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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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2010–0116]

RIN 0579–AD51

Importation of Litchi and Longan Fruit From Vietnam Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation of litchi and longan fruit from Vietnam into the continental United States. As a condition of entry, litchi and longan fruit from Vietnam will be subject to a systems approach that includes requirements for treatment and inspection and restrictions on the distribution of the fruit. This action will allow for the importation of litchi and longan fruit from Vietnam into the United States while continuing to provide protection against the introduction of quarantine pests.

DATES: *Effective Date:* October 6, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2352.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–69, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests within the United States.

On October 25, 2011, we published in the **Federal Register** (76 FR 65985–65988, Docket No. APHIS–2010–0116) a proposal [1] to amend the regulations by allowing fresh litchi (*Litchi chinensis* Sonn.) and longan (*Dimocarpus longan* Lour.) to be imported from Vietnam into the continental United States subject to a systems approach that would include requirements for treatment and inspection and restrictions on the distribution of the fruit.

We solicited comments concerning our proposal for 60 days ending December 27, 2011. We received two comments by that date. They were from an organization of State plant regulatory agencies and an association of tropical fruit producers. They are discussed below by topic.

One commenter opposed the proposed importation of litchi and longan from Vietnam stating that the action has the potential to significantly harm the nascent Hawaii-based litchi and longan industry in the United States. The commenter expressed concern about the ability of U.S. growers to compete with foreign litchi and longan growers who have lower production costs.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) has the authority to prohibit or restrict the importation of plants and plant products only when necessary to prevent the introduction into or dissemination of plant pests or noxious weeds within the United States. APHIS does not have the authority to restrict imports solely on the grounds of potential economic effects on domestic entities that could result from increased imports.

The commenter also asked that the U.S. Customs and Border Protection be allowed to inspect foreign fruit for evidence of non-compliant pesticides and to return the commodities to the shipper if evidence of non-compliant pesticides is found within the fruit.

While the United States does not have direct control over pesticides that are used on plant commodities in other countries, there are regulations in the United States concerning the importation of food to ensure that commodities do not enter the United States containing illegal pesticide residues. Through section 408 of the Federal Food, Drug, and Cosmetic Act (FDCA), the U.S. Environmental Protection Agency (EPA) has the authority to establish, change, or cancel tolerances for food commodities. These tolerances are the maximum levels of pesticide residues that have been determined, through comprehensive safety evaluations, to be safe for human consumption. Tolerances apply to both food commodities that are grown in the United States and food commodities that are grown in other countries and imported into the United States.

The FDCA also provides the U.S. Food and Drug Administration (FDA) with authority to inspect food, with the exception of most meat and poultry, when offered for import at U.S. ports of entry. The FDA samples individual lots of imported foods and analyzes them for pesticide residues to enforce the tolerances established by the EPA. Shipments with residues at a level above an EPA tolerance or FDA Action Level, or measurable levels of residues for which the EPA has established no tolerance for a given food, are refused entry into U.S. commerce.

Tolerance levels for all chemicals that are acceptable for use on litchi and longan may be found in EPA's regulations in 40 CFR 180.101 through 180.2020. Tolerance information can also be obtained at *http://www.epa.gov/pesticides/regulating/index.htm.* Information about the FDA's pesticide residue monitoring program is available at *http://www.fda.gov/Food/FoodborneIllnessContaminants/Pesticides/UCM2006797.htm.*

One commenter supported the prohibition against the importation and distribution of litchi and longan into the State of Florida while encouraging irradiation of these commodities prior to importation into the United States to eliminate the possible risk of pest escape prior to treatment. The commenter also requested that APHIS monitor these commodities at the port of entry for the pests *Aceria litchii, Oidium nephelii,* and *Phytophthora litchii,* which are not eliminated by irradiation.

As described in the proposed rule, we are requiring litchi and longan fruit to be treated with irradiation to neutralize

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0116.*

all plant pests of the class Insecta, except pupae and adults of the order Lepidoptera. Section 305.9 of the regulations specifies the requirements for the irradiation of imported commodities. These requirements provide effective safeguards for articles irradiated either prior to or after arrival in the United States. In addition, we will closely inspect consignments of these commodities for evidence of all quarantine pests, including *P. litchii* and *A. litchii.*

With regard to *O. nephelii,* the pest risk assessment that was published with the proposed rule lists the pests of litchi, longan, and rambutan fruit that are found in any of the member countries of the Association of Southeast Asian Nations, including Vietnam. Because this action only applies to Vietnam and *O. nephelii* is not found on litchi or longan fruit from Vietnam, treatment or inspection for this pest is not necessary.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Note: In our October 2011 proposed rule, we proposed to add the conditions governing the importation of litchi and longan from Vietnam as § 319.56–54. In this final rule, those conditions are added as § 319.56–70.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

In the United States, litchi and longan fruit are commercially produced in Florida and to a lesser extent in Hawaii. Production in California is still largely in the developmental stage. Annual U.S. production volumes in 2008 were about 535 metric tons (MT) for litchi and 776 MT for longan. Virtually all U.S. farms that grow litchi and longan are believed to be small entities based on the Small Business Administration standard of annual receipts of not more than $750,000.

Our review of available information suggests that the rule may have a negative economic impact on longan growers and, to a lesser extent, on litchi growers, particularly when the fruit is sold in Asian and Hispanic markets where the demand for produce tends to be more price-sensitive. The annual quantities of litchi and longan that Vietnam expects to export to the United States, namely, 600 MT and 1,200 MT, respectively, would be equivalent to about 17 percent and 69 percent, respectively, of average annual U.S. imports for these two fruits, 2007–2010. Negative impacts for U.S. producers will be moderated to the extent that imports from Vietnam displace imports from other foreign sources. Widely ranging prices for litchi and longan among U.S. markets and consumers' varying purchasing criteria with regard to price and quality may indicate opportunities for domestic growers to alleviate negative effects of increased foreign competition through alternative marketing arrangements or marketing channels.

