional day or residential school that provides elementary education, as determined under state law.'' A secondary school is generally defined as ''a non-profit institutional day or residential school that provides secondary education, as determined under state law,'' and not offering education beyond grade 12. For-profit schools and libraries, and schools and libraries with endowments in excess of $50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined for-profit, elementary and secondary schools and libraries having $6 million or less in annual receipts as small entities. In funding year 2007, approximately 105,500 schools and 10,950 libraries received funding under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these entities that would qualify as small entities under SBA's size standard, we estimate that fewer than 105,500 schools and 10,950 libraries might be affected annually by our action, under current operation of the program.

264. *Telecommunications Service Providers.* First, neither the Commission nor the SBA has developed a size standard for small incumbent local exchange services. The closest size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is

small if it has 1,500 or fewer employees. According to Commission data, 1,307 incumbent carriers reported that they were engaged in the provision of local exchange services. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Thus, under this category and associated small business size standard, we estimate that the majority of entities are small. We have included small incumbent local exchange carriers in this RFA analysis. A ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

265. Second, neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the Commission's 2010 Trends Report, 359 companies reported that they were engaged in the provision of interexchange services. Of these 300 IXCs, an estimated 317 have 1,500 or few employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that most providers of interexchange services are small businesses.

266. Third, neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the 2010 Trends Report, 1,442 CAPs and competitive local exchange carriers (competitive LECs) reported that they were engaged in the provision of competitive local exchange services. Of these 1,442 CAPs and competitive LECs, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive exchange services are small businesses.

267. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, we estimate that the majority of wireless firms are small.

268. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to the 2010 Trends Report, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. We have estimated that 261 of these are small under the SBA small business size standard.

269. *Common Carrier Paging.* As noted, since 2007 the Census Bureau has placed paging providers within the broad economic census category of Wireless Telecommunications Carriers (except Satellite). Prior to that time, such firms were within the now-superseded category of ''Paging.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior category and associated data. The data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, we estimate that the majority of paging firms are small.

270. In addition, in the *Paging Second Report and Order,* the Commission adopted a size standard for ''small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. The SBA has approved this definition. An initial auction of Metropolitan Economic Area (''MEA'') licenses was conducted in the year 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. A subsequent auction of MEA and Economic Area (''EA'') licenses was held in the year 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs, was held in 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses.

271. Currently, there are approximately 74,000 Common Carrier Paging licenses. According to the most recent Trends in Telephone Service, 291 carriers reported that they were engaged in the provision of ''paging and messaging'' services. Of these, an estimated 289 have 1,500 or fewer employees and two have more than 1,500 employees. We estimate that the majority of common carrier paging providers would qualify as small entities under the SBA definition.

272. *Internet Service Providers.* The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (e.g., cable and DSL ISPs), or over client-supplied telecommunications connections (e.g., dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. The latter are within the

category of All Other Telecommunications, which has a size standard of annual receipts of $25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, we estimate that the majority of ISP firms are small entities.

273. *Vendors of Internal Connections: Telephone Apparatus Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways.'' The SBA has developed a small business size standard for Telephone Apparatus Manufacturing, which is: all such firms having 1,000 or fewer employees. According to Census Bureau data for 2002, there were a total of 518 establishments in this category that operated for the entire year. Of this total, 511 had employment of under 1,000, and an additional seven had employment of 1,000 to 2,499. Thus, under this size standard, the majority of firms can be considered small.

274. *Vendors of Internal Connections: Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for firms in this category, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

275. *Vendors of Internal Connections: Other Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment).'' The SBA has developed a small business size standard for Other Communications Equipment Manufacturing, which is having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 503 establishments in this category that operated for the entire year. Of this total, 493 had employment of under 500, and an additional 7 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

276. Several of our rule changes will result in additional recordkeeping requirements for small entities. For all of those rule changes, we have determined that the benefit the rule change will bring for the program outweighs the burden of the increased recordkeeping requirement. Other rule changes decrease recordkeeping requirements for small entities.

1. Increase in Projected Reporting, Recordkeeping and Other Compliance Requirements

277. *Compliance burdens.* All of the rules we implement impose some burden on small entities by requiring them to become familiar with the new rule to comply with it. For many new rules, such as those codifying invoicing deadlines, increasing price transparency, phasing down support for voice services, eliminating support for telephone features, and reducing the maximum discount rate for internal connections, the burden of becoming familiar with the new rule in order to comply with it is the only burden the rule imposes.

278. *Connectivity metrics.* The metrics we adopt will require applicants to provide data on connectivity, demand costs and LAN/WLAN capacity. The benefit collection of this data will provide us by giving us a better understanding of how the E-rate program is accomplishing its goals outweighs the burden it will impose on small entities.

279. *Internal connections funding.* Our rule change to provide more funding for internal connections will increase recordkeeping burdens on small entities who previously did not apply for funding for internal connections because funding was not available to them. The benefit of receiving funding for internal connections clearly outweighs the burden on applying for this funding.

280. *Preferred master contracts.* Our rule change to allow the Bureau to designate preferred master contracts that applicants would be required to include in their bid evaluations even if the master contract was not submitted as a bid would increase recordkeeping requirements on small entities because it would require many small E-rate applicants to consider an additional bid in their evaluations. The significant savings the Fund and applicants would realize from including preferred master contracts in bid evaluations justifies this added burden.

281. *Price transparency.* We allow applicants to opt out of public disclosure by USAC of their E-rate pricing data if such disclosure would violate a state law, local rule, or an existing long-term contract by certifying and citing to the specific statute, rule or other restriction barring publication of pricing data. Making this certification will increase recordkeeping requirements for those applicants who wish to opt out, but allowing the certification is necessary to ensure consistency between E-rate rules and state and local laws.

282. *Determining rurality for school districts.* Requiring applicants to determine whether a majority of their schools are in rural areas increases recordkeeping requirements. The benefit to rural applicants of receiving an additional discount justifies this additional burden.

283. *Document retention.* Extending the retention period from five to 10 years after the latter of the last day of the applicable funding year, or the last day of delivery of services for that funding year increases recordkeeping requirements and costs for E-rate recipients and service providers. Our interest in combatting waste, fraud and abuse by litigating matters under the False Claims Act, which can involve conduct that relates back substantially

more than five years, justifies this additional burden.

284. *Electronic filing.* Although filing electronically is easier than filing on paper for most applicants, we recognize that requiring electronic filing may impose additional burdens for applicants who are unfamiliar with the electronic filing process. Nonetheless, the efficiencies for USAC that requiring electronic filing creates outweigh the burden on applicants.

285. *Maximum term for multi-year contracts.* Our requirement that contracts for E-rate supported services not exceed five years, which an exception permitting contracts for deployment of new fiber to schools or libraries to not exceed ten years, could increase reporting requirements for some applicants by requiring them to negotiate contracts more frequently than they otherwise would. Our interest in promoting cost-effective purchasing justifies this additional burden.

286. *Requiring filing of appeals with USAC.* Requiring applicants to first file appeals with USAC before appealing decision to the Commission could increase recordkeeping requirements by requiring applicants who planned to appeal directly to the Commission to file an additional appeal before doing so. The benefit of reducing the Commission's E-rate appeal backlog outweighs this burden.

287. *Changes to ESL.* We recognize that the changes to focus the category two Eligible Services List (ESL) on broadband may require applicants to cost allocate newly-ineligible services. E-rate recipients have always been required to cost allocate ineligible components. In many instances, cost allocation should not be difficult because these services appear on separate line items on bills. Even when ineligible services do not appear as separate line items on bills, the savings to the program from these changes to the ESL outweighs the administrative burden of cost allocation for program participants.

2. Decrease in Projected Reporting, Recordkeeping and Other Compliance Requirements

288. *Focusing support on broadband.* Limiting internal connections support to routers, switches, wireless access points, internal cabling, wireless controller systems, data protection services, and the software supporting each of these components used to distribute high-speed broadband throughout school buildings and libraries will decrease recordkeeping requirements for small entities because they will no longer go through the application process for services that have been made ineligible.

289. *Simplified application process for multi-year contracts.* Our new procedure for funding commitments for multi-year contracts for priority one services that is no longer than five years will alleviate reporting burdens on small entities because, in many circumstances, applicants will only be required to submit an FCC Form 471 for the first year of a multi-year contract. For subsequent years, applicants will be permitted to use a streamlined application process.

290. *Eliminating technology plan requirements.* We eliminate the technology plan requirement for applicants seeking category two services, which will decrease recordkeeping requirements.

291. *Exempting certain low-dollar purchases from competitive bidding rules.* The exemption to our competitive bidding rules that allows E-rate applicants to purchase certain business-class Internet access reduces recordkeeping requirements related to the competitive bidding process. Although the requirement that applicants certify that they have purchased services that are eligible for an exemption imposes a minimal recordkeeping requirement, the overall effect of the rule change is a reduction in recordkeeping requirements.

292. *Preferred master contracts.* We also permit applicants to take services on a preferred master contract designated by the Bureau without filing an FCC Form 470. This reduces the burdens associated with filing an FCC Form 470 and conducting a bid evaluation.

293. *District-wide discount rates.* The requirement that applicants use a district-wide data to determine their discount rates will reduce reporting requirements because districts will no longer have to perform a discount rate calculation for each school within a district.

294. *Invoicing.* Applicants who submit a Billed Entity Application for Reimbursement (BEAR) Form may now receive reimbursement directly from USAC, rather than having the service provider serve as an intermediary. This alleviates reporting requirements on the service provider.

295. *Plain language review.* The plain language review of USAC's standard forms that we order make it easier for small entities to comply with our rules by reducing applicant confusion and ensuring that entities have the information necessary to comply with our rules.

3. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

296. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

297. This rulemaking could impose minimal additional burdens on small entities. We considered alternatives to the rulemaking changes that increase projected reporting, recordkeeping and other compliance requirements for small entities.

4. Alternatives Permitted

298. *Electronic filing.* To accommodate applicants who have insufficient connectivity or other administrative resources to file electronically with USAC, we permit an exception to our electronic filing requirement that allows those applicants to file applicants and other documents with USAC using paper.

299. *Document retention.* We encourage applicants to take advantage of electronic storage of documents to mitigate the additional expense our increase of the document retention requirement from five to 10 years imposes.

5. Alternatives Considered and Rejected

300. *Connectivity metrics.* The best source for obtain the data we need for connectivity metrics is applicants. Although we could obtain this data from service providers, it is less burdensome for an applicant to provide connectivity data for itself than it would be for a service provider to furnish it for all of its customers who receive E-rate support.

F. Report to Congress

301. The Commission will send a copy of this Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the SBREFA. In addition, the Commission will send a copy of the Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the

Report and Order and the FRFA (or summaries thereof) will also be published in the **Federal Register**.

G. Paperwork Reduction Act Analysis

302. This Report and Order contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the revised information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, the Commission previously sought specific comment on how it might further reduce the information collection burden on small business concerns with fewer than 25 employees.

H. Congressional Review Act

303. The Commission will include a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

304. For additional information on this proceeding, contact James Bachtell at (202) 418–2694 or Kate Dumouchel at (202) 418–1839 in the Telecommunications Access Policy Division, Wireline Competition Bureau.

VIII. Ordering Clauses

305. Accordingly, it is ordered, that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151–154, 201–205, 254, 303(r), and 403, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 1302, this Report and Order is Adopted effective September 18, 2014, except to the extent expressly addressed below.

306. It is further ordered, that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, 303(r), and 403, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 1302, Part 54 of the Commission's rules, 47 CFR part 54, is Amended as set forth below, and such rule amendments shall be effective September 18, 2014 of the Report and Order in the **Federal Register**, except for §§ 54.502(b)(2) through (3) and (5), 54.503(c), 54.504(a) and (f), 54.507(d), 54.514(a), 54.516(a) through (c), and 54.720(a), which are subject to the Paperwork Reduction Act and will become effective upon announcement in the **Federal Register** of OMB approval of the subject information collection requirements; and except for amendments in §§ 54.500, 54.501(a)(1), 54.502(a), 54.507(a) through (c) and (e) through (f), 54.516, and 54.570(b) and (c), which shall become effective on July 1, 2015; and amendments in §§ 54.504(f)(4) and (f)(5) and 54.514(c), which shall become effective on July 1, 2016.

307. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Shall Send a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

Subpart A—General Information

■ 1. The authority citation for part 54 continues to read as follows:

Authority: Sections 1, 4(i), 5, 201, 205, 214, 219, 220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Communications Act of 1996, as amended; 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

■ 2. Amend § 54.5 by revising the definition of ''Internet access'' to read as follows:

§ 54.5 Terms and definitions.

* * * * *

Internet access. ''Internet access'' includes the following elements:

(1) The transmission of information as common carriage; and

(2) The transmission of information as part of a gateway to an information service, when that transmission does not involve the generation or alteration of the content of information, but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services, and that do not affect the presentation of such information to users.

* * * * *

Subpart F—Universal Service Support for Schools and Libraries

■ 3. Amend § 54.500 by removing the alphabetical paragraph designations and adding in alphabetical order definitions for ''basic maintenance,'' ''consortium,'' ''internal connections,'' ''managed internal broadband services,'' and ''voice services'' to read as follows:

§ 54.500 Terms and definitions.

Basic maintenance. A service is eligible for support as a ''basic maintenance'' service if, but for the maintenance at issue, the internal connection would not function and serve its intended purpose with the degree of reliability ordinarily provided in the marketplace to entities receiving such services. Basic maintenance services do not include services that maintain equipment that is not supported by E-rate or that enhance the utility of equipment beyond the transport of information, or diagnostic services in excess of those necessary to maintain the equipment's ability to transport information.

* * * * *

Consortium. A ''consortium'' is any local, statewide, regional, or interstate cooperative association of schools and/or libraries eligible for E-rate support that seeks competitive bids for eligible services or funding for eligible services on behalf of some or all of its members. Consortium may also include health care providers eligible under subpart G, and public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, although such entities are not eligible for support. Eligible schools and libraries may not join consortia with ineligible private sector members unless the pre-discount prices of any services that such consortium receives are generally tariffed rates.

* * * * *

Internal connections. A service is eligible for support as a component of an institution's ''internal connections'' if such service is necessary to transport or distribute broadband within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch.

* * * * *

Managed internal broadband services. A service is eligible for support as

''managed internal broadband services'' if provided by a third party for the operation, management, and/or monitoring of the eligible components of a school or library local area network (LAN) and wireless LAN.

* * * * *

Voice services. ''Voice services'' include local phone service, long distance service, plain old telephone service (POTS), radio loop, 800 service, satellite telephone, shared telephone service, Centrex, wireless telephone service such as cellular, interconnected voice over Internet protocol (VoIP), and the circuit capacity dedicated to providing voice services.

* * * * *

■ 4. Amend § 54.501 by revising the section heading and paragraph (a)(1), by removing paragraph (c)(1), and by redesignating paragraphs (c)(2) and (3) as paragraphs (c)(1) and (2), respectively.

The revisions read as follows:

§ 54.501 Eligible recipients.

(a) * * *

(1) Only schools meeting the statutory definition of ''elementary school'' and ''secondary school'' as defined in § 54.500 of this subpart, and not excluded under paragraphs (a)(2) or (3) of this section shall be eligible for discounts on telecommunications and other supported services under this subpart.

* * * * *

■ 5. Revise § 54.502 to read as follows:

§ 54.502 Eligible services.

(a) *Supported services.* All supported services are listed in the Eligible Services List as updated annually in accordance with paragraph (b) of this section. The services in this subpart will be supported in addition to all reasonable charges that are incurred by taking such services, such as state and federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms. The supported services fall within the following general categories:

(1) *Category one.* Telecommunications services, telecommunications, and Internet access, as defined in § 54.5 and described in the Eligible Services List are category one supported services.

(2) *Category two.* Internal connections, basic maintenance and managed internal broadband services as defined in § 54.500 and described in the Eligible Services List are category two supported services.

(b) *Funding years 2015 and 2016.* Libraries, schools, or school districts with schools that receive funding for category two services in funding years 2015 and/or 2016 shall be eligible for support pursuant to paragraphs (b)(1) through (6) of this section.

(1) *Five-year budget.* Each eligible school or library shall be eligible for a budgeted amount of support for category two services over a five-year funding cycle. Excluding support for internal connections received prior to funding year 2015, each school or library shall be eligible for the total available budget less any support received for category two services in the prior four funding years.

(2) *School budget.* Each eligible school shall be eligible for support for category two services up to a pre-discount price of $150 per student over a five-year funding cycle. Applicants shall provide the student count per school, calculated at the time that the discount is calculated each funding year. New schools may estimate the number of students, but shall repay any support provided in excess of the maximum budget based on student enrollment the following funding year.

(3) *Library budget.* Each eligible library shall be eligible for support for category two services, up to a pre-discount price of $2.30 per square foot over a five-year funding cycle. Libraries shall provide the total area for all floors, in square feet, of each library outlet separately, including all areas enclosed by the outer walls of the library outlet and occupied by the library, including those areas off-limits to the public.

(4) *Funding floor.* Each eligible school and library will be eligible for support for category two services up to at least a pre-discount price of $9,200 over five funding years.

(5) *Requests.* Applicants shall request support for category two services for each school or library based on the number of students per school building or square footage per library building. Category two funding for a school or library may not be used for another school or library. If an applicant requests less than the maximum budget available for a school or library, the applicant may request the remaining balance in a school's or library's category two budget in subsequent funding years of a five year cycle. The costs for category two services shared by multiple eligible entities shall be divided reasonably between each of the entities for which support is sought in that funding year.

(6) *Non-instructional buildings.* Support is not available for category two services provided to or within non-instructional school buildings or separate library administrative buildings unless those category two services are essential for the effective transport of information to or within one or more instructional buildings of a school or non-administrative library buildings, or the Commission has found that the use of those services meets the definition of educational purpose, as defined in § 54.500. When applying for category two support for eligible services to a non-instructional school building or library administrative building, the applicant shall allocate the cost of providing services to one or more of the eligible school or library buildings that benefit from those services being provided.

(c) *Funding year 2017 and beyond.* Absent further action from the Commission, each eligible library or school in a school district, which did not receive funding for category two services in funding years 2015 and/or 2016, shall be eligible for support for category two services, except basic maintenance services, no more than twice every five funding years. For the purpose of determining eligibility, the five-year period begins in any funding year in which the school or library receives discounted category two services other than basic maintenance services. If a school or library receives category two services other than basic maintenance services that are shared with other schools or libraries (for example, as part of a consortium), the shared services will be attributed to the school or library in determining whether it is eligible for support. Support is not available for category two services provided to or within non-instructional school buildings or separate library administrative buildings unless those category two services are essential for the effective transport of information to or within one or more instructional buildings of a school or non-administrative library buildings, or the Commission has found that the use of those services meets the definition of educational purpose, as defined in § 54.500.

(d) *Eligible services list process.* The Administrator shall submit by March 30 of each year a draft list of services eligible for support, based on the Commission's rules for the following funding year. The Wireline Competition Bureau will issue a Public Notice seeking comment on the Administrator's proposed eligible services list. The final list of services eligible for support will be released at least 60 days prior to the

opening of the application filing window for the following funding year.

■ 6. Amend § 54.503 by revising paragraphs (c), (d)(2)(i), and (d)(4) and adding paragraph (e) to read as follows:

§ 54.503 Competitive bidding requirements.

* * * * *

(c) *Posting of FCC Form 470.* (1) An eligible school, library, or consortium that includes an eligible school or library seeking bids for eligible services under this subpart shall submit a completed FCC Form 470 to the Administrator to initiate the competitive bidding process. The FCC Form 470 and any request for proposal cited in the FCC Form 470 shall include, at a minimum, the following information, to the extent applicable with respect to the services requested:

(i) A list of specified services for which the school, library, or consortium requests bids; and

(ii) Sufficient information to enable bidders to reasonably determine the needs of the applicant.

(2) The FCC Form 470 shall be signed by a person authorized to request bids for eligible services for the eligible school, library, or consortium, including such entities.

(i) A person authorized to request bids on behalf of the entities listed on an FCC Form 470 shall certify under oath that:

(A) The schools meet the statutory definition of ''elementary school'' or ''secondary school'' as defined in § 54.500 of these rules, do not operate as for-profit businesses, and do not have endowments exceeding $50 million.

(B) The libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 do not operate as for-profit businesses and have budgets that are completely separate from any school (including, but not limited to, elementary and secondary schools, colleges, and universities).

(C) Support under this support mechanism is conditional upon the school(s) and library(ies) securing access to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections necessary to use the services purchased effectively.

(ii) A person authorized to both request bids and order services on behalf of the entities listed on an FCC Form 470 shall, in addition to making the certifications listed in paragraph (c)(2)(i) of this section, certify under oath that:

(A) The services the school, library, or consortium purchases at discounts will be used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.513.

(B) All bids submitted for eligible products and services will be carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective service offering consistent with § 54.511.

(3) The Administrator shall post each FCC Form 470 that it receives from an eligible school, library, or consortium that includes an eligible school or library on its Web site designated for this purpose.

(4) After posting on the Administrator's Web site an eligible school, library, or consortium FCC Form 470, the Administrator shall send confirmation of the posting to the entity requesting service. That entity shall then wait at least four weeks from the date on which its description of services is posted on the Administrator's Web site before making commitments with the selected providers of services. The confirmation from the Administrator shall include the date after which the requestor may sign a contract with its chosen provider(s).

(d) * * *

(2) * * *

(i) The terms ''school, library, or consortium'' include all individuals who are on the governing boards of such entities (such as members of a school committee), and all employees, officers, representatives, agents, consultants or independent contractors of such entities involved on behalf of such school, library, or consortium with the Schools and Libraries Program of the Universal Service Fund (E-rate Program), including individuals who prepare, approve, sign or submit E-rate applications, or other forms related to the E-rate Program, or who prepare bids, communicate or work with E-rate service providers, E-rate consultants, or with USAC, as well as any staff of such entities responsible for monitoring compliance with the E-rate Program; and

* * * * *

(4) Any service provider may make charitable donations to an eligible school, library, or consortium that includes an eligible school or library in the support of its programs as long as such contributions are not directly or indirectly related to E-rate procurement activities or decisions and are not given by service providers to circumvent competitive bidding and other E-rate program rules, including those in paragraph (c)(2)(i)(C) of this section, requiring schools and libraries to pay their own non-discount share for the services they are purchasing.

(e) *Exemption to competitive bidding requirements.* An applicant that seeks support for commercially available high-speed Internet access services for a pre-discount price of $3,600 or less per school or library annually is exempt from the competitive bidding requirements in paragraphs (a) through (c) of this section.

(1) Internet access, as defined in § 54.5, is eligible for this exemption only if the purchased service offers at least 100 Mbps downstream and 10 Mbps upstream.

(2) The Chief, Wireline Competition Bureau, is delegated authority to lower the annual cost of high-speed Internet access services or raise the speed threshold of broadband services eligible for this competitive bidding exemption, based on a determination of what rates and speeds are commercially available prior to the start of the funding year.

■ 7. Revise § 54.504 to read as follows:

§ 54.504 Requests for services.

(a) *Filing of the FCC Form 471.* An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart shall, upon entering into a signed contract or other legally binding agreement for eligible services, submit a completed FCC Form 471 to the Administrator.

(1) The FCC Form 471 shall be signed by the person authorized to order eligible services for the eligible school, library, or consortium and shall include that person's certification under oath that:

(i) The schools meet the statutory definition of ''elementary school'' or ''secondary school'' as defined in § 54.500 of this subpart, do not operate as for-profit businesses, and do not have endowments exceeding $50 million.

(ii) The libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to, elementary and secondary schools, colleges, and universities).

(iii) The entities listed on the FCC Form 471 application have secured access to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections, necessary to

make effective use of the services purchased, as well as to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. The billed entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

(iv) The entities listed on the FCC Form 471 application have complied with all applicable state and local laws regarding procurement of services for which support is being sought.

(v) The services the school, library, or consortium purchases at discounts will be used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.513.

(vi) The entities listed in the application have complied with all program rules and acknowledge that failure to do so may result in denial of discount funding and/or recovery of funding.

(vii) The applicant understands that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

(viii) The applicant recognizes that it may be audited pursuant to its application, that it will retain for ten years any and all worksheets and other records relied upon to fill out its application, and that, if audited, it will make such records available to the Administrator.

(ix) Except as exempted by § 54.503(e), all bids submitted to a school, library, or consortium seeking eligible services were carefully considered and the most cost-effective bid was selected in accordance with § 54.503 of this subpart, with price being the primary factor considered, and it is the most cost-effective means of meeting educational needs and technology goals.

(2) All pricing and technology infrastructure information submitted as part of an FCC Form 471 shall be treated as public and non-confidential by the Administrator unless the applicant specifies a statute, rule, or other restriction, such as a court order or an existing contract limitation barring public release of the information.

(i) Contracts and other agreements executed after adoption of this rule may not prohibit disclosure of pricing or technology infrastructure information.

(ii) The exemption for existing contract limitations shall not apply to voluntary extensions or renewals of existing contracts.

(b) *Mixed eligibility requests.* If 30 percent or more of a request for discounts made in an FCC Form 471 is for ineligible services, the request shall be denied in its entirety.

(c) *Rate disputes.* Schools, libraries, and consortia including those entities, and service providers may have recourse to the Commission, regarding interstate rates, and to state commissions, regarding intrastate rates, if they reasonably believe that the lowest corresponding price is unfairly high or low.

(1) Schools, libraries, and consortia including those entities may request lower rates if the rate offered by the carrier does not represent the lowest corresponding price.

(2) Service providers may request higher rates if they can show that the lowest corresponding price is not compensatory, because the relevant school, library, or consortium including those entities is not similarly situated to and subscribing to a similar set of services to the customer paying the lowest corresponding price.

(d) *Service substitution.* (1) The Administrator shall grant a request by an applicant to substitute a service or product for one identified on its FCC Form 471 where:

(i) The service or product has the same functionality;

(ii) The substitution does not violate any contract provisions or state or local procurement laws;

(iii) The substitution does not result in an increase in the percentage of ineligible services or functions; and

(iv) The applicant certifies that the requested change is within the scope of the controlling FCC Form 470, including any associated Requests for Proposal, for the original services.

(2) In the event that a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service.

(3) For purposes of this rule, the two categories of eligible services are not deemed to have the same functionality as one another.

(e) *Mixed eligibility services.* A request for discounts for a product or service that includes both eligible and ineligible components must allocate the cost of the contract to eligible and ineligible components.

(1) *Ineligible components.* If a product or service contains ineligible components, costs must be allocated to the extent that a clear delineation can be made between the eligible and ineligible components. The delineation must have a tangible basis, and the price for the eligible portion must be the most cost-effective means of receiving the eligible service.

(2) *Ancillary ineligible components.* If a product or service contains ineligible components that are ancillary to the eligible components, and the product or service is the most cost-effective means of receiving the eligible component functionality, without regard to the value of the ineligible component, costs need not be allocated between the eligible and ineligible components. Discounts shall be provided on the full cost of the product or service. An ineligible component is ''ancillary'' if a price for the ineligible component cannot be determined separately and independently from the price of the eligible components, and the specific package remains the most cost-effective means of receiving the eligible services, without regard to the value of the ineligible functionality.

(3) The Administrator shall utilize the cost allocation requirements of this paragraph in evaluating mixed eligibility requests under paragraph (e)(1) of this section.

(f) *Filing of FCC Form 473.* All service providers eligible to provide telecommunications and other supported services under this subpart shall submit annually a completed FCC Form 473 to the Administrator. The FCC Form 473 shall be signed by an authorized person and shall include that person's certification under oath that:

(1) The prices in any offer that this service provider makes pursuant to the schools and libraries universal service support program have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to those prices, the intention to submit an offer, or the methods or factors used to calculate the prices offered;

(2) The prices in any offer that this service provider makes pursuant to the schools and libraries universal service support program will not be knowingly disclosed by this service provider, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt will be made by this service provider to induce any other concern to submit or not to submit an

offer for the purpose of restricting competition.

(4) The service provider listed on the FCC Form 473 certifies that the invoices that are submitted by this Service Provider to the Billed Entity for reimbursement pursuant to Billed Entity Applicant Reimbursement Forms (FCC Form 472) are accurate and represent payments from the Billed Entity to the Service Provider for equipment and services provided pursuant to E-rate program rules.

(5) The service provider listed on the FCC Form 473 certifies that the bills or invoices issued by this service provider to the billed entity are for equipment and services eligible for universal service support by the Administrator, and exclude any charges previously invoiced to the Administrator by the service provider.

■ 8. Amend § 54.505 by revising paragraphs (b)(1), (b)(2), (b)(3)(i), (b)(3)(ii), (b)(4), (c) and adding paragraph (d) to read as follows:

§ 54.505 Discounts.

* * * * *

(b) * * *

(1) For schools and school districts, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism. School districts shall divide the total number of students eligible for the National School Lunch Program within the school district by the total number of students within the school district to arrive at a percentage of students eligible. This percentage rate shall then be applied to the discount matrix to set a discount rate for the supported services purchased by all schools within the school district. Independent charter schools, private schools, and other eligible educational facilities should calculate a single discount percentage rate based on the total number of students under the control of the central administrative agency.

(2) For libraries and library consortia, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism in the public school district in which they are located and should use that school district's discount rate when applying as a library system or on behalf of individual libraries within that system. Library systems that have branches or outlets in more than one public school district should use the address of the central outlet or main administrative office to determine which school district the library system is in, and should use that school district's discount rate when applying as a library system or on behalf of individual libraries within that system. If the library is not in a school district, then its level of poverty shall be based on an average of the percentage of students eligible for the national school lunch program in each of the school districts that children living in the library's location attend.

(3) * * *

(i) The Administrator shall designate a school or library as ''urban'' if the school or library is located in an urbanized area as determined by the most recent rural-urban classification by the Bureau of the Census. The Administrator shall designate all other schools and libraries as ''rural.''

(ii) Any school district or library system that has a majority of schools or libraries in a rural area qualifies for the additional rural discount.