Executive Order 12988

This final rule allows litchi and longan fruit to be imported into the continental United States from Vietnam. State and local laws and regulations regarding litchi and longan fruit imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0387, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows.

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.56–70 is added to read as follows:

§ 319.56–70 Fresh litchi and longan from Vietnam.

Litchi (*Litchi chinensis* Sonn.) and longan (*Dimocarpus longan* Lour.) fruit may be imported into the continental United States from Vietnam only under the following conditions:

(a) *Growing conditions.* Litchi fruit must be grown in orchards registered with and monitored by the national plant protection organization (NPPO) of Vietnam to ensure that the fruit are free of disease caused by *Phytophthora litchii.*

(b) *Treatment.* Litchi and longan fruit must be treated with irradiation for plant pests of the class Insecta, except pupae and adults of the order Lepidoptera, in accordance with part 305 of this chapter.

(c) *Labeling.* In addition to meeting the labeling requirements in part 305 of this chapter, cartons containing litchi or longan must be stamped ''Not for importation into or distribution in FL.''

(d) *Commercial consignments.* The litchi and longan fruit may be imported in commercial consignments only.

(e) *Phytosanitary certificates.* (1) Each consignment of litchi fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Vietnam attesting that the conditions of this section have been met and that the consignment was inspected in Vietnam and found free of *Phytophthora litchii.*

(2) Each consignment of longan fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Vietnam attesting that the

conditions of this section have been met.

(Approved by the Office of Management and Budget under control number 0579–0387)

Done in Washington, DC, this 28th day of August 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–21113 Filed 9–3–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0464; Directorate Identifier 2012–NM–010–AD; Amendment 39–17947; AD 2014–16–23]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2011–16–01 for all Dassault Aviation Model FALCON 7X airplanes. AD 2011–16–01 required adding an automatic reversion logic and a means for the pilot to override pitch trim control normal modes, and installing placards in the cockpit; replacing the frame of the emergency switch box; replacing certain horizontal stabilizer electronic control units (HSECU); revising the Limitations section of the airplane flight manual (AFM); and revising the maintenance program to incorporate a certain task. This new AD requires modifying the fly-by-wire (FBW) standard; and operational testing of the electric motors reversion relays and trim emergency command of the horizontal stabilizer trim system (HSTS), and repairs if necessary. This AD was prompted by an uncontrolled pitch trim runaway during descent. We are issuing this AD to prevent an uncontrolled pitch trim runaway, which could result in loss of control of the airplane.

DATES: This AD becomes effective October 9, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 9, 2014.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 22, 2011 (76 FR 47424, August 5, 2011).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0464;* or in person at the 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 Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011). AD 2011–16–01 applied to all Dassault Aviation Model FALCON 7X airplanes. The NPRM published in the **Federal Register** on July 3, 2013 (78 FR 40065). The NPRM proposed to continue to require adding an automatic reversion logic and a means for the pilot to override pitch trim control normal modes, and installing placards in the cockpit; replacing the frame of the emergency switch box; replacing certain HSECU; revising the Limitations section of the AFM; and revising the maintenance program to incorporate a certain task. The NPRM also proposed to require modifying the FBW standard; operating the airplane according to the limitations and procedures in an approved AFM; and operational testing of the electric motors reversion relays and trim emergency command of the HSTS, and repairs if necessary.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0241, dated December 19, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model FALCON 7X airplanes. The MCAI states:

In May 2011, a Dassault Aviation Falcon 7X aeroplane experienced an uncontrolled pitch trim runaway during descent. The crew succeeded in recovering a stable situation and performed an uneventful landing.

The results of the investigations showed that there was a production defect in the Horizontal Stabilizer Electronic Control Unit (HSECU) which could have contributed to the cause of the event.

This condition, if not corrected, could lead to a loss of control of the aeroplane.

To address this unsafe condition, EASA issued emergency AD 2011–0102–E [*http://ad.easa.europa.eu/blob/easa_ad_2011_0102_E_Superseded.pdf/EAD_2011-0102-E_1*] which prohibited further flights. Following further technical investigations accomplished by Dassault Aviation, EASA issued AD 2011–0114, currently at revision 2, [*http://ad.easa.europa.eu/blob/easa_ad_2011_0114R2.pdf/AD_2011-0114R2_1*] which superseded EASA AD 2011–0102–E. Following accomplishment of all the actions as required by EASA AD 2011–0114R2, all aeroplanes could resume flying with operational limitations.

Since EASA AD 2011–0114R2 was issued, Dassault Aviation have developed a modification (M1245 to be embodied through accomplishment of Dassault Aviation Service Bulletin F7X–214) of the Fly-By-Wire (FBW) current standard which improves the monitoring and reversion logic of the Horizontal Stabilizer Trim System (HSTS). This modification results in earlier failure detection and quicker reversion.

Dassault Aviation have issued as well Revision 13 of the Aircraft Flight Manual (AFM) which incorporates the changes introduced in EASA AD 2011–0114R2 (CP55 and 56) as well as the new changes resulting from Dassault Aviation M1245 (CP58).

Dassault Aviation have introduced as well operational tests of the HSTS electric motors reversion relays and of the HSTS trim emergency command into the Chapter 5.40 of F7X Aircraft Maintenance Manual (CP010).

For the reasons described above, EASA issued [an AD] . . . to require:

1. Accomplishing Dassault Aviation modification M1245,

2. amending the AFM, and

3. implementing the operational tests of the HSTS electric motors reversion relays and of the HSTS trim emergency command.

Accomplishment of all the above actions restored the full original certified flight envelope of the aeroplane.