(4) School districts, library systems, or other billed entities shall calculate discounts on supported services described in § 54.502(a) that are shared by two or more of their schools, libraries, or consortia members by calculating an average discount based on the applicable district-wide discounts of all member schools and libraries. School districts, library systems, or other billed entities shall ensure that, for each year in which an eligible school or library is included for purposes of calculating the aggregate discount rate, that eligible school or library shall receive a proportionate share of the shared services for which support is sought. For schools, the discount shall be a simple average of the applicable district-wide percentage for all schools sharing a portion of the shared services. For libraries, the average discount shall be a simple average of the applicable discounts to which the libraries sharing a portion of the shared services are entitled.

(c) *Matrices.* Except as provided in paragraph (d) of this section, the Administrator shall use the following matrices to set discount rates to be applied to eligible category one and category two services purchased by eligible schools, school districts, libraries, or consortia based on the institution's level of poverty and location in an ''urban'' or ''rural'' area.

% of students eligible for National School Lunch Program	Category one schools and libraries discount matrix		Category two schools and libraries discount matrix	
	Discount level		Discount level	
	Urban discount	Rural discount	Urban discount	Rural discount
< 1	20	25	20	25
1–19	40	50	40	50
20–34	50	60	50	60
35–49	60	70	60	70
50–74	80	80	80	80
75–100	90	90	85	85

(d) *Voice Services.* Discounts for category one voice services shall be reduced by 20 percentage points off applicant discount percentage rates for each funding year starting in funding year 2015, and reduced by an additional 20 percentage points off applicant discount percentage rates each subsequent funding year.

* * * * *

■ 9. Revise § 54.507 to read as follows:

§ 54.507 Cap.

(a) *Amount of the annual cap.* The aggregate annual cap on federal universal service support for schools and libraries shall be $2.25 billion per funding year, of which $1 billion per funding year will be available for the category two services, as described in § 54.502(a)(2), unless demand for category one services is higher than available funding.

(1) *Inflation increase.* In funding year 2010 and subsequent funding years, the

$2.25 billion funding cap on federal universal service support for schools and libraries shall be automatically increased annually to take into account increases in the rate of inflation as calculated in paragraph (a)(2) of this section.

(2) *Increase calculation.* To measure increases in the rate of inflation for the purposes of this paragraph (a), the Commission shall use the Gross Domestic Product Chain-type Price Index (GDP–CPI). To compute the annual increase as required by this paragraph (a), the percentage increase in the GDP–CPI from the previous year will be used. For instance, the annual increase in the GDP–CPI from 2008 to 2009 would be used for the 2010 funding year. The increase shall be rounded to the nearest 0.1 percent by rounding 0.05 percent and above to the next higher 0.1 percent and otherwise rounding to the next lower 0.1 percent. This percentage increase shall be added to the amount of the annual funding cap from the previous funding year. If the yearly average GDP–CPI decreases or stays the same, the annual funding cap shall remain the same as the previous year.

(3) *Public notice.* When the calculation of the yearly average GDP–CPI is determined, the Wireline Competition Bureau shall publish a public notice in the **Federal Register** within 60 days announcing any increase of the annual funding cap based on the rate of inflation.

(4) *Filing window requests.* At the close of the filing window, if requests for category one services are greater than the available funding, the Administrator shall shift category two funds to provide support for category one services. If available funds are sufficient to meet demand for category one services, the Administrator, at the direction of the Wireline Competition Bureau, shall direct the remaining additional funds to provide support for category two requests.

(5) *Amount of unused funds.* All funds collected that are unused shall be carried forward into subsequent funding years for use in the schools and libraries support mechanism in accordance with the public interest and notwithstanding the annual cap. The Chief, Wireline Competition Bureau, is delegated authority to determine the proportion of unused funds, if any, needed to meet category one demand, and to direct the Administrator to use any remaining funds to provide support for category two requests. The Administrator shall report to the Commission, on a quarterly basis, funding that is unused from prior years of the schools and libraries support mechanism.

(6) *Application of unused funds.* On an annual basis, in the second quarter of each calendar year, all funds that are collected and that are unused from prior years shall be available for use in the next full funding year of the schools and libraries mechanism in accordance with the public interest and notwithstanding the annual cap as described in this paragraph (a).

(b) *Funding year.* A funding year for purposes of the schools and libraries cap shall be the period July 1 through June 30.

(c) *Requests.* Funds shall be available to fund discounts for eligible schools and libraries and consortia of such eligible entities on a first-come-first-served basis, with requests accepted beginning on the first of July prior to each funding year. The Administrator shall maintain on the Administrator's Web site a running tally of the funds already committed for the existing funding year. The Administrator shall implement an initial filing period that treats all schools and libraries filing within that period as if their applications were simultaneously received. The initial filing period shall begin on the date that the Administrator begins to receive applications for support, and shall conclude on a date to be determined by the Administrator. The Administrator may implement such additional filing periods as it deems necessary.

(d) *Annual filing requirement.* Schools and libraries, and consortia of such eligible entities shall file new funding requests for each funding year no sooner than the July 1 prior to the start of that funding year. Schools, libraries, and eligible consortia must use recurring services for which discounts have been committed by the Administrator within the funding year for which the discounts were sought. Implementation of non-recurring services may begin on April 1 prior to the July 1 start of the funding year. The deadline for implementation of non-recurring services will be September 30 following the close of the funding year. An applicant may request and receive from the Administrator an extension of the implementation deadline for non-recurring services if it satisfies one of the following criteria:

(1) The applicant's funding commitment decision letter is issued by the Administrator on or after March 1 of the funding year for which discounts are authorized;

(2) The applicant receives a service provider change authorization or service substitution authorization from the Administrator on or after March 1 of the funding year for which discounts are authorized;

(3) The applicant's service provider is unable to complete implementation for reasons beyond the service provider's control; or

(4) The applicant's service provider is unwilling to complete installation because funding disbursements are delayed while the Administrator investigates their application for program compliance.

(e) *Long term contracts.* If schools and libraries enter into long term contracts for eligible services, the Administrator shall only commit funds to cover the pro rata portion of such a long term contract scheduled to be delivered during the funding year for which universal service support is sought.

(f) *Rules of distribution.* When the filing period described in paragraph (c) of this section closes, the Administrator shall calculate the total demand for both category one and category two support submitted by applicants during the filing period. If total demand for the funding year exceeds the total support available for category one or both categories, the Administrator shall take the following steps:

(1) *Category one.* The Administrator shall first calculate the demand for category one services for all discount levels. The Administrator shall allocate the category one funds to these requests for support, beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix in § 54.505(c). Schools and libraries eligible for a 90 percent discount shall receive first priority for the category one funds. The Administrator shall next allocate funds toward the requests submitted by schools and libraries eligible for an 80 percent discount, then for a 70 percent discount, and shall continue committing funds for category one services in the same manner to the applicants at each descending discount level until there are no funds remaining.

(2) *Category two.* The Administrator shall next calculate the demand for category two services for all discount categories as determined by the schools and libraries discount matrix in § 54.505(c). If that demand exceeds the category two budget for that funding year, the Administrator shall allocate the category two funds beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix in § 54.505(c). The Administrator shall allocate funds toward the category two requests submitted by schools and libraries eligible for an 85 percent

discount first, then for a 80 percent discount, and shall continue committing funds in the same manner to the applicants at each descending discount level until there are no category two funds remaining.

(3) To the extent that there are single discount percentage levels associated with ''shared services'' under § 54.505(b)(4), the Administrator shall allocate funds to the applicants at each descending discount level (e.g., 90 percent, 89 percent, then 88 percent) until there are no funds remaining.

(4) For both paragraphs (f)(1) and (2) of this section, if the remaining funds are not sufficient to support all of the funding requests within a particular discount level, the Administrator shall allocate funds at that discount level using the percentage of students eligible for the National School Lunch Program. Thus, if there is not enough support to fund all requests at the 40 percent discount level, the Administrator shall allocate funds beginning with those applicants with the highest percentage of NSLP eligibility for that discount level by funding those applicants with 19 percent NSLP eligibility, then 18 percent NSLP eligibility, and shall continue committing funds in the same manner to applicants at each descending percentage of NSLP until there are no funds remaining.

§ 54.508 [Removed and Reserved]

■ 10. Remove and reserve § 54.508.

■ 11. Revise § 54.511 to read as follows:

§ 54.511 Ordering services.

(a) *Selecting a provider of eligible services.* Except as exempted in § 54.503(e), in selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered.

(b) *Lowest corresponding price.* Providers of eligible services shall not submit bids for or charge schools, school districts, libraries, library consortia, or consortia including any of these entities a price above the lowest corresponding price for supported services, unless the Commission, with respect to interstate services or the state commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory. Promotional rates offered by a service provider for a period of more than 90 days must be included among the comparable rates upon which the lowest corresponding price is determined.

■ 12. Revise § 54.514 to read as follows:

§ 54.514 Payment for discounted services.

(a) *Invoice filing deadline.* Invoices must be submitted to the Administrator:

(1) 120 days after the last day to receive service, or

(2) 120 days after the date of the FCC Form 486 Notification Letter, whichever is later.

(b) *Invoice deadline extension.* In advance of the deadline calculated pursuant to paragraph (a) of this section, service providers or billed entities may request a one-time extension of the invoicing deadline. The Administrator shall grant a 120 day extension of the invoice filing deadline, if it is timely requested.

(c) *Choice of payment method.* Service providers providing discounted services under this subpart in any funding year shall, prior to the submission of the FCC Form 471, permit the billed entity to choose the method of payment for the discounted services from those methods approved by the Administrator, including by making a full, undiscounted payment and receiving subsequent reimbursement of the discount amount from the Administrator.

■ 13. Revise § 54.516 to read as follows:

§ 54.516 Auditing and inspections.

(a) *Recordkeeping requirements*—(1) *Schools, libraries, and consortia.* Schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools, libraries, and consortia shall maintain asset and inventory records of equipment purchased as components of supported category two services sufficient to verify the actual location of such equipment for a period of 10 years after purchase.

(2) *Service providers.* Service providers shall retain documents related to the delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well.

(b) *Production of records.* Schools, libraries, consortia, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC, or any local, state or federal agency with jurisdiction over the entity.

(c) *Audits.* Schools, libraries, consortia, and service providers shall be subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements for the schools and libraries universal service support mechanism, including those requirements pertaining to what services and products are purchased, what services and products are delivered, and how services and products are being used. Schools, libraries, and consortia receiving discounted services must provide consent before a service provider releases confidential information to the auditor, reviewer, or other representative.

(d) *Inspections.* Schools, libraries, consortia and service providers shall permit any representative (including any auditor) appointed by a state education department, the Administrator, the Commission or any local, state or federal agency with jurisdiction over the entity to enter their premises to conduct E-rate compliance inspections.

Subpart G—Universal Service Support for Health Care Providers

■ 14. Amend § 54.642 by revising paragraph (h)(5) to read as follows:

§ 54.642 Competitive bidding requirements and exemptions.

* * * * *

(h) * * *

(5) *Schools and libraries program master contracts.* Subject to the provisions in §§ 54.500, 54.501(c)(1), and 54.503, an eligible health care provider in a consortium with participants in the schools and libraries universal service support program and a party to the consortium's existing contract is exempt from the Healthcare Connect Fund competitive bidding requirements if the contract was approved in the schools and libraries universal service support program as a master contract. The health care provider must comply with all Healthcare Connect Fund rules and procedures except for those applicable to competitive bidding.

Subpart H—Administration

§ 54.705 [Amended]

■ 15. Amend § 54.705 by removing and reserving paragraphs (a)(1)(vi) through (viii).

Subpart I—Review of Decisions Issued by the Administrator

■ 16. Revise § 54.719 to read as follows:

§ 54.719 Parties permitted to seek review of Administrator decision.

(a) Any party aggrieved by an action taken by the Administrator, as defined in § 54.701, § 54.703, or § 54.705, must first seek review from the Administrator.

(b) Any party aggrieved by an action taken by the Administrator, after seeking review from the Administrator, may then seek review from the Federal Communications Commission, as set forth in § 54.722.

(c) Parties seeking waivers of the Commission's rules shall seek relief directly from the Commission.

■ 17. Revise § 54.720 to read as follows:

§ 54.720 Filing deadlines.

(a) An affected party requesting review of an Administrator decision by the Commission pursuant to § 54.719, shall file such a request within sixty (60) days from the date the Administrator issues a decision.

(b) In all cases of requests for review filed under § 54.719(a) through (c) the request for review shall be deemed filed on the postmark date. If the postmark date cannot be determined, the applicant must file a sworn affidavit stating the date that the request for review was mailed.

(c) Parties shall adhere to the time periods for filing oppositions and replies set forth in 47 CFR 1.45.

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Part III

Department of Homeland Security

Coast Guard

33 CFR Part 138

Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability—Vessels, Deepwater Ports and Onshore Facilities; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 138, Subpart B

[Docket No. USCG–2013–1006]

RIN 1625–AC14

Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability—Vessels, Deepwater Ports and Onshore Facilities

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to increase the limits of liability for vessels, deepwater ports, and onshore facilities, under the Oil Pollution Act of 1990, as amended (OPA 90), to reflect significant increases in the Consumer Price Index (CPI). We also propose a simplified regulatory procedure for the Coast Guard to make future required periodic CPI increases to the OPA 90 limits of liability for vessels, deepwater ports, and onshore facilities. These regulatory inflation increases to the limits of liability are required by OPA 90, and are necessary to preserve the deterrent effect and ''polluter pays'' principle embodied in OPA 90. Finally, we propose language to clarify applicability of the OPA 90 vessel limits of liability to two categories of tank vessels, edible oil cargo tank vessels and tank vessels designated as oil spill response vessels. This clarification to the existing regulatory text is needed for consistency with OPA 90.

DATES: Comments and related material must be submitted on or before October 20, 2014.

ADDRESSES: You may submit comments identified by Docket No. USCG–2013–1006 using any one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Benjamin White, Coast Guard; telephone 703–872–6066, email *Benjamin.H.White@uscg.mil.* For information about viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826, toll free 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials using the instructions below. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–1006), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* and follow the instructions of that Web site. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* and follow the instructions on that Web site. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

D. Public Meeting

We do not now plan to hold a public meeting. But, you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we decide to hold a public meeting, we

will announce its time and place in a later notice in the **Federal Register**.

II. Abbreviations

Annual CPI–U The Annual ''Consumer Price Index—All Urban Consumers, Not Seasonally Adjusted, U.S. City Average, All Items, 1982–84=100''
CPI–1 Rule The Coast Guard's first rulemaking amending 33 CFR part 138, subpart B, to adjust the OPA 90 limits of liability for vessels and deepwater ports for inflation as required by 33 U.S.C. 2704(d)(4) and establishing the Coast Guard's procedure for future required inflation adjustments to the limits of liability (Docket No. USCG–2008–0007). See 73 FR 54997 (Sep. 24, 2008) [CPI–1 NPRM]; 74 FR 31357 (July 1, 2009) [CPI–1 Interim Rule]; 75 FR 750 (January 6, 2010) [CPI–1 Final Rule].
BLS U.S. Department of Labor, Bureau of Labor Statistics
CFR Code of Federal Regulations
COFR Certificate of Financial Responsibility
COFR Rule The Coast Guard rule at 33 CFR part 138, subpart A, implementing the OPA 90 requirement under 33 U.S.C. 2716 for vessel responsible parties to establish and maintain evidence of financial responsibility sufficient to meet their limits of liability as adjusted over time for inflation
CPI Consumer Price Index
DHS U.S. Department of Homeland Security
DOI U.S. Department of the Interior
DPA Deepwater Port Act of 1974, as amended (33 U.S.C. 1501–1524)
DRPA The Delaware River Protection Act of 2006, Title VI of the Coast Guard and Maritime Transportation Act of 2006, Public Law 109–241, July 11, 2006, 120 Stat. 516
E.O. Executive Order
FR Federal Register
Fund The Oil Spill Liability Trust Fund created by 26 U.S.C. 9509
IRFA Initial Regulatory Flexibility Analysis
LNG Liquefied natural gas
LOOP Louisiana Offshore Oil Port
NPFC National Pollution Funds Center
NPRM Notice of proposed rulemaking
OMB U.S. Office of Management and Budget
OPA 90 The Oil Pollution Act of 1990, as amended (33 U.S.C. 2701, *et seq.*)
SBA U.S. Small Business Administration
§ Section symbol
U.S. United States
U.S.C. United States Code

III. Basis and Purpose

In general, under Title I of the Oil Pollution Act of 1990, as amended (OPA 90) (33 U.S.C. 2701, *et seq.*), the responsible parties for any vessel (other than a public vessel) [1] or facility (including any deepwater port or onshore facility) from which oil is discharged, or which poses a substantial threat of discharge of oil, into or upon the navigable waters or the adjoining shorelines or the exclusive economic zone of the United States, are strictly liable, jointly and severally, for the removal costs and damages that result from such incident (''OPA 90 removal costs and damages''), as provided in 33 U.S.C. 2702. Under 33 U.S.C. 2704, however, the responsible parties' OPA 90 liability with respect to any one incident is limited (with certain exceptions) to a specified dollar amount.

In instances when a limit of liability applies, the responsible parties may, but are not required to, incur direct removal costs or reimburse third-party claims for OPA 90 removal costs and damages in excess of the applicable limit of liability. The responsible parties may, moreover, seek reimbursement from the Oil Spill Liability Trust Fund (Fund) of the OPA 90 removal costs and damages they incur in excess of the applicable limit of liability.[2] This Fund is managed by the Coast Guard's National Pollution Funds Center (NPFC).

To prevent the real value of the OPA 90 limits of liability from depreciating over time as a result of inflation and preserve the ''polluter pays'' principle embodied in OPA 90, 33 U.S.C. 2704(d)(4) requires that the OPA 90 limits of liability be adjusted ''by regulations issued not later than 3 years after July 11, 2006, and not less than every 3 years thereafter,'' to reflect significant increases in the CPI. The President delegated this regulatory authority to the Secretary of the department in which the Coast Guard is operating in respect to the limits of liability for vessels, deepwater ports subject to the Deepwater Port Act of 1974 (DPA), as amended (33 U.S.C. 1501, et seq.) (''deepwater ports''), and the limit of liability for onshore facilities in 33 U.S.C. 2704(a)(4).[3] The Secretary of Homeland Security further delegated this authority to the Coast Guard in Department of Homeland Security (DHS) Delegation 5110, Revision 01.

In this notice of proposed rulemaking (NPRM) the Coast Guard proposes to carry out the statutorily-required inflation adjustments to the OPA 90 limits of liability. This NPRM also proposes to clarify applicability of the OPA 90 vessel limits of liability to edible oil cargo tank vessels and to tank vessels designated in their certificates of inspection as oil spill response vessels. This clarification to the existing regulatory text is needed for consistency with OPA 90 (33 U.S.C. 2704(c)(4)).

IV. Background and Regulatory History

A. Creation of 33 CFR Part 138, Subpart B

In 2008, the Coast Guard promulgated 33 CFR part 138, subpart B, setting forth the OPA 90 limits of liability for vessels and deepwater ports. (See Docket No. USCG–2005–21780.) This was done in anticipation of the Coast Guard implementing the periodic inflation adjustments to the limits of liability required by 33 U.S.C. 2704(d)(4), and to ensure that the applicable amounts of financial responsibility that must be demonstrated by vessel and deepwater port responsible parties as required by OPA 90 (33 U.S.C. 2716) and 33 CFR part 138, subpart A (COFR Rule), would always equal the applicable OPA 90 limit of liability as adjusted over time.

B. Prior Regulatory Inflation Adjustments to the OPA 90 Limits of Liability in 33 CFR Part 138, Subpart B

The Coast Guard published an NPRM on September 24, 2008 (73 FR 54997) (CPI–1 NPRM), and an interim rule with request for comments on July 1, 2009 (74 FR 31357) (CPI–1 Interim Rule), timely adjusting the vessel and deepwater port limits of liability at 33 CFR part 138, subpart B, to reflect significant increases in the CPI as required by OPA 90 (33 U.S.C. 2704(d)(4)). The CPI–1 Interim Rule also established the Coast Guard's procedures and methodology for adjusting the OPA 90 limits of liability for inflation over time. There were no adverse public comments on the CPI–1 Interim Rule. On January 6, 2010, the Coast Guard therefore published a final rule (CPI–1 Final Rule), adopting the CPI–1 Interim Rule amendments to 33 CFR part 138, subpart B, without change (75 FR 750).[4]

The CPI–1 Rule was the first set of inflation adjustments to the OPA 90 limits of liability for vessels and deepwater ports. The CPI–1 Rule, however, deferred adjusting the statutory limit of liability in 33 U.S.C. 2704(a)(4) for onshore facilities.

[1] See 33 U.S.C. 2701(29) and (37) (definitions of public vessel and vessel) and 33 U.S.C. 2702(c)(2) (public vessel exclusion).

[2] See 33 U.S.C. 2708. A more comprehensive description of the Fund can be found in the Coast Guard's May 12, 2005, ''Report on Implementation of the Oil Pollution Act of 1990'', which is available in the docket.

[3] Executive Order (E.O.) 12777, Sec. 4, 3 CFR, 1991 Comp., p. 351, as amended by E.O. 13638 of March 15, 2013, Sec. 1 (78 FR 17589, Thursday, March 21, 2013). See further discussion of the delegations below, under Background and Regulatory History.

[4] All **Federal Register** notices, comments and other materials related to the CPI–1 Rule are available in the public docket for that rulemaking (Docket No. USCG–2008–0007).

As explained in the **Federal Register** notices for the CPI–1 Rule, the decision to defer adjusting the onshore facility limit of liability was made because E.O. 12777, Sec. 4, and its implementing re-delegations vested the President's responsibility to adjust the OPA 90 limits of liability (including the limit of liability for onshore facilities) in multiple agencies based on the agencies' traditional regulatory jurisdiction. Specifically, the delegations vested the President's limit of liability adjustment authorities in the Commandant of the Coast Guard for vessels, deepwater ports and marine transportation-related onshore facilities, in the Secretary of the Department of Transportation for non-marine transportation-related onshore facilities, in the Administrator of the Environmental Protection Agency for non-transportation-related onshore facilities, and in the Secretary of the Department of the Interior (DOI) for offshore facilities.[5]

This division of responsibilities complicated the CPI adjustment rulemaking requirement, particularly in respect to the three sub-categories of onshore facilities. Interagency coordination was, therefore, needed to avoid inconsistent regulatory treatment.

The decision to defer adjusting the onshore facility statutory limit of liability for inflation also permitted the Coast Guard to complete the required first set of inflation increases to the vessel and deepwater port limits of liability by the statutory deadline, and to establish the Coast Guard's CPI increase adjustment procedure at § 138.240. There were no adverse public comments on the decision to defer adjusting the onshore facility limit of liability for inflation.

On March 15, 2013, the President signed E.O. 13638, restating and simplifying the delegations in E.O. 12777, Sec. 4, and vesting the authority to make CPI adjustments to the onshore facility statutory limit of liability (33 U.S.C. 2704(a)(4)) in ''the Secretary of the Department in which the Coast Guard is operating''. (See E.O. 13638 of March 15, 2013, Sec. 1, amending E.O. 12777, Sec. 4, at 78 FR 17589, Thursday, March 21, 2013.) The restated delegations also require interagency coordination, but otherwise preserve the earlier delegations, including the delegated authorities to promulgate CPI adjustments to the limits of liability for vessels and deepwater ports.[6]

On July 10, 2013, the Secretary of Homeland Security re-delegated these authorities to the Commandant of the Coast Guard. (See DHS Delegation Number 5110, Revision 01.) This NPRM, therefore, proposes to adjust the vessel, deepwater port and onshore facility limits of liability to reflect significant increases in the CPI.

C. Statutory and Regulatory History Respecting the OPA 90 Edible Oil Cargo Tank Vessel and Oil Spill Response Vessel Exceptions

Section 2(d) of the 1995 Edible Oil Regulatory Reform Act, Public Law 104–55, Nov. 20, 1995, 109 Stat. 546, amended OPA 90 (33 U.S.C. 2704(a)(1) and 33 U.S.C. 2716(a)), excepting tank vessels on which the only oil carried as cargo is an animal fat or vegetable oil (''edible oil tank vessels'') from the OPA 90 tank vessel limits of liability in 33 U.S.C. 2704(a)(1). The effect of the exception was to classify edible oil tank vessels as a matter of law to the ''any other vessel'' limit of liability category in OPA 90 (33 U.S.C. 2704(a)(2)). In addition, edible oil tank vessels were, as of that date, subject to the lower OPA 90 (33 U.S.C. 2716) evidence of financial responsibility requirements applicable to the ''any other vessel'' category.

The Coast Guard Authorization Act of 1998, Public Law 105–383, title IV, section 406, Nov. 13, 1998, 112 Stat. 3429, further amended OPA 90 (33 U.S.C. 2704), moving the edible oil tank vessel exception from 33 U.S.C. 2704(a)(1) to new 33 U.S.C. 2704(c)(4)(A), and adding an additional exception at 33 U.S.C. 2704(c)(4)(B) for tank vessels designated in their certificates of inspection as oil spill response vessels that are used solely for removal (''oil spill response vessels'').

Oil spill response vessels are, therefore, also classified as a matter of law to the ''any other vessel'' category in 33 U.S.C. 2704(a)(2), and subject to the resulting lower OPA 90 limit of liability and evidence of financial responsibility requirements.

The special treatment accorded by OPA 90 to edible oil tank vessels and oil spill response vessels is not reflected in the current regulatory text of 33 CFR part 138. The Coast Guard, therefore, believes that a clarification to the regulatory text would reduce regulatory uncertainty.

V. Discussion of Proposed Rule

A. Regulatory Inflation Adjustments and Statutory Updates to the Limits of Liability for Vessels, Deepwater Ports and Onshore Facilities

In accordance with 33 U.S.C. 2704(d)(4) and 33 CFR part 138, subpart B, we propose to increase the OPA 90 limits of liability for vessels and deepwater ports, set forth in § 138.230(a) and (b), respectively, to reflect significant increases in the CPI since we last adjusted them for inflation. This would be the second set of inflation adjustments to the vessel and deepwater port limits of liability.

We also propose increasing the OPA 90 limit of liability for onshore facilities in 33 U.S.C. 2704(a)(4) for inflation. This would be the first inflation increase to the onshore facility limit of liability. The inflation-adjusted onshore facility limit of liability would be set forth in § 138.230(c), which was expressly reserved by the CPI–1 Rule for that purpose.

1. What formula will be used to adjust the vessel, deepwater port and onshore facility limits of liability for inflation?

The proposed limit of liability adjustments have been calculated using the inflation adjustment methodology established by the CPI–1 Rule, set forth in § 138.240.[7] Specifically, the Director, NPFC, calculates the cumulative percent change in the Annual CPI–U from the year the limit of liability was established or last adjusted by statute or regulation, whichever is later (i.e., the *previous period*), to the most recently published Annual CPI–U (i.e., the *current period*), using the formula in § 138.240(b). The Director, NPFC, then calculates inflation adjustments to the limits of liability based on that cumulative percent change in the Annual CPI–U, as provided in § 138.240(d). Both the cumulative percent change formula and the limit of liability adjustment formula are based on the U.S. Department of Labor, Bureau of Labor Statistics (BLS) escalation formula, which can be viewed at *http://www.bls.gov/cpi/cpi1998d.htm*.[8]

[5] E.O. 12777, Sec. 4, also delegated various other liability limit adjustment and reporting authorities in 33 U.S.C. 2704.

[6] Similarly, the authority to make CPI adjustments to the limit of liability for offshore facilities in 33 U.S.C. 2704(a)(3) remains with the Secretary of the Interior (see, e.g., 79 FR 10056, Monday, February 24, 2014; 79 FR 15275, Wednesday, March 19, 2014).

[7] A detailed discussion of the Coast Guard's inflation adjustment methodology, and how it was developed, can be found in the preambles for the CPI–1 NPRM, 73 FR 54997, and the CPI–1 Interim Rule, 74 FR 31357.

[8] See also 33 CFR 138.240(a) (proposed 33 CFR 138.240(b)).

2. What current period values would be used for this set of inflation adjustments to the vessel, deepwater port and onshore facility limits of liability?

To keep the limits of liability current, the inflation adjustment methodology established by the CPI–1 Rule, at § 138.240, requires that we use the Annual CPI–U that has been most recently published by the BLS as the *current period* value. For purposes of this NPRM, the Coast Guard is therefore estimating the inflation adjusted limits of liability using the 2013 Annual CPI–U, published by BLS on January 16, 2014, as the *current period* value.[9] This is the Annual CPI–U that has been most recently published by the BLS.

In the final rule stage of this rulemaking we will calculate the adjustments using the most recently published Annual CPI–U available at that time. Therefore, if the 2014 Annual CPI–U or another more recent Annual CPI–U is available for calculating the *current period* value when we are at the final rule stage of this rulemaking, the limit of liability values would change marginally from those proposed today.

3. What previous period values would be used for this set of inflation adjustments to the vessel, deepwater port and onshore facility limits of liability?

Applying the inflation adjustment methodology at § 138.240, we propose adjusting the vessel and deepwater port limits of liability to reflect significant increases in the Annual CPI–U since those limits were last adjusted for inflation by the CPI–1 Rule. We, therefore, propose using the 2008 Annual CPI–U, or 215.3, as the *previous period* value for this cycle of adjustments to the vessel and deepwater port limits of liability. This was the *current period* value we used for the CPI–1 Rule inflation adjustments to the vessel and deepwater port limits of liability.[10]

For onshore facilities, we propose adjusting the OPA 90 statutory limit of liability in 33 U.S.C. 2704(a)(4) to reflect significant increases in the Annual CPI–U since 2006. This is the baseline year, or *previous period,* established by the CPI–1 Rule for calculating the first inflation adjustments to the statutory limits of liability in 33 U.S.C. 2704(a), including the statutory limit of liability for onshore facilities.[11]

As explained during the CPI–1 Rule development,[12] we proposed using 2006 as the *previous period* date for the first set of adjustments to the OPA 90 statutory limits of liability for all source categories. There were no adverse comments on that approach. We, therefore, established the 2006 Annual CPI–U value of 201.6 as the *previous period* value for adjusting the statutory limits of liability for all source categories delegated to the Coast Guard (i.e., vessels, deepwater ports and onshore facilities). We are, therefore, using that baseline for the adjustments we are proposing today to the statutory limit of liability for onshore facilities.