Since EASA AD 2011–0169 was issued, further analyses have demonstrated that, once Dassault Aviation modification M1245 is embodied, it is allowed to restore the originally certified Minimum Equipment List (MEL) items which were removed in accordance with the requirement of paragraph (4) of EASA AD 2011–0114R2.

For the reasons described above, this [EASA] AD, which supersedes EASA AD 2011–0169, retaining its requirements, in addition, extends the applicability of the AD to all S/Ns and, for aeroplanes fitted with FBW standard 2.1.7.3, allows the MEL

limitations imposed by EASA AD 2011–0114R2 to be removed.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0464-0002.*

Comment

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. The following presents the comment received on the NPRM (78 FR 40065, July 3, 2013) and the FAA's response to the comment.

Request To Revise Unsafe Condition Determination

Rockwell Collins requested that we remove the statement from the NPRM (78 FR 40065, July 3, 2013) that describes that the horizontal stabilizer electronic control unit could have contributed to the event which led to the determination of an unsafe condition. Rockwell Collins submitted a test report to substantiate its request.

We disagree with the commenter's request. As stated in the MCAI, the results of the investigations showed that there was a production defect in the HSECU, which could have contributed to the cause of the event. An airplane lost pitch control, which resulted in the unsafe condition determination that led to the issuance of the MCAI. We concur with the unsafe condition stated in the MCAI. We have not changed this final rule in this regard.

Revisions to Service Information

Since we issued the NPRM (78 FR 40065, July 3, 2013), Dassault Aviation issued Chapter 5–40–00, Airworthiness Limitations, DGT 107838, Revision 3, dated July 16, 2012, of the Dassault Falcon 7X Maintenance Manual (MM); and Dassault Falcon 7X Airplane Flight Manual (AFM), DGT105608, Revision 18, dated November 15, 2013. These documents contain no substantive changes to the requirements of this final rule beyond the procedures specified in the revisions of the documents cited in the NPRM. We have determined that these new procedures will not impose an additional burden on any operator. This final rule has been changed to refer to this revised MM and AFM as the appropriate sources of information to address the identified unsafe condition.

''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, the European Aviation Safety Agency (EASA), or Dassault Aviation's EASA Design Organization Approval (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 relevant data, considered 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 changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 40065, July 3, 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 40065, July 3, 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 30 airplanes of U.S. registry.

The actions that were required by AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011), that are retained in this AD take about 340 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that were required by AD 2011–16–01 is $28,900 per product.

We also estimate that it will take about 11 work-hours 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 $28,050, or $935 per product.

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

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-2013-0464;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the 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) 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011), and adding the following new AD:

2014–16–23 Dassault Aviation: Amendment 39–17947. Docket No. FAA–2013–0464; Directorate Identifier 2012–NM–010–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective October 9, 2014.

(b) Affected ADs

This AD replaces AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011).

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 7X airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by an uncontrolled pitch trim runaway during descent. We are issuing this AD to prevent an uncontrolled pitch trim runaway, 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) Retained Modification

This paragraph restates the requirements of paragraph (g) of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011). Before further flight, do the applicable actions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) For airplanes on which Dassault Mandatory Service Bulletin 7X–211, Revision 1, dated June 14, 2011, has not been done as of August 22, 2011 (the effective date of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011)): Modify the airplane by adding an automatic reversion logic and a means for the pilot to override pitch trim control normal modes, and install placards in the cockpit in full view of the pilots, in accordance with paragraph 2., ''Accomplishment Instructions for Aircraft which have not Already Implemented the Revision 1 of the Service Bulletin,'' of Dassault Mandatory Service Bulletin 7X–211, Revision 2, dated June 22, 2011, including New Standard Installation Checklist and Appendix A, and including FCS Data Loading Procedure, Issue D, dated May 28, 2010.

(2) For airplanes on which Dassault Mandatory Service Bulletin 7X–211, Revision 1, dated June 14, 2011, has been done as of August 22, 2011 (the effective date of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011)): Replace the frame of the emergency switch box, in accordance with paragraph 3., ''Accomplishment Instructions for Aircraft which have Already Implemented Revision 1 of this Service Bulletin,'' of Dassault Mandatory Service Bulletin 7X–211, Revision 2, dated June 22, 2011, including New Standard Installation Checklist and Appendix A, and including FCS Data Loading Procedure, Issue D, dated May 28, 2010.

(3) For airplanes equipped with any horizontal stabilizer electronic control unit (HSECU) part number (P/N) 051244–04, replace the HSECU with any HSECU identified in paragraph (g)(3)(i), (g)(3)(ii), or (g)(3)(iii) of this AD, in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin 7X–212, Revision 2, dated July 7, 2011.

(i) HSECU P/N 051244–02.

(ii) Verified HSECU P/N 051244–04 having a stamped ''V.''

(iii) HSECU P/N 051244–05.

(h) Retained Credit for Previous Actions

This paragraph restates the provisions specified in paragraph (h) of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011). This paragraph provides credit for the HSECU replacement required by paragraph (g)(3)(i) or (g)(3)(ii) of this AD, if those replacements were performed before August 22, 2011 (the effective date of AD 2011–16–01), using Dassault Mandatory Service Bulletin 7X–212, Revision 1, dated June 23, 2011, which is not incorporated by reference in this AD.

(i) Retained Revision of Airplane Flight Manual (AFM)

This paragraph restates the requirements of paragraph (i) of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011). As of August 22, 2011 (the effective date AD 2011–16–01), operate the airplane according to the limitations and procedures in the Dassault Falcon 7X AFM, Revision 12, dated June 16, 2011, until the actions required by paragraph (p) of this AD are accomplished. Revision 12 introduces revised operational speed limitations and revised procedures accounting for the new TRIM EMERG button.