We are, however, considering whether to use the 1990 Annual CPI–U *previous period* value to adjust the onshore facility limit of liability, and whether to also recalculate the CPI–1 Rule adjustment to the deepwater port general limit of liability using a 1990 *previous period* value.[13] This issue is discussed further in subsection 5, below.

4. What would the adjusted limits of liability be?

Inserting the estimated percent changes in the Annual CPI–U into the adjustment formula would result in the following proposed new limits of liability for vessels and deepwater ports (using the 2008 Annual CPI–U *previous period*), and onshore facilities (using the 2006 Annual CPI–U *previous period*), and rounding all limits of liability to the closest $100:

Source category	Previous limit of liability	Proposed new limit of liability
§ 138.230 (a) Vessels		
(1) For a single-hull tank vessel greater than 3,000 gross tons, other than a vessel excluded under 33 U.S.C. 2704(c)(4) (i.e., an edible oil tank vessel or oil spill response vessel).	the greater of $3,200 per gross ton or $23,496,000.	the greater of $3,500 per gross ton or $25,422,700.
(2) For a tank vessel greater than 3,000 gross tons, other than a vessel referred to in (a)(1) or a vessel excluded under 33 U.S.C. 2704(c)(4) (i.e., an edible oil tank vessel or oil spill response vessel).	the greater of $2,000 per gross ton or $17,088,000.	the greater of $2,200 per gross ton or $18,489,200.
(3) For a single-hull tank vessel less than or equal to 3,000 gross tons, other than a vessel excluded under 33 U.S.C. 2704(c)(4) (i.e., an edible oil tank vessel or oil spill response vessel).	the greater of $3,200 per gross ton or $6,408,000.	the greater of $3,500 per gross ton or $6,933,500.
(4) For a tank vessel less than or equal to 3,000 gross tons, other than a vessel referred to in (3) or a vessel excluded under 33 U.S.C. 2704(c)(4) (i.e., an edible oil tank vessel or oil spill response vessel).	the greater of $2,000 per gross ton or $4,272,000.	the greater of $2,200 per gross ton or $4,622,300.
(5) For any other vessel, including any edible oil tank vessel and any oil spill response vessel.	the greater of $1,000 per gross ton or $854,400.	the greater of $1,100 per gross ton or $924,500.
§ 138.230 (b) Deepwater ports that are subject to the DPA		
(1) For a deepwater port that is subject to the DPA, other than the Louisiana Offshore Oil Port (LOOP).	$373,800,000	$404,451,600.
(2) For LOOP	$87,606,000	$94,789,700.
§ 138.230 (c) Onshore facilities	$350,000,000	$404,600,000.

[9] See Table 24 on page 68 of the BLS document ''CPI Detailed Report—Data for March 2014'', which is available at the following link: *http://www.bls.gov/cpi/cpid1403.pdf.*

[10] The 2008 Annual CPI–U was used as the *current period* value for the CPI–1 inflation adjustments because of the time lag for BLS publication of the Annual CPI–U and the time it takes to promulgate regulations.

[11] See 74 FR at 31361.

[12] See 73 FR at 55000–55001; 74 FR at 31361.

[13] We are not revisiting the CPI–1 Rule adjustments to the vessel and LOOP limits of liability. This is because the 2006 and 1995 ''Previous Periods'' used, respectively, for those adjustments were based on the date the vessel statutory limits of liability were amended by DRPA and the date LOOP's facility-specific limit of liability was established by regulation under OPA 90 (33 U.S.C. 2704(d)(2)(C)).

These values would change marginally if the 2014 Annual CPI–U or another more recent Annual CPI–U is used as the *current period* value when we are at the final rule stage of this rulemaking.

5. What would the estimated adjusted limit of liability for onshore facilities and deepwater ports generally be using a 1990 previous period?

As mentioned in subsection 3, above, we are considering whether to use a 1990 *previous period* to adjust the onshore facility limit of liability, and whether to recalculate the CPI–1 Rule adjustment to the deepwater port general limit of liability using a 1990 *previous period* value. There are several reasons why we are considering doing this:

- First, in respect to the onshore facility limit of liability, Coast Guard data indicate that one onshore facility incident occurred following publication of the CPI–1 Rule—the 2010 Enbridge Pipeline spill to the Kalamazoo River—that may result in OPA 90 removal costs and damages in excess of the onshore facility limit of liability.[14] This recent experience warrants revisiting whether to use the 2006 *previous period* established by the CPI–1 Rule for the first inflation adjustment to the onshore facility statutory limit of liability.
- In addition, DOI is proposing a rule that would adjust the offshore facility limit of liability for inflation since OPA 90 was enacted, because there have not been intervening adjustments to that limit of liability (as compared to the vessel limits of liability, which have been adjusted both by statute and regulation), and because the damages in the 2010 Deepwater Horizon spill of national significance have far exceeded the offshore facility limit of liability.[15]
- Moreover, DRPA did not change or expressly address the onshore facility and deepwater port statutory limit of liability at 33 U.S.C. 2704(a)(4).[16]

Therefore, although onshore facility spills have not historically (with the one exception previously mentioned) exceeded the statutory limit of liability in 33 U.S.C. 2704(a)(4) and there currently are no deepwater ports in operation that are subject to the generally-applicable limit of liability for deepwater ports, we believe that the Nation's recent experience with costly oil spills—although exceptional—warrants revisiting whether to use the 1990 Annual CPI–U as the *previous period* (instead of the 2006 *previous period* established by the CPI–1 Rule) for the first inflation adjustment to the statutory limit of liability in 33 U.S.C. 2704(a)(4), which applies to both onshore facilities and deepwater ports.

Considering whether to use a different *previous period* for adjusting the onshore facility limit of liability is appropriate because the CPI–1 Rule did not adjust the onshore facility limit of liability for inflation. In addition, although deepwater ports may pose a very low risk of discharge as compared to other modes of oil transportation,[17] reconsidering our use of the 2006 *previous period* for the CPI–1 Rule's deepwater port limit of liability adjustment is appropriate given our better understanding of the potential costs arising from oil spill incidents in offshore areas. We, therefore, invite the public to comment on this issue.

If we were to adopt a 1990 *previous period,* we would adjust the onshore facility and deepwater port statutory limit of liability in 33 U.S.C. 2704(a)(4) using the 1990 Annual CPI–U value of 130.7 as the *previous period.* This would be instead of the 2006 Annual CPI–U *previous period* value of 201.6 and the 2008 Annual CPI–U *previous period* value of 215.3, used to calculate, respectively, the adjusted limit of liability values for onshore facilities and deepwater ports reflected in the regulatory text of this proposal.

If, after considering any public comment on this NPRM, we decide to adjust the onshore facility and deepwater port generally-applicable limit of liability using the 1990 Annual CPI–U of 130.7 as the *previous period* value (i.e., instead of the 2006 Annual CPI–U value of 201.6 for onshore facilities, and the 2008 Annual CPI–U value of 215.3 for deepwater ports), the estimated percent change in the Annual CPI–U would be 78.2 percent. Inserting this estimated percent change in the Annual CPI–U into the adjustment formula would result in the following new limits of liability for onshore facilities and deepwater ports generally, after rounding the limits of liability to the closest $100:

Source category	Statutory previous limit of liability	Alternative new limit of liability (1990 previous period)
§ 138.230(b)(1) For a deepwater port that is subject to the DPA, other than LOOP	$350,000,000	$623,700,000
§ 138.230(c) For onshore facilities	350,000,000	623,700,000

These values would also change marginally if the 2014 Annual CPI–U or another more recent Annual CPI–U is used as the *current period* value when we are at the final rule stage of this rulemaking.

6. How does the Coast Guard propose to notify the public when the limits of liability for vessels, deepwater ports and onshore facilities are adjusted in the future for inflation or if the rule is amended to reflect amendments to the statute?

We are proposing a simplified regulatory procedure at proposed new paragraph § 138.240(a) for making future inflation updates to the OPA 90 limits of liability for vessels, deepwater ports and onshore facilities, in § 138.230(a), (b), and (c) respectively. This simplified regulatory approach is based on a similar procedure used by the Federal Energy Regulatory Commission to make routine cost adjustments to its fees (see 18 CFR 381.104(a) and (d)), and would help ensure regular, timely inflation

[14] On July 26, 2010, Enbridge Energy Partners LLP (Enbridge) reported a 30-inch pipeline rupture, near Marshall, Michigan. The resulting oil discharge, with volume estimates ranging from 843,000 gallons to over a million gallons, entered Talmadge Creek and flowed into the Kalamazoo River, a Lake Michigan tributary. Heavy rains caused the river to overtop existing dams and carried oil 35 miles downstream on the Kalamazoo River. On July 28, 2010, the spill was contained approximately 80 river miles from Lake Michigan. This incident involved tar sand oil, which is particularly difficult and costly to clean up, and is the most expensive onshore facility spill in U.S. history.

[15] 79 FR at 10059. The DOI otherwise plans to adopt a methodology for future adjustments similar to § 138.240.

[16] OPA 90 (33 U.S.C. 2704(a)(4)) sets forth a common statutory limit of liability for onshore facilities and deepwater ports of $350,000,000.

[17] See 1993 Deepwater Ports Study and Report to Congress under OPA 90 Section 1004(d)(2), analyzing the relative operational risks of the principal modes of crude oil transportation to the United States.

adjustments to the limits of liability as required by statute. The approach is also an appropriate and helpful efficiency measure given the mandatory and routine nature of the CPI adjustments.

Under this proposed procedure, the Director, NPFC, would continue to determine future inflation adjustments to the limits of liability using the significance threshold and adjustment methodology in § 138.240, and the most current CPI values published by the BLS. The Director, NPFC, would, however, publish the inflation-adjusted limits of liability in the **Federal Register** as final rule amendments to § 138.230.[18] The new inflation-adjusted limits of liability would appear in the next publication of the CFR.

Because the adjustment methodology was established by the CPI–1 Rule, and the simplified procedure will be established by this rulemaking, publication of an NPRM would not be necessary for these future mandated inflation adjustments. The public would, however, be able to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of the **Federal Register** notice amending the limits of liability. Therefore, in the event a member of the public identifies a mathematical or other technical error in the Coast Guard's application of the adjustment methodology and contacted the Coast Guard, the Coast Guard would publish a correction notice in the **Federal Register**.

Under this simplified procedure, unless otherwise specified in the **Federal Register**, the new CPI-adjusted limits of liability would become effective on the 90th day after their publication in the **Federal Register**, including (as provided in the COFR Rule at § 138.85) for purposes of the requirement for responsible parties to establish and maintain the applicable amounts of OPA 90 financial responsibility required for vessels and deepwater ports under 33 U.S.C. 2716 and § 138.80(f)(1). This will ensure efficient and timely implementation of this recurring, though routine, regulatory mandate.

The Director would use this simplified regulatory procedure to update § 138.230 to reflect statutory changes to the OPA 90 limits of liability. This will ensure that the limits of liability set forth in subpart B remain consistent with the statutory limits of liability if they are amended. Thereafter, as discussed in the CPI–1 Interim Rule, the new statutory limit of liability would be adjusted by regulation for inflation on the same inflation-adjustment cycle used for the other source categories. We note that, as a result, a limit of liability could change more frequently than once every three years, if it was changed by statute and then adjusted by regulation for inflation on the regular inflation-adjustment cycle.

Because any new statutory limits of liability normally would supersede the prior regulatory limits of liability, any such new limits of liability would take effect for purposes of determining a responsible party's liability in the event of an incident on the date of enactment unless another effective date is specified in the amending law. As provided in § 138.85 of the COFR Rule, however, the deadline for vessel and deepwater port responsible parties to establish evidence of financial responsibility in the new amounts would be the 90th day after the effective date of the Coast Guard's final rule amending the CFR to reflect the new statutory limits of liability, unless another date is required by statute or specified in the **Federal Register** notice amending the regulation. (See, 33 U.S.C. 2716 and § 138.80(f)(1).)

The simplified regulatory procedure described in proposed § 138.240(a) would not be used for other adjustments to the limits of liability, such as those authorized for classes and categories of onshore facilities under 33 U.S.C. 2704(d)(1) and for deepwater ports under 33 U.S.C. 2704(d)(2).

B. Clarifying Amendments Respecting Edible Oil Cargo Tank Vessels and Oil Spill Response Vessels

The Coast Guard is also proposing amendments to the vessel limits of liability in § 138.230(a) for consistency with 33 U.S.C. 2704(c)(4). (See Regulatory History discussion, above at IV.C.) Specifically, the proposed amendments to § 138.230(a) would clarify that edible oil cargo tank vessels and oil spill response vessels (defined as proposed in § 138.220(b)) are subject to the lower limits of liability set forth in current § 138.230(a)(5) (proposed new § 138.230(a)(2)) applicable to the ''any other vessel'' category under 33 U.S.C. 2704(a)(2). The Coast Guard believes that adding clarifying language in the regulatory text will be helpful to the public.

C. Section-by-Section Discussion [19]

Heading. The heading for 33 CFR part 138 would be amended by adding the words ''ONSHORE FACILITY''.

Authorities. We propose to update the authorities citations for part 138 to reflect the amendments to the delegations in E.O. 12777, Sec. 4, by E.O. 13638 of March 15, 2013, the resulting agency-level re-delegations, and for editorial purposes.

§ 138.200 Scope. We propose to amend § 138.200 to add that subpart B sets forth the OPA 90 limit of liability for onshore facilities, in addition to the OPA 90 limits of liability for vessels and deepwater ports. We also propose to amend the scope section to specify that subpart B includes the procedure for making future inflation adjustments, by regulation, to the limits of liability for vessels, deepwater ports and onshore facilities, and for updating the limits when they are amended by statute. Finally, we propose to amend the scope section to specify that subpart B also cross-references DOI's proposed regulation at 30 CFR 553.702, setting forth the OPA 90 limit of liability applicable to offshore facilities, including offshore pipelines, as adjusted by DOI for inflation under OPA 90 (33 U.S.C. 2704(d)(4)). This cross-reference is being added for the convenience of the public.

§ 138.210 Applicability. We propose amending § 138.210 to add that subpart B applies to you if you are a responsible party for an onshore facility, except (as is the case under the current rule for vessel and deepwater port responsible parties) to the extent your liability is unlimited under OPA 90 (33 U.S.C. 2704(c)).

§ 138.220 Definitions. We are proposing to amend § 138.220(a) of the definitions to cross-reference the OPA 90 definitions of *facility, offshore facility* and *onshore facility.* In addition, we propose to amend § 138.220(b) by revising the definition of *Director, NPFC,* in § 138.220(b), to conform to how that term is defined in other rules implemented by NPFC, and by adding definitions for *current period* and *previous period* as DOI has done in its proposal to amend the offshore facility limit of liability (79 FR at 10063). These definitions clarify the CPI escalation formula. Finally, we propose to add definitions for *edible oil tank vessel* and *oil spill response vessel* to mean,

[18] As provided in § 138.240(b) (§ 138.240(c) of the proposed rule), if the significance threshold were not met, the Director, NPFC, would publish a notice of no inflation adjustment.