(j) Retained Electronic Checklist Database Installation

This paragraph restates the requirements of paragraph (j) of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011). Before further flight, install the electronic checklist V0007 database, in accordance with the Accomplishment Instructions of Dassault Service Bulletin 7X–213, dated June 22, 2011. Accomplishing the actions required by

paragraph (o) of this AD terminates the actions required by paragraph (j) of this AD.

(k) Retained Operating Restrictions

This paragraph restates the requirements of paragraph (k) of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011). Before further flight, revise the Limitations section of the Dassault Falcon 7X AFM to include the information provided in figure 1 to paragraph (k) of this AD. This may be accomplished by inserting a copy of figure 1 to paragraph (k) of this AD into the AFM. Accomplishment of the actions required in paragraph (p) of this AD terminates the actions required by paragraph (k) of this AD.

Figure 1 to Paragraph (k) of this AD—Retained AFM Revision

Dispatch with any inoperative equipment identified below is prohibited. This prohibition takes precedence over the FAA master minimum equipment list (MMEL) or any operator's MEL.

Air data systems (identified as MEL item 34-9)

Multi functional probe (MFP) heating system (identified as MMEL item 30-1)

ACMU3 and ACMU4 (identified as MMEL item 27-3)

LH REAR POWER #3 (identified as MMEL item 27-5-(-6)

(l) Retained Maintenance Program Revision

This paragraph restates the requirements of paragraph (l) of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011).

(1) Within 30 days after August 22, 2011 (the effective date of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011)): Revise the maintenance program to incorporate Maintenance Planning Document (MPD) Task 27–40–00–710–801, as specified in Dassault Aviation, Falcon 7X Maintenance Manual (MM), Falcon 7X—Chapter 5–40–00 after Rev 01, dated June 10, 2011 (commonly referred to as Dassault Change Proposal (CP) CP009 to Chapter 5–40–00 of Dassault Falcon 7X MM). The initial compliance time for doing the operational test of the HSTS electric motors reversion relays is 1,850 flight hours after accomplishment of the applicable actions required by paragraph (g) of this AD. Accomplishment of the actions required in paragraph (q) of this AD terminates the actions required by paragraph (l) of this AD.

(2) The MM revision required by paragraph (l) of this AD may be done by inserting a copy of Maintenance Planning Document (MPD) Task 27–40–00–710–801, as specified in Dassault Aviation, Falcon 7X Maintenance Manual (MM), Falcon 7X—Chapter 5–40–00 after Rev 01, dated June 10, 2011 (commonly referred to as Dassault Change Proposal (CP) CP009 to Chapter 5–40–00 of Dassault Falcon 7X MM), into the MM. When Dassault CP CP009 has been included in general revisions of the MM, the general revisions may be inserted into the MM, provided the relevant information in the general revision is identical to that in Dassault CP CP009, and Dassault CP CP009 may be removed.

(m) Retained Limitations for Alternative Procedures or Intervals

This paragraph restates the requirements of paragraph (m) of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011). After the maintenance program has been revised as required by paragraph (l) of this AD, no alternative procedure or interval for the operational test may be used unless the procedure and/or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (s) of this AD.

(n) Retained FAA AD Differences

This paragraph restates the AD differences identified in Note 3 of AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011). This AD differs from the mandatory continuing airworthiness information (MCAI) and/or service information as follows:

(1) European Aviation Safety Agency (EASA) AD 2011–0114R2, dated July 7, 2011, requires repetitive operational tests of the HSTS electric motors reversion relays, and specifies that the aircraft maintenance program may be revised in lieu of those repetitive tests. This FAA AD mandates revising the maintenance program.

(2) EASA AD 2011–0114R2, dated July 7, 2011, does not include any requirement to revise the electronic checklist. Paragraph (j) of this FAA AD requires this action.

(3) EASA AD 2011–0114R2, dated July 7, 2011, mandates amending the minimum equipment list (MEL) by removing certain items. This FAA AD instead requires revising the AFM to prohibit dispatch with those items inoperative. The operational effect, however, is the same.

(o) New Fly-By-Wire System Modification

Within 12 months after accomplishing the actions required by paragraph (g) of this AD, or within 9 months after the effective date of this AD, whichever is later: Modify the fly-by-wire system installed in the airplane to the 2.1.7.3 standard, in accordance with the Accomplishment Instructions of Dassault Service Bulletin 7X–214, dated August 30, 2011, as revised by Dassault Service Bulletin 7X–214, Erratum, dated January 26, 2012. Accomplishment of the actions required in paragraph (o) of this AD terminates the actions required by paragraph (j) of this AD.

(p) New AFM Revision

After accomplishing the actions required by paragraph (o) of this AD: Operate the airplane thereafter according to the limitations and procedures specified in Dassault Falcon 7X AFM, DGT105608, Revision 18, dated November 15, 2013. Accomplishment of the actions required by this paragraph terminates the requirements of paragraphs (i) and (k) of this AD; after those actions have been done, the AFM limitation required by paragraph (k) of this AD may be removed from the AFM.

(q) New Maintenance Program Revision

Within 30 days after the effective date of this AD: Revise the maintenance program to incorporate Chapter 5–40–00, Airworthiness Limitations, DGT 107838, Revision 3, dated July 16, 2012, of the Dassault Falcon 7X Maintenance Manual (MM), into the MM.

(1) The initial compliance time for the operational test of the HSTS trim emergency command is within 650 flight hours after the modification required by paragraph (o) of this AD.

(2) The initial compliance time for the operational test of the HSTS electric motors reversion relays is within 5,050 flight hours after the modification required by paragraph (o) of this AD.

(3) Accomplishment of the actions required in paragraph (q) of this AD terminates the actions required by paragraph (l) of this AD.

(r) New Limitations for Alternative Actions or Intervals

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

(s) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) 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.

(ii) AMOCs approved previously for AD 2011–16–01, Amendment 39–16759 (76 FR 47424, August 5, 2011), are approved as AMOCs for the corresponding provisions of 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 Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(t) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2011–0241, dated December 19, 2011. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0464-0002.*

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

(u) 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 October 9, 2014.

(i) Chapter 5–40–00, Airworthiness Limitations, DGT 107838, Revision 3, dated July 16, 2012, of the Dassault Falcon 7X Maintenance Manual (MM).

(ii) Dassault Falcon 7X Airplane Flight Manual, DGT105608, Revision 18, dated November 15, 2013. The document revision level is identified only on the title page and page 1 of the List of Effective Sub-Sub-Sections. The document date can only be found on the title page.

(iii) Dassault Service Bulletin 7X–214, dated August 30, 2011.

(iv) Dassault Service Bulletin 7X–214, Erratum, dated January 26, 2012. ''Erratum'' appears only in the list of effective/modified pages of this document.

(4) The following service information was approved for IBR on August 22, 2011 (76 FR 47424, August 5, 2011).

(i) Dassault Aviation, Falcon 7X Maintenance Manual, Falcon 7X—Chapter 5–40–00 after Rev 01, dated June 10, 2011 (Commonly referred to as Dassault Change Proposal (CP) CP009 to Chapter 5–40–00 of Dassault Falcon 7X Maintenance Manual).

(ii) Dassault Falcon 7X Airplane Flight Manual, Revision 12, dated June 16, 2011. The document date can only be found in the List of Revisions section of the Dassault Falcon 7X Airplane Flight Manual.

(iii) Dassault Mandatory Service Bulletin 7X–211, Revision 2, dated June 22, 2011, including FCS Data Loading Procedure, Issue D, dated May 28, 2010, and including New Standard Installation Checklist and Appendix A,. New Standard Installation Checklist and Appendix A are not dated or identified with a document number.

(iv) Dassault Mandatory Service Bulletin 7X–212, Revision 2, dated July 7, 2011.

(v) Dassault Service Bulletin 7X–213, dated June 22, 2011.

(5) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.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 August 7, 2014.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–21037 Filed 9–3–14; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AB03

Energy Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Trade Commission (''Commission'') is correcting a final rule published in the **Federal Register** of August 12, 2014, which amends the Energy Labeling Rule by updating comparability ranges for certain heating and cooling products and making conforming changes to the Rule's sample labels.

DATES: *Effective Date:* September 4, 2014.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580; (202) 326–2889.

SUPPLEMENTARY INFORMATION: This document corrects tables and sample labels for central air conditioners in the August 12, 2014, final rule document (79 FR 46985) amending the Energy Labeling Rule (''Rule''), 16 CFR part 305. Specifically, this document corrects the lower range numbers for several central air conditioner categories to reflect new DOE minimum conservation standards scheduled for January 1, 2015, adds range numbers for space-constrained and small-duct, high-velocity product categories omitted from the tables in the final rule document,[1] and makes conforming corrections to the range numbers on the sample labels.

In FR Doc. 2014–18501, appearing in the **Federal Register** of Tuesday, August 12, 2014 (79 FR 46985), the following corrections are made:

Appendix H to Part 305 [Corrected]

■ 1. On page 46986, the table in Appendix H to Part 305 is corrected to read as follows:

[1] In a January 25, 2013 final rule document (78 FR 8362), the Commission announced that it would add ranges to the Rule for space-constrained products and small-duct, high-velocity systems.

Manufacturer's rated cooling capacity (Btu's/hr.)	Range of SEER's	
	Low	High
Single Package Units		
Central Air Conditioners (Cooling Only): All capacities	14	20
Heat Pumps (Cooling Function): All capacities	14	18.1
Split System Units		
Central Air Conditioners (Cooling Only): All capacities	13	26
Heat Pumps (Cooling Function): All capacities	14	30.5
Small-duct, high-velocity Systems	12	12.5
Space-constrained Products		
Central Air Conditioners (Cooling Only): All capacities	12	14
Heat Pumps (Cooling Function): All capacities	12	14

Appendix I to Part 305 [Corrected]