[19] The Coast Guard has included the complete regulatory text of 33 CFR part 138, subpart B in this NPRM to facilitate the public's understanding of the changes proposed to the current text of subpart B. The changes proposed to the existing regulatory text are, however, limited to those specifically mentioned in this section-by-section discussion.

respectively, a tank vessel referred to in OPA 90 (33 U.S.C. 2704(c)(4)(A) or (B)). These definitions are needed to clarify applicability of the limits of liability proposed in § 138.230.

§ 138.230 Limits of liability. We propose to increase the limits of liability for vessels and deepwater ports, including LOOP, from those set forth in current § 138.230, to reflect significant increases in the CPI. We also propose to amend § 138.230(a) to expressly provide and clarify that the ''other vessel'' limits of liability in § 138.230(a)(2) apply to edible oil tank vessels and oil spill response vessels. Additionally, we propose adding an inflation-adjusted limit of liability for onshore facilities in § 138.230(c).

As discussed in section V.A.2, the limits of liability proposed in § 138.230 of this NPRM are estimates, calculated using the 2013 Annual CPI–U as the current value. The updated limit of liability values that will appear in the final rule of this rulemaking will be calculated using the most recent Annual CPI–U available at the time of publication of the final rule, and may therefore be marginally different than the estimates in this NPRM.

In addition, as discussed above in section V.A.3 and 5, the new limit of liability for deepwater ports and onshore facilities generally may differ from the amounts shown in § 138.230(b)(1) and (c) of the proposed regulatory text if, after considering any public comments on this NPRM, we decide to calculate the CPI adjustments to the statutory limit of liability for these two source categories using the 1990 Annual CPI–U value of 130.7 as the *previous period.* This would be instead of using the 2006 Annual CPI–U value of 201.6 to adjust the onshore facility limit of liability and the 2008 Annual CPI–U value of 215.3 to adjust the deepwater port generally-applicable limit of liability, as we have done for purposes of this proposal.

Finally, we have added new subsection § 138.230(d). Paragraph (d) will cross-reference the offshore facility limit of liability, which DOI has proposed to adjust for inflation and set forth at 30 CFR 553.702 (see 79 FR at 10063). Our proposal reflects DOI's proposal. If the section numbering of that regulation changes in DOI's final rule, we will change our regulatory text accordingly.

§ 138.240 Procedure for updating limits of liability to reflect significant increases in the Consumer Price Index (Annual CPI–U) and statutory changes. We propose adding new § 138.240(a), and re-designating the subsections that follow accordingly. Proposed new subsection (a) would establish the simplified regulatory procedure the Coast Guard proposes to use to amend the limits of liability contained in proposed § 138.230 to reflect significant increases in the CPI and when the limits of liability are amended by statute. As discussed above in section V.A.6, the wording in proposed § 138.240(a) is based on a similar procedure used by the Federal Energy Regulatory Commission to adjust its fees for inflation (see 18 CFR 381.104(a) and (d)), and would help ensure regular, timely inflation adjustments to the OPA 90 limits of liability as intended by Congress. The approach is also an appropriate and helpful efficiency measure given the mandatory and routine nature of the CPI adjustments.

We also propose editorial revisions, such as dividing § 138.240(b) into subparagraphs, adding a cross reference to § 138.240(a) in § 138.240(c), and changing the title of § 138.240 to read ''Procedure for updating limits of liability to reflect significant increases in the Consumer Price Index (Annual CPI–U) and statutory changes.'' No other changes are being proposed to § 138.240.

VI. Regulatory Analyses

We developed this proposed 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 proposed rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866. Nonetheless, we developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry. We consider all estimates and analysis in this Regulatory Analysis to be subject to change in consideration of public comments. A draft Regulatory Assessment is available in the docket and a summary follows.

1. Regulatory Costs

There are two regulatory costs that are expected from this proposed rule. Regulatory Cost 1: Increased Cost of Liability. Regulatory Cost 2: Increased cost of establishing vessel evidence of financial responsibility.[20]

a. Discussion of Regulatory Cost

This proposed rule could increase the dollar amount of OPA 90 removal costs and damages a responsible party of a vessel (other than a public vessel),[21] deepwater port, or onshore facility must pay in the event of a discharge, or substantial threat of discharge, of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone of the United States (''OPA 90 incident''). This regulatory cost, however, would only be incurred by a responsible party if an OPA 90 incident resulted in OPA 90 removal costs and damages that exceeded the applicable vessel, deepwater port, or onshore facility previous limit of liability. In any such case, assuming as we do in this analysis that the responsible party is entitled to a limit of liability (i.e., none of the exceptions in 33 U.S.C. 2704(c) apply), the difference between the previous limit of liability amount and the proposed new limit of liability amount is the maximum increased cost to the responsible party. Incident costs above this value would not be borne by the responsible parties, but rather by the Fund.

i. Affected Population—Vessels

Coast Guard data, as of May 2013, indicate that for the years 1991 through 2012, 62 OPA 90 vessel incidents (i.e., an average of approximately 3 OPA 90 vessel incidents per year) resulted in OPA 90 removal costs and damages in

[20] It should be noted that from an economic perspective, CPI adjustments are actually neutral in that they maintain the cost and benefit impacts of the limits of liability constant in real dollar terms. Not adjusting the limits of liability would, by comparison, allow inflation to erode the value of the limits of liability in real terms.

[21] See footnote 1. According to Coast Guard's MISLE database, there are over 200,000 vessels of various types in the vessel population that are not public vessels or used exclusively for recreational use. Examples of vessel types include, but are not limited to: fish processing vessel, freight barge, freight ship, industrial vessel, mobile offshore drilling unit, offshore supply vessel, oil recovery vessel, passenger vessel, commercial fishing vessel, passenger barge, research vessel, school ship, tank barge, tank ship, and towing vessel.

excess of the previous limits of liability. For the purpose of this analysis, we have therefore assumed that three OPA 90 vessel incidents with costs exceeding the previous limits of liability would continue to occur each year throughout the 10-year analysis period (2014–2023).

ii. Affected Population—Deepwater Ports

This proposed rule could affect the responsible parties of any port licensed under the DPA that is subject to OPA 90 (i.e., any such port, including its associated pipelines, that meets the OPA 90 definition of ''facility'').[22] Currently there are two ports in operation that are licensed under the DPA—LOOP and Northeast Gateway. Northeast Gateway, however, is a liquefied natural gas (LNG) port and, as currently designed and operated, it does not meet the OPA 90 definition of ''facility''. Therefore—although a vessel visiting or servicing Northeast Gateway could become the source of a discharge, or substantial threat of discharge, of oil for which the vessel responsible parties would be liable under OPA 90—it is highly unlikely that Northeast Gateway or any similarly-designed and operated LNG port would be the source of an oil discharge, or substantial threat of discharge.[23] We therefore, do not include LNG ports in this analysis.

To date, LOOP (the only port licensed under the DPA that is in operation and meets the OPA 90 definitions of ''deepwater port'' and ''facility'') has not had an OPA 90 incident that resulted in removal costs and damages in excess of LOOP's previous limit of liability of $87,606,000. However, for the purposes of this analysis, we show the cost of one OPA 90 incident occurring at LOOP over the 10-year analysis period (2014–2023), with OPA 90 removal costs and damages in excess of the previous limit of liability for LOOP, as the potential for such a spill exists.

iii. Affected Population—Onshore Facilities

This proposed rule could affect any responsible party for an onshore facility (including onshore pipelines). The impact would, however, only occur if the incident resulted in OPA 90 removal costs and damages in excess of the previous limit of liability.

Because of the large number and diversity of onshore facilities, it is not possible to predict which specific types or sizes of onshore facilities might be affected by this proposed rule. Coast Guard data, as of May 2013, however, indicate that since the enactment of OPA 90 through May 1, 2013, only one onshore facility incident—the 2010 Enbridge Pipeline spill in Michigan—may have resulted in OPA 90 removal costs and damages that exceeded the onshore facility previous limit of liability of $350,000,000.[24]

The Enbridge Pipeline incident indicates that the previous limit of liability for an onshore facility, although high, can still be exceeded by a low frequency, but high consequence oil spill. Therefore, for the purposes of this analysis, we assume one onshore facility incident would occur over the 10-year analysis time period that would result in OPA 90 removal costs and damages in excess of the onshore facility previous limit of liability.

iv. Cost Summary Regulatory Cost 1

(a) Vessels

We estimate the greatest cost to a vessel responsible party entitled to a limit of liability under OPA 90, for purposes of this analysis, by assuming that the average annual cost from the historical incidents analyzed would remain constant throughout the analysis period (2014–2023). The average annual increased cost of liability for the analysis time period (2013–2024) is estimated by calculating the difference between the previous limit of liability and the proposed new limit of liability for each of the 62 historical incidents. These values were totaled and then divided by the number of years of data (22 years). The average annual cost resulting from the three estimated vessel incidents per year is estimated to be $2,544,000 (non-discounted dollars). Dividing this value by the three hypothetical vessel incidents per year equals $848,000 for the average annual cost per vessel.

(b) Deepwater Ports

We estimate the greatest cost to a deepwater port responsible party entitled to a limit of liability under OPA 90, for purposes of this analysis, by assuming that the cost of the incident would be equal to the proposed new limit of liability. As mentioned above, LOOP has never had an incident with OPA 90 removal costs and damages in excess of its limit of liability. Therefore, given the lack of any deepwater port historical data, we rely on the historical data available for vessel incidents with costs in excess of LOOP's previous limit of liability of $87,606,000.

Specifically, we assume that the LOOP responsible parties would make OPA 90 removal cost and damage payments for the one hypothetical incident, over the course of 10 years after the incident date.[25] In addition, for the purposes of this analysis, we assume that the payments would be spread out in equal annual amounts over the 10-year analysis period (2014–2023). Applying these assumptions, the average annual cost resulting from the one hypothetical LOOP OPA 90 incident is estimated to be $718,400 (non-discounted dollars).[26]

There would be no increase to Regulatory Cost 1 resulting from the proposed adjustment to the generally-applicable deepwater port limit of liability adjustment, including if, after considering any public comment, we decide to re-calculate the CPI adjustment to the deepwater port statutory limit of liability in 33 U.S.C. 2704(a)(4), using the 1990 Annual CPI–U value of 130.7 as the *previous period,* instead of the 2008 Annual CPI–U value of 215.3 that we have used for purposes of this proposal. This is because, as previously mentioned, there are no deepwater ports in operation that are

[22] 33 U.S.C. 2701(6) defines ''deepwater port'' as ''a *facility* licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501–1524)'' [emphasis added]. 33 U.S.C. 2701(9) defines ''facility'' to mean ''any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes[.]''

[23] Several other LNG ports were mentioned in the regulatory analysis for the CPI–1 Rule. But they have either not become operational, or are no longer in operation. For example, on July 17, 2013, the Maritime Administrator approved a request by Suez Neptune LNG, LLC, for a temporary five-year suspension of its deepwater port license. In addition, on June 28, 2013 the Maritime Administrator cleared decommissioning of the Gulf Gateway Energy Bridge, and approved termination of its license. These LNG ports, therefore, are not included in this analysis. A fifth LNG port licensed under the DPA, Port Dolphin Energy LLC Deepwater Port (Port Dolphin), is not yet operational. Port Dolphin, moreover, has the same design as Northeast Gateway and, therefore, also would not meet the OPA 90 definition of ''facility''. It, therefore, is not included in this analysis.

[24] See footnote 12.

[25] Based on Coast Guard subject matter expert experience, we have made the assumption that a LOOP incident with costs above its Previous Limit of Liability of $87,606,000 would be analogous to a vessel incident with respect to the duration of responsible party payments until the completion date. The per-incident duration of payments was determined by comparing the incident date and the completion date for each vessel incident occurring since enactment of OPA 90 with incident removal costs and damages (in 2013 dollars) above LOOP's ''Previous Limit of Liability'' of $87,606,000. There were 6 incidents fitting this criteria, 3 are ongoing incidents, 3 are completed. The average duration for the 3 completed incidents, was approximately 10 years.

[26] The only deepwater port affected by this rulemaking, LOOP, has a facility-specific limit of liability first established in 1995 under 33 U.S.C. 2704(d)(2)(C), and adjusted for inflation by the CPI–1 Rule.

subject to the generally-applicable OPA 90 limit of liability for deepwater ports.

(c) Onshore Facilities

We estimate the greatest cost to an onshore facility responsible party entitled to a limit of liability under OPA 90, for purposes of this analysis, by assuming that the cost of the incident would be equal to the proposed new limit of liability. Based on NPFC's experience with onshore facility incidents, we assume that the onshore facility responsible parties would be making OPA 90 removal cost and damage payments for the one estimated incident, over the course of 10 years after the incident date.[27] We further assume that the payments would be spread out in equal annual amounts over the 10-year analysis period (2014–2023).[28] Applying these assumptions, the average annual cost resulting from the one estimated onshore facility OPA 90 incident over 10 years is estimated to be $5,460,000 (non-discounted dollars).

If, after considering any public comment, we decide to calculate the CPI adjustments to the onshore facility limit of liability using the 1990 Annual CPI–U value of 130.7 as the *previous period* (i.e., instead of the 2006 Annual CPI–U value of 201.6, established by the CPI–1 rule that we have used for purposes of this proposal), the average annual cost resulting from the one estimated onshore facility OPA 90 incident over 10 years would be $27,370,000 (non-discounted dollars).

v. Present Value of Regulatory Cost 1

The 10-year present value of Regulatory Cost 1, at a 3 percent discount rate, is estimated to be $74.4 million.[29] The 10-year present value of Regulatory Cost 1, at a 7 percent discount rate, is estimated to be $61.3 million.[30] The annualized discounted cost of Regulatory Cost 1, at a 3 percent discount rate, is estimated to be $8.7 million. The annualized discounted cost of Regulatory Cost 1, at a 7 percent discount rate, is estimated to be $8.7 million.

If, after considering any public comment, we decide to calculate the CPI adjustments to the onshore facility limit of liability and the generally-applicable limit of liability for deepwater ports using the 1990 Annual CPI–U value of 130.7 as the *previous period,* the present value estimates would be as follows. The estimated 10-year present value of Regulatory Cost 1, at a 3 percent discount rate, would be $261.3 million.[31] The estimated 10-year present value of Regulatory Cost 1, at a 7 percent discount rate, would be $215.1 million.[32] The estimated annualized discounted cost of Regulatory Cost 1, at a 3 percent discount rate, would be $30.6 million. The estimated annualized discounted cost of Regulatory Cost 1, at a 7 percent discount rate, would be $30.6 million.[33]

b. Discussion of Regulatory Cost 2

OPA 90 (33 U.S.C. 2716) requires that the responsible parties for deepwater ports and certain types and sizes of vessels establish and maintain evidence of financial responsibility to ensure that they have the ability to pay for OPA 90 removal costs and damages, up to the applicable limits of liability, in the event of an OPA 90 incident.[34] Therefore, because the regulatory changes contemplated by this proposed rule would increase those limits of liability, vessel and deepwater port responsible parties may incur additional costs establishing and maintaining evidence of financial responsibility as a result of this rulemaking.

Specifically, the proposed rule could increase the cost to vessel and deepwater port responsible parties associated with establishing OPA 90 evidence of financial responsibility in two ways:

- Responsible parties using Insurance as their method of demonstrating financial responsibility could incur higher Insurance premiums.
- Some responsible parties currently using the Self-Insurance or Financial Guaranty methods of demonstrating financial responsibility might need to acquire Insurance, and would thereby incur new Insurance premium costs. This would only be the case if the financial conditions (working capital and net worth) of Self-Insuring responsible parties or Financial Guarantors no longer qualified them to provide OPA 90 evidence of financial responsibility.

i. Affected Population—Vessels

Vessel responsible parties may establish evidence of financial responsibility using any of the following methods: Insurance, Self-Insurance, Financial Guaranty, Surety Bonds, or any other method approved by the Director, NPFC.[35] This proposed rule could affect the cost to vessel responsible parties of establishing and maintaining evidence of financial responsibility using the Insurance, Self-Insurance or Financial Guaranty methods of financial responsibility. As of 18 October 2011, the NPFC's certificate of financial responsibility (COFR) database contained 21,077 vessels using Insurance, 957 vessels using Self-Insurance and 2,530 vessels using Financial Guaranties.

ii. Affected Population—Deepwater Ports

As previously discussed (see Affected Population—Deepwater Ports, above under Regulatory Cost 1), LOOP is the only operating deepwater port that would be affected by this proposed rule. Currently LOOP uses a Director-approved method of establishing

[27] The per-incident duration of payments was determined by comparing the incident date and the completion date of each onshore facility incident occurring since enactment of OPA 90 with incident removal costs and damages (in 2013 dollars) greater than or equal to $5 million. There were 21 incidents fitting this criteria, 9 are ongoing incidents, 12 are completed. The average duration for the 12 completed incidents, was approximately 10 years.

[28] Based on Coast Guard subject matter expert experience, we have assumed that the payments would be spread out equally over the 10 year analysis period. This realistically models the long duration of OPA 90 removal actions (particularly in the case of an onshore facility incident resulting in OPA 90 removal costs and damages exceeding the limit of liability), the time lag in billings and payments and, if applicable, associated claim submissions, claims payments and litigation.

[29] The sum of the annual costs for the three source categories over the ten-year analysis period (i.e., $2.5 million per year for vessels, $0.7 million per year for deepwater ports, and $5.5 million per year for onshore facilities), discounted annually at a 7% discount rate equals $71.4 million.

[30] The sum of the annual costs for the three source categories over the ten-year analysis period (i.e., $2.5 million per year for vessels, $0.7 million per year for deepwater ports, and $5.5 million per year for onshore facilities), discounted annually at a 7% discount rate equals $61.3 million.

[31] The sum of the annual costs for the three source categories over the ten-year analysis period ($2.5 million per year for vessels, $0.7 million per year for deepwater ports, and $27.4 million per year for onshore facilities), discounted annually at a 3% discount rate equals $261.3 million.

[32] The sum of the annual costs for the three source categories over the ten-year analysis period ($2.5 million per year for vessels, $0.7 million per year for deepwater ports, and $27.4 million per year for onshore facilities), discounted annually at a 7% discount rate equals $215.1 million.

[33] As previously mentioned, there are no deepwater ports in operation that are subject to the generally-applicable limit of liability for deepwater ports. Therefore, re-calculating the CPI adjustment to the deepwater port statutory limit of liability in 33 U.S.C. 2704(a)(4), using the 1990 Annual CPI–U value of 130.7 as the *previous period,* instead of the 2008 Annual CPI–U value of 215.3 used for purposes of this proposal, would not result in any Regulatory Cost 1 impacts.

[34] OPA 90 does not impose evidence of financial responsibility requirements on onshore facilities.

[35] See 33 CFR 138.80(b). Currently, however, there are no vessel responsible parties using the Surety Bond method of financial responsibility, and, based on historical experience, NPFC does not expect any responsible parties will use this method during the analysis period (2014–2023). In addition, there currently are no vessel responsible parties using other methods of demonstrating financial responsibility approved by Director, NPFC, and, based on historical experience, NPFC does not expect any responsible parties will use any other method during the analysis period (2014–2023).

financial responsibility. Specifically, the Director, NPFC, accepts the following documentation as evidence of financial responsibility for LOOP:

- LOOP's insurance policy issued by Oil Insurance Limited (OIL) of Bermuda with coverage up to $150 million per OPA 90 incident and a $225 million annual aggregate,
- Documentation that LOOP operates with a net worth of at least $50 million, and
- Documentation that the total value of the OIL policy aggregate plus LOOP's working capital does not fall below $100 million.

iii. Affected Population—Onshore Facilities

None. Onshore facilities are not required to establish and maintain evidence of financial responsibility under 33 U.S.C. 2716.

iv. Cost Summary Regulatory Cost 2

(a) Vessels

Increases to Vessel Insurance Premiums. The calculation of Insurance premium rates are dependent on many constantly changing factors, including: market forces, interest rates and investment opportunities for the premium income, the terms and conditions of the policy, and underwriting criteria such as vessel age, loss history, construction, classification details, and management history. As calculated above, the proposed percent change in the limits of liability for vessels is 8.2%. Based on estimates received from Insurance companies,[36] it is assumed that an 8.2% increase in the limits of liability would cause, on average, a 6.0% increase in Insurance premiums charged across all vessel types.

Estimated costs were calculated by multiplying the number of vessels by vessel category for each year of the analysis period (2014–2023) by the Expected Average Increase in Premium for that particular vessel type. The annual cost associated with increased Insurance premiums is estimated to be between $6.6 million and $6.7 million (non-discounted dollars).

Migration of vessel responsible parties currently using the Self-Insurance and Financial Guaranty Methods of Financial Responsibility to the Insurance Market.

Based on the financial documentation received from vessel responsible parties using the Self-Insurance or Financial Guaranty methods, the Coast Guard estimates that the responsible parties for 2% of the vessels that have COFRs based on those methods might need to migrate to the Insurance method of financial responsibility. The cost estimates for vessel responsible parties migrating to the Insurance method of financial responsibility were calculated by first multiplying the number of vessels using Self Insurance or Financial Guaranty by vessel category for each year of the analysis period (2014–2023) by the presumed percent of impacted vessels (2%) and then multiplying the product by the estimated Expected Average Annual Premium for that particular vessel type. The annual cost associated with vessel responsible parties migrating to Insurance is estimated to be between $326,000 and $334,000 (non-discounted dollars).

(b) LOOP

An increase in the LOOP limit of liability of the magnitude proposed by this rulemaking is not expected to increase the cost to the LOOP responsible parties associated with establishing and maintaining LOOP's evidence of financial responsibility. This is because the LOOP responsible parties provide evidence of financial responsibility to the Coast Guard at a level that exceeds both LOOP's previous limit of liability and the proposed new limit of liability of $93,388,000.

The Coast Guard, therefore, does not expect this action to change the terms of the OIL policy, to result in an increased premium for the OIL policy, or to require LOOP to have higher minimum net worth or working capital requirements.

v. Present Value of Regulatory Cost 2

The 10-year present value, at a 3 percent discount rate, is estimated to be $59.1 million. The 10-year present value, at a 7 percent discount rate, is estimated to be $48.7 million.[37] The annualized discounted cost, at a 3 percent discount rate, is estimated to be $6.9 million.[38] The annualized discounted cost, at a 7 percent discount rate, is estimated to be $6.9 million.

Present Value of Total Cost = Regulatory Cost 1 + Regulatory Cost 2

The 10-year present value, at a 3 percent discount rate, is estimated to be $133.5 million.[39] The 10-year present value, at a 7 percent discount rate, is estimated to be $110.0 million.[40] The annualized discounted cost, at a 3 percent discount rate, is estimated to be $14.3 million. The annualized discounted cost, at a 7 percent discount rate, is estimated to be $14.3 million.

If, after considering any public comment, we decide to calculate the CPI adjustments to the onshore facility limit of liability and the generally-applicable limit of liability for deepwater ports using the 1990 Annual CPI–U value of 130.7 as the *previous period,* the present value estimates would be as follows. The estimated 10-year present value, at a 3 percent discount rate, would be $320.4 million.[41] The estimated 10-year present value, at a 7 percent discount rate, would be $263.8 million.[42] The estimated annualized discounted cost, at a 3 percent discount rate, would be $37.6 million. The estimated annualized discounted cost, at a 7 percent discount rate, would be $37.6 million.

2. Regulatory Benefits

a. *Regulatory Benefit 1: Ensure that the OPA 90 limits of liability keep pace with inflation.*

OPA 90 (33 U.S.C. 2704(d)(4)) mandates that limits of liability be updated periodically to reflect significant increases in the CPI to account for inflation. The intent of this requirement is to ensure that the real values of the limits of liability do not decline over time. Absent CPI adjustments, the responsible parties ultimately benefit because they pay a reduced percentage of the total incident costs they would be required to pay with inflation incorporated into the determination of their limit of liability. Requiring responsible parties to internalize costs by adjusting their limits of liability for inflation ensures that the appropriate amount of cleanup,

[36] Data was requested from 9 of a possible 14 Insurance companies. Four responded with their current premium rates and their best estimates of the increase in premium rates resulting from the proposed regulatory change. These four Insurance companies represent approximately 93% of vessels that use the Insurance method of financial responsibility.

[37] The sum of the annual costs for the two subcategories of Regulatory Cost 2 over the ten-year analysis period (ranging from $6.6 million per year to $6.7 million per year for increased vessel insurance premiums, and from $0.326 million to $0.334 million per year for migration of some vessels to the Insurance method of financial responsibility), discounted annually at a 3% discount rate equals $59.1 million.

[38] The sum of the annual costs for the two subcategories of Regulatory Cost 2 over the ten-year analysis period (ranging from $6.6 million per year to $6.7 million per year for increased vessel insurance premiums, and from $0.326 million to $0.334 million per year for migration of some vessels to the Insurance method of financial responsibility), discounted annually at a 7% discount rate equals $48.7 million.

[39] This is the sum of Regulatory Cost 1 ($74.4 million) and Regulatory Cost 2 ($59.1 million).

[40] This is the sum of Regulatory Cost 1 ($61.3 million) and Regulatory Cost 2 ($48.7 million).

[41] This is the sum of Regulatory Cost 1 ($261 million) and Regulatory Cost 2 ($59.1 million).

[42] This is the sum of Regulatory Cost 1 ($215.1 million) and Regulatory Cost 2 ($48.7 million). The amounts do not add up due to rounding.

response and damage costs are borne by the responsible party.

b. *Regulatory Benefit 2: Ensure that the responsible party is held accountable.*

Increasing the limits of liability to account for inflation ensures that the appropriate amount of removal costs and damages are borne by the responsible party and that liability risk is not shifted away from the responsible party to the Fund. This helps preserve the ''polluter pays'' principle as intended by Congress and preserves the Fund for its other authorized uses. Failing to adjust the limits of liability for inflation, by comparison, shifts those costs to the public and the Fund.

c. *Regulatory Benefit 3: Reduce and deter substandard shipping and oil handling practices.*

Increasing the limits of liability serves to reduce the number of substandard ships in U.S. waters and ports because insurers are less likely to provide Insurance to, and Financial Guarantors are less likely to guaranty, substandard vessels at the new levels of OPA 90 liability. Maintaining the limits of liability also helps preserve the deterrent effect of the OPA 90 liability provisions for Self Insurers.

With respect to oil handling practices, the higher the responsible parties' limits of liability are, the greater the incentive for them to operate in the safest and most risk-averse manner possible. Conversely, the lower the limits of liability, the lower the incentive is for responsible parties to spend money on capital improvements and operation and maintenance systems that will protect against oil spills.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed 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.

An Initial Regulatory Flexibility Analysis (IRFA) discussing the impact of this proposed rule on small entities is included in the Regulatory Analysis that is available in the docket. A summary of the IRFA follows.

There are two potential economic impacts to small entities that would result from this proposed rule:

Regulatory Cost 1. Increased Cost of Liability

Regulatory Cost 2. Increased Cost of Establishing Evidence of Financial Responsibility.

1. Regulatory Cost 1: Increased Cost of Liability

As explained in Part IV.A. of this preamble and in the Regulatory Analysis for this proposed rule, Regulatory Cost 1 would only occur if there was an OPA 90 incident that had removal costs and damages in excess of the existing limits of liability.

a. Vessels

This proposed rule could affect the responsible parties of any vessel, other than a public vessel,[43] from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone of the United States. Coast Guard data indicate that, since the enactment of OPA 90 through May 1, 2013, there were 62 OPA 90 vessel incidents (i.e., an average of approximately three OPA 90 vessel incidents per year) that resulted in OPA 90 removal costs and damages in excess of the previous limits of liability. For the purpose of this analysis, we have therefore assumed that three OPA 90 vessel incidents would continue to occur each year throughout the 10-year analysis period (2014–2023).

The vessel population encompasses dozens of North American Industry Classification System (NAICS) codes. It, therefore, would not be practical to predict which specific type or size of vessel might be involved in the three hypothetical incidents assumed to occur per year, or whether they would involve small entities.

Incident cost data show that the average cost of an incident that exceeds the current limit of liability is approximately $848,000. Therefore, in the event that a small entity had a vessel incident with OPA 90 removal costs and damages of this magnitude, it would likely have a significant economic impact.

[43] See 33 U.S.C. 2701(29) and (37) (definitions of public vessel and vessel) and 33 U.S.C. 2702(c)(2) (public vessel exclusion). According to Coast Guard's MISLE database, there are over 200,000 vessels of various types in the vessel population that are not public vessels or used exclusively for recreational use. Examples of vessel types include, but are not limited to: fish processing vessel, freight barge, freight ship, industrial vessel, mobile offshore drilling unit, offshore supply vessel, oil recovery vessel, passenger vessel, commercial fishing vessel, passenger barge, research vessel, school ship, tank barge, tank ship, and towing vessel.

b. Deepwater Ports

As discussed in Part IV.A. of this preamble, and in the Regulatory Analysis for this rulemaking, the only deepwater port affected by this proposed rule is LOOP. LOOP, however, does not meet the Small Business Administration (SBA) criteria to be categorized as a small entity.[44]

c. Onshore Facilities

As discussed in Part IV.A., of this preamble, and in the Regulatory Analysis for this rulemaking, this proposed rule could affect any responsible party for an onshore facility.[45] Since the enactment of OPA 90, however, the 2010 Enbridge Pipeline spill in Michigan may well be the only onshore facility incident resulting in removal costs and damages that exceed the $350 million onshore facility limit of liability; [46] and this onshore facility is not a small entity. Nevertheless, in the Regulatory Analysis for this proposed rule, we assume that there would be one onshore facility incident occurring over the 10 year analysis period with OPA 90 removal costs and damages exceeding the existing limit of liability.

The onshore facility population encompasses dozens of NAICS codes representing diverse industries.[47] It, therefore, would not be practical to predict which specific type or size of onshore facility might be involved in the one hypothetical incident assumed to occur over the 10-year analysis period, or whether it would involve a small entity. However, in the event a small entity onshore facility was to have an incident with OPA 90 removal costs and damages of this magnitude, it

[44] LOOP is a limited liability corporation (NAICS Code: 48691001) owned by three major oil companies: Marathon Oil Company, Murphy Oil Corporation, and Shell Oil Company. None of these companies are small entities.