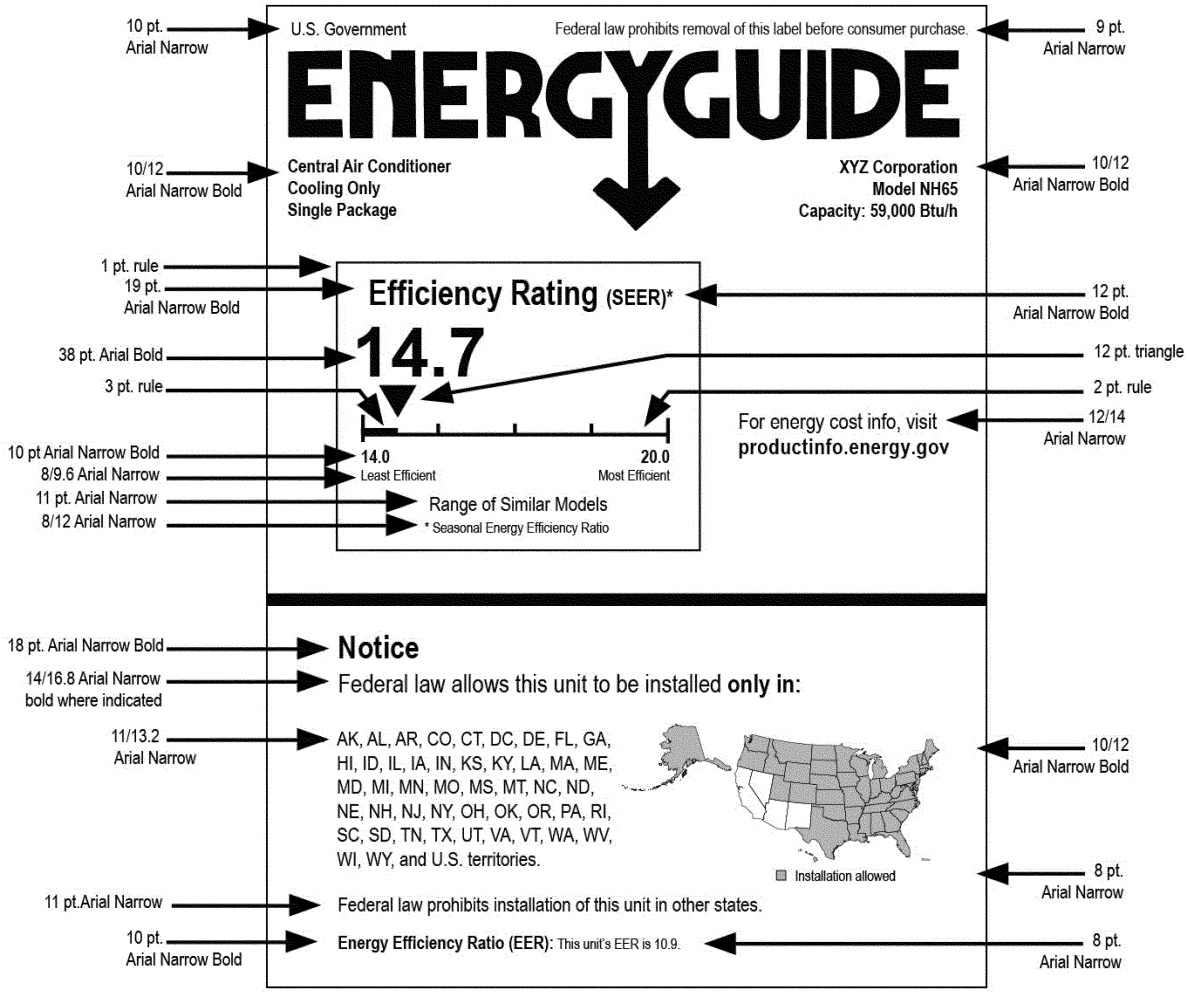
■ 2. On pages 46986 through 46987, the table in Appendix I to Part 305 is corrected to read as follows:

Manufacturer's rated heating capacity (Btu's/hr.)	Range of HSPF's	
	Low	High
Single Package Units		
Heat Pumps (Heating Function): All capacities	8.0	9.2
Split System Units		
Heat Pumps (Heating Function): All capacities	8.2	13.5
Small-duct, high-velocity Systems	7.2	7.2
Space-Constrained Products		
Heat Pumps (Heating Function): All capacities	7.4	7.6

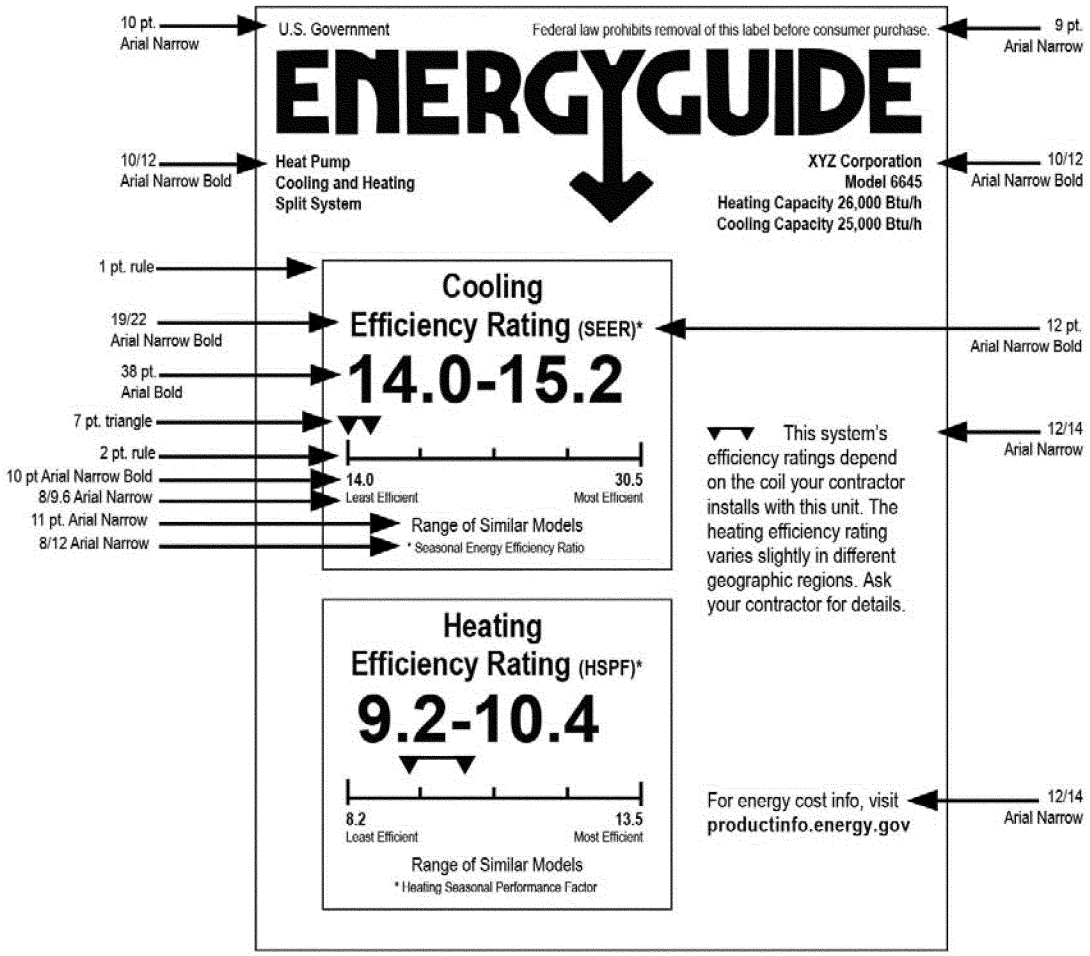
Appendix L to Part 305 [Corrected]