[45] OPA 90 (33 U.S.C. 2701(9)) defines ''facility'' as ''any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes''. OPA 90 (33 U.S.C. 2701(24)) defines an ''onshore facility'' as ''any facility (including but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land.''

[46] Reliable supporting estimates of the OPA 90 removal costs and damages resulting from incident are not currently available.

[47] Examples of onshore facilities include, but are not limited to: onshore pipelines; rail; motor carriers; petroleum bulk stations and terminals; petroleum refineries; government installations; oil production facilities; electrical utility plants; mobile facilities; marinas, marine fuel stations and related facilities; farms; fuel oil dealers; and gasoline stations.

would likely have a significant economic impact.

2. Regulatory Cost 2—Increased Cost of Establishing Evidence of Financial Responsibility

i. Vessels

Regulatory Cost 2 would only apply to vessel responsible parties required to provide evidence of financial responsibility under OPA 90 (33 U.S.C. 2716) and 33 CFR part 138, subpart A. As of July 3, 2013, there were 1,744 unique entities in the Coast Guard's COFR database that could be affected by this proposed rulemaking. Because of the large number of entities, we determined the statistically significant sample size necessary to represent the population. The appropriate statistical sample size for the population, at a 95% confidence level and a 5% confidence interval, is 315 entities. This means we are 95% certain that the characteristics of the sample reflect the characteristics of the entire population within a margin of error of + or − 5%.

Using a random number generator, we then randomly selected the 315 entities from the population for analysis. Of the sample, 309 were businesses, 0 were not-for-profit organizations, and 6 were governmental jurisdictions.

For each business entity, we next determined the number of employees, annual revenue, and NAICS Code to the extent possible using public and proprietary business databases. The SBA's publication ''U.S. Small Business Administration Table of Small Business Size Standards Matched to North American Industry Classification System codes effective January 22, 2014'' [48] was then used to determine whether an entity is a small entity. For governmental jurisdictions, we determined whether they had populations of less than 50,000 as per the criteria in the Regulatory Flexibility Act.

Of the sampled population, 220 would be considered small entities using the SBA criteria, 72 would not be small entities, and no data was found for the remaining 23 entities.[49] If we assume that the entities where no revenue or employee data was found are small entities, then small entities make up 77 percent of the sample.[50] We can then extrapolate the entire population of entities from the sample using the following formula, where ''X'' is the number of small entities within the total population.

(X small entities in the total population divided by 1,744 total entities in the population) = (243 small entities in the sample/315 total entities in the sample)

Solving for X, X equals 1,345 small entities within the total population.

As discussed in the Regulatory Analysis, the proposed rule could increase the cost to vessel responsible parties associated with establishing OPA 90 evidence of financial responsibility in two ways:

(1) Responsible parties using the Insurance method of financial responsibility could incur higher Insurance premiums.

(2) Some responsible parties currently using the Self-Insurance or Financial Guaranty method of establishing evidence financial responsibility might need to acquire Insurance for their vessels. This would only be the case if the Self-Insuring responsible parties or financial guarantors' financial condition (working capital and net worth) no longer qualified them to provide OPA 90 evidence of financial responsibility.

As calculated in the Regulatory Analysis, the average annual per vessel increase in Insurance premium for responsible parties using the Insurance method of establishing evidence of financial responsibility is $480. The average annual cost per vessel migrating from the Self-insurance/Financial Guaranty methods to the Insurance method is $8,240 per vessel.

Based on review of financial data of entities using the Self-Insurance or Financial Guaranty method for establishing evidence of financial responsibility, Coast Guard subject matter experts estimate that responsible parties for 2% of vessels using those two methods would not have the requisite working capital and net worth necessary to qualify for these methods as a result of this proposed rule. In those cases, they would have to use the Insurance method to establish and maintain evidence of financial responsibility.

The increased cost of establishing evidence of financial responsibility for each small entity is calculated by:

1. Multiplying the number of vessels using the Insurance Method by the Average Increase in Premium ($480), and

2. Adding the product of the number of vessels using the Self-Insurance and Financial Guaranty methods multiplied by the Average Annual Premium ($8,240), multiplied by 2%.

For example, for a hypothetical small entity using the Insurance Method for three vessels and having to change from the Self-Insurance or Financial Guaranty Method to the insurance method for two vessels (i.e., both vessels falling within the 2%), the calculation would be as follows:

(3 vessels using Insurance Method × $480/year) + (100 vessels using Self-Insurance or Financial Guaranty Method × 2% of vessels expected to migrate from Self-Insurance or Financial Guaranty Method to the Insurance Method × $8,240/year) = $17,950/year

This calculation was conducted for each small entity and the value was then divided by the annual revenue for the small entity and then multiplied by 100 to determine the percent impact of this proposed rule on the small entities' annual revenue. The figure below shows the economic impact to vessel small entities of Regulatory Cost 2.

ECONOMIC IMPACT TO VESSEL SMALL ENTITIES—REGULATORY COST 2

Percent of annual revenue	Extrapolated number of small entities	Percent of small entities
1 to 2	54	4
<1	1,291	96

ii. Deepwater Ports

Because there are no small entity deepwater ports, there would be no Regulatory Cost 2 small entity impacts to Deepwater Ports.

iii. Onshore Facilities

As stated in the Regulatory Analysis for this rulemaking, onshore facilities are not required to establish and maintain evidence of financial responsibility under 33 U.S.C. 2716. There would therefore be no Regulatory Cost 2 small entity impacts to Onshore Facilities.

If you think your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking.

[48] *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

[49] The 6 governmental jurisdictions were a subset of the 23 entities where no data was found.

[50] The data show that small entities are often responsible parties for multiple vessels.

If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Benjamin White, National Pollution Funds Center, Coast Guard, telephone 703–872–6066. 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 proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

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 proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132. This proposed rule makes necessary adjustments to the OPA 90 limits of liability to reflect significant increases in the CPI, establishes a framework for such future CPI increases, and clarifies the OPA 90 limits of liability for certain vessels. Nothing in this proposed rule would affect the preservation of State authorities under 33 U.S.C. 2718, including the authority of any State to impose additional liability or financial responsibility requirements with respect to discharges of oil within such State. Therefore, it has no implications for federalism.

The Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, E.O. 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under E.O. 13132, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (''Civil Justice Reform''), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272 directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule would increase the OPA 90 limits of liability for vessels, deepwater ports, and onshore facilities to reflect significant increases in the CPI using the methodology established in the CPI–1 Rule. This proposed rule is expected to be categorically excluded under paragraph 34(a), of the current instruction, from further environmental documentation, in accordance with Section 2.B.2. and Figure 2–1 of the national Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1D. We seek any comments or information that may lead to the discovery of a significant

environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 138

Hazardous materials transportation, Financial responsibility, Guarantors, Insurance, Limits of liability, Oil pollution, Reporting and recordkeeping requirements, Surety bonds, Water pollution control.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 138 as follows:

PART 138—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS) AND OPA 90 LIMITS OF LIABILITY (VESSELS, DEEPWATER PORTS AND ONSHORE FACILITIES)

■ 1. The authorities citation for part 138 is revised to read as follows:

Authority: 33 U.S.C. 2704, 2716, 2716a; 42 U.S.C. 9608, 9609; 6 U.S.C. 552; E.O. 12580, Sec. 7(b), 3 CFR, 1987 Comp., p. 193; E.O. 12777, Sec. 4, as amended by E.O. 13638 of March 15, 2013, Sec. 1 (78 FR 17589, Thursday, March 21, 2013); E.O. 12777, Sec. 5, 3 CFR, 1991 Comp., p. 351, as amended by E.O. 13286, Sec. 89, 3 CFR, 2004 Comp., p. 166; Department of Homeland Security Delegation Nos. 0170.1 and 5110, Revision 01. Section 138.30 also issued under the authority of 46 U.S.C. 2103 and 14302.

■ 2. Revise the heading to part 138 to read as set forth above.

■ 3. Revise Subpart B to read as follows:

Subpart B—OPA 90 Limits of Liability (Vessels, Deepwater Ports and Onshore Facilities)

Sec.

138.200 Scope.
138.210 Applicability.
138.220 Definitions.
138.230 Limits of liability.
138.240 Procedure for updating limits of liability to reflect significant increases in the Consumer Price Index (Annual CPI–U) and statutory changes.

§ 138.200 Scope.

This subpart sets forth the limits of liability under Title I of the Oil Pollution Act of 1990, as amended (33 U.S.C. 2701, *et seq.*) (OPA 90) for vessels, deepwater ports, and onshore facilities, as adjusted under OPA 90 (33 U.S.C. 2704(d)). This subpart also sets forth the method and procedure the Coast Guard uses to periodically adjust the OPA 90 limits of liability by regulation under OPA 90 (33 U.S.C. 2704(d)(4)), to reflect significant increases in the Consumer Price Index (CPI), and to update the limits of liability when they are amended by statute. In addition, this subpart cross-references the U.S. Department of the Interior regulation setting forth the OPA 90 limit of liability applicable to offshore facilities, including offshore pipelines, as adjusted under OPA 90 (33 U.S.C. 2704(d)(4)) to reflect significant increases in the CPI.

§ 138.210 Applicability.

This subpart applies to you if you are a responsible party for a vessel, a deepwater port, or an onshore facility, unless your liability is unlimited under OPA 90 (33 U.S.C. 2704(c)).

§ 138.220 Definitions.

(a) As used in this subpart, the following terms have the meanings set forth in OPA 90 (33 U.S.C. 2701): *deepwater port, facility, gross ton, liability, oil, offshore facility, onshore facility, responsible party, tank vessel,* and *vessel.*

(b) As used in this subpart—

Annual CPI–U means the annual ''Consumer Price Index—All Urban Consumers, Not Seasonally Adjusted, U.S. City Average, All items, 1982–84=100'', published by the U.S. Department of Labor, Bureau of Labor Statistics.

Current period means the year in which the Annual CPI–U was most recently published by the U.S. Department of Labor, Bureau of Labor Statistics.

Director, NPFC means the person in charge of the U.S. Coast Guard, National Pollution Funds Center (NPFC), or that person's authorized representative.

Edible oil tank vessel means a tank vessel referred to in OPA 90 (33 U.S.C. 2704(c)(4)(A)).

Oil spill response vessel means a tank vessel referred to in OPA 90 (33 U.S.C. 2704(c)(4)(B)).

Previous period means the year in which the previous limit of liability was established, or last adjusted by statute or regulation, whichever is later.

Single-hull means the hull of a tank vessel that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, that is not a double hull as defined in 33 CFR part 157. *Single-hull* includes the hull of any such tank vessel that is fitted with double sides only or a double bottom only.

§ 138.230 Limits of liability.

(a) *Vessels.* The OPA 90 limits of liability for vessels are—

(1) Limits of liability for tank vessels, other than edible oil tank vessels and oil spill response vessels.

(i) For a single-hull tank vessel greater than 3,000 gross tons, the greater of $3,500 per gross ton or $25,422,700;

(ii) For a tank vessel greater than 3,000 gross tons, other than a single-hull tank vessel, the greater of $2,200 per gross ton or $18,489,200.

(iii) For a single-hull tank vessel less than or equal to 3,000 gross tons, the greater of $3,500 per gross ton or $6,933,500.

(iv) For a tank vessel less than or equal to 3,000 gross tons, other than a single-hull tank vessel, the greater of $2,200 per gross ton or $4,622,300.

(2) Limits of liability for any other vessels. For any other vessel, including an edible oil tank vessel or an oil spill response vessel, the greater of $1,100 per gross ton or $924,500.

(b) *Deepwater ports.* The OPA 90 limits of liability for deepwater ports are—

(1) For deepwater ports generally, and except as set forth in paragraph (b)(2) of this section, $404,451,600;

(2) For deepwater ports with limits of liability established by regulation under OPA 90 (33 U.S.C. 2704(d)(2)):

(i) For the Louisiana Offshore Oil Port (LOOP), $94,789,700; and

(ii) [Reserved].

(c) *Onshore facilities.* The OPA 90 limit of liability for onshore facilities, $404,600,000;

(d) *Offshore facilities.* The OPA 90 limit of liability for offshore facilities, including any offshore pipeline, is set forth at 30 CFR 553.702.

§ 138.240 Procedure for updating limits of liability to reflect significant increases in the Consumer Price Index (Annual CPI–U) and statutory changes.

(a) *Update and publication.* The Director, NPFC, will periodically adjust the limits of liability set forth in § 138.230(a) through (c) to reflect significant increases in the Annual CPI–U, according to the procedure for calculating limit of liability inflation adjustments set forth in paragraphs (b)–(d) of this section, and will publish the inflation-adjusted limits of liability and any statutory amendments to those limits of liability in the **Federal Register** as amendments to § 138.230. Updates to the limits of liability under this section are effective on the 90th day after publication in the **Federal Register** of the amendments to § 138.230, unless otherwise specified by statute (in the event of a statutory amendment to the limits of liability) or in the **Federal Register** notice amending § 138.230.

(b) *Formula for calculating a cumulative percent change in the Annual CPI–U.* (1) The Director, NPFC, calculates the cumulative percent change in the Annual CPI–U from the year the limit of liability was established, or last adjusted by statute or regulation, whichever is later (*i.e.,* the previous period), to the most recently published Annual CPI–U (*i.e.,* the current period), using the following escalation formula:

Percent change in the Annual CPI–U = [(Annual CPI–U for Current Period − Annual CPI–U for Previous Period) ÷ Annual CPI–U for Previous Period] × 100.

(2) This cumulative percent change value is rounded to one decimal place.

(c) *Significance threshold.* Not later than every three years from the year the limits of liability were last adjusted for inflation, the Director, NPFC, will evaluate whether the cumulative percent change in the Annual CPI–U since that date has reached a significance threshold of 3 percent or greater. For any three-year period in which the cumulative percent change in the Annual CPI–U is less than 3 percent, the Director, NPFC, will publish a notice of no inflation adjustment to the limits of liability in the **Federal Register**. If this occurs, the Director, NPFC, will recalculate the cumulative percent change in the Annual CPI–U since the year in which the limits of liability were last adjusted for inflation each year thereafter until the cumulative percent change equals or exceeds the threshold amount of 3 percent. Once the 3-percent threshold is reached, the Director, NPFC, will increase the limits of liability, by regulation using the procedure set forth in paragraph (a) of this section, for all source categories (including any new limit of liability established by statute or regulation since the last time the limits of liability were adjusted for inflation) by an amount equal to the cumulative percent change in the Annual CPI–U from the year each limit was established, or last adjusted by statute or regulation, whichever is later. Nothing in this paragraph shall prevent the Director, NPFC, in the Director's sole discretion, from adjusting the limits of liability for inflation by regulation issued more frequently than every three years.

(d) *Formula for calculating inflation adjustments.* The Director, NPFC, calculates adjustments to the limits of liability in § 138.230 of this part for inflation using the following formula:

New limit of liability = Previous limit of liability + (Previous limit of liability × percent change in the Annual CPI–U calculated under paragraph (b) of this section), then rounded to the closest $100.

Dated: August 11, 2014.

William R. Grawe,

Acting Director, National Pollution Funds Center, United States Coast Guard.

[FR Doc. 2014–19314 Filed 8–18–14; 8:45 am]

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