■ 3. On pages 46988 through 46992, Prototype Labels 3 and 4 and Sample Labels 7, 7A, and 8 are corrected to read as follows:

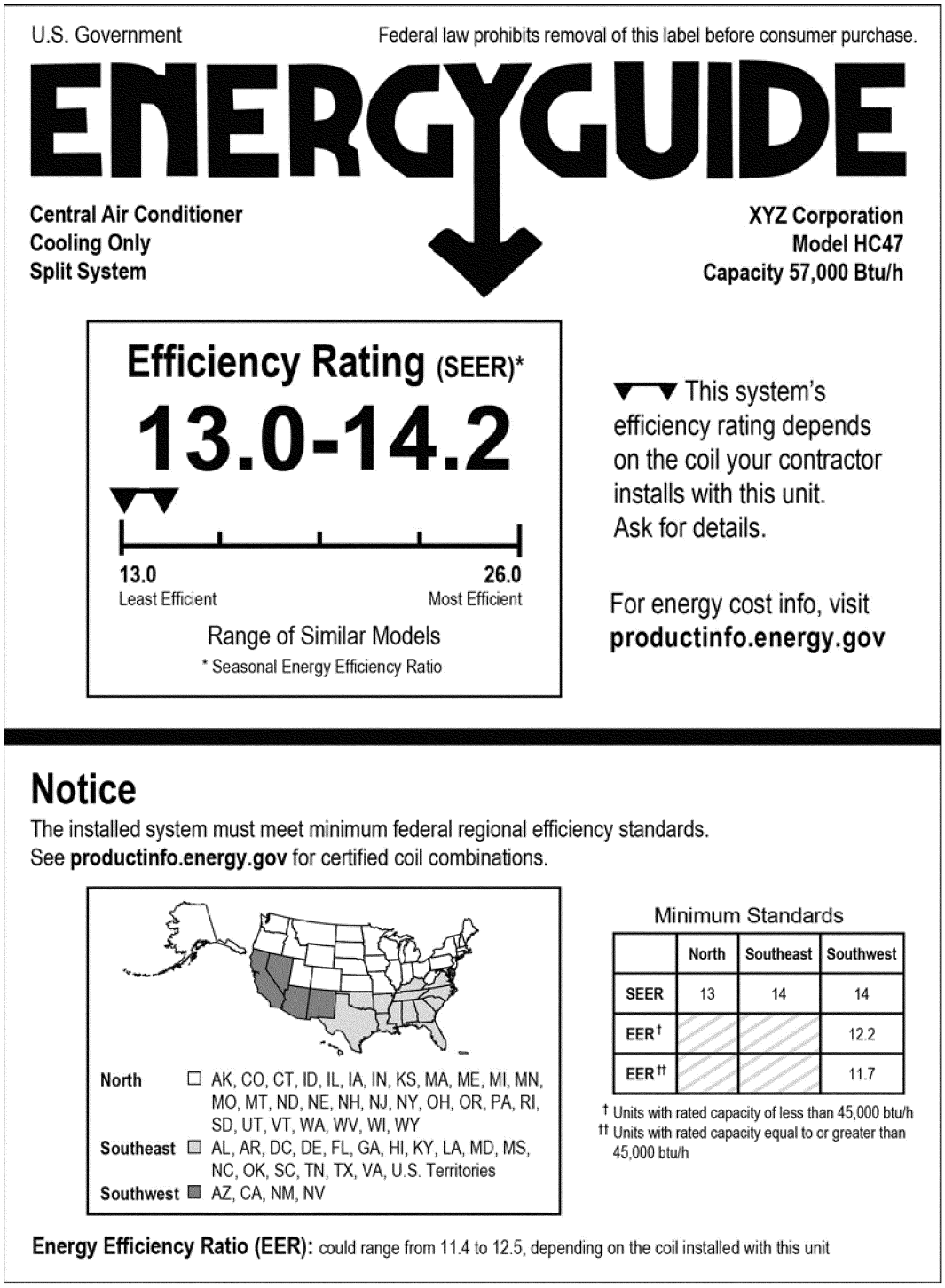
BILLING CODE 6750–01–P



Prototype Label 3 – Single-Package Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



Prototype Label 4 – Split-system Heat Pump (only for units manufactured on or after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



Sample Label 7 – Split-system Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Central Air Conditioner
Cooling Only
Single Package

XYZ Corporation
Model NH65
Capacity: 59,000 Btu/h

Efficiency Rating (SEER)*

14.7

14.0 Least Efficient

20.0 Most Efficient

Range of Similar Models

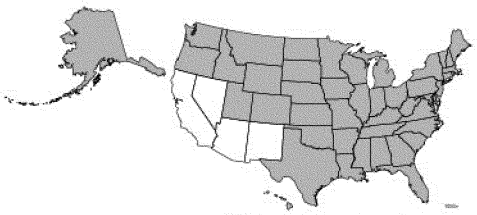
* Seasonal Energy Efficiency Ratio

For energy cost info, visit **productinfo.energy.gov**

Notice

Federal law allows this unit to be installed **only in:**

AK, AL, AR, CO, CT, DC, DE, FL, GA, HI, ID, IL, IA, IN, KS, KY, LA, MA, ME, MD, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WI, WY, and U.S. territories.

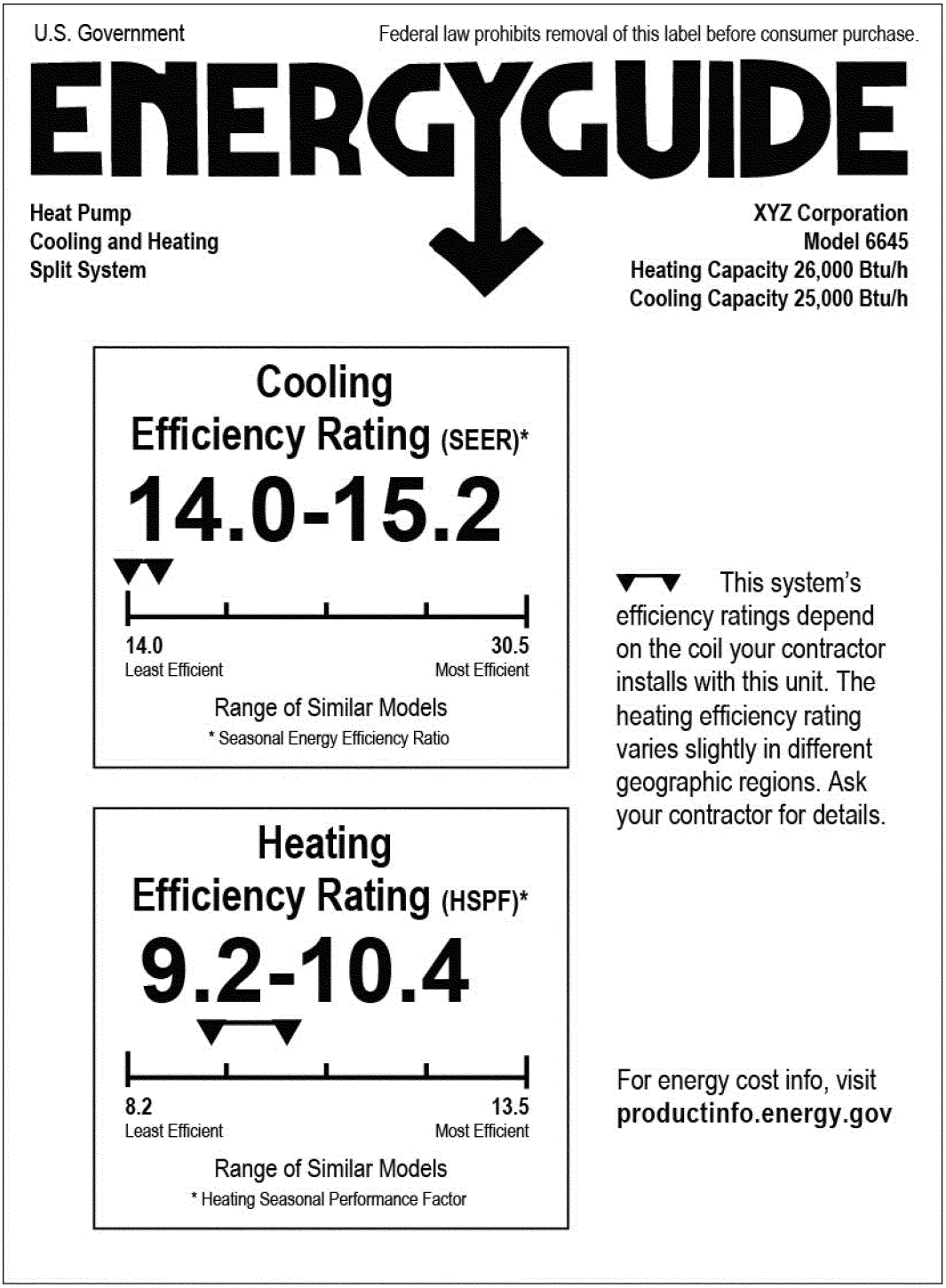


Installation allowed

Federal law prohibits installation of this unit in other states.

Energy Efficiency Ratio (EER): This unit's EER is 10.9.

Sample Label 7A – Single-package Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



Sample Label 8 – Split-system Heat Pump (only for units manufactured on or after the compliance date of DOE regional efficiency standards in 10 CFR part 430)

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–20842 Filed 9–3–14; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG)(Admiralty and Maritime Law) has determined that USS BREMERTON (SSN 698) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective September 4, 2014 and is applicable beginning August 13, 2014.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jocelyn Loftus-Williams, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR Part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS BREMERTON (SSN 698) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 21(a) pertaining to the location of the masthead light over the fore and aft centerline of the ship. The DAJAG (Admiralty and Maritime Law) has also certified that the light involved is located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended in Table Two by adding, in alpha numerical order, by vessel number, an entry for USS BREMERTON (SSN 698) to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE TWO

Vessel	No.	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
*	*	*	*	*	*	*	*	*	
USS BREMERTON	SSN 698	0.41	.....	.....	.....	.....	.....	.....	.....
*	*	*	*	*	*	*	*	*	

* * * * *

Approved: August 25, 2014.

A.B. Fischer,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

Dated: August 27, 2014.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–21028 Filed 9–3–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2014–0729]

RIN 1625–AA08

Special Local Regulation; Detroit Offshore Grand Prix, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a Special Local Regulation for a series of powerboat races located in the Captain of the Port Detroit Zone on the Detroit River, Detroit, Michigan. This action is necessary to provide for the safety of life and property on navigable waters during this event. This special local regulation will establish restrictions upon, and control movement of, vessels in a portion of the Detroit River during the Detroit Offshore Grand Prix events.

DATES: This temporary final rule is effective from 12 p.m. on September 6 until 6 p.m. on September 7, 2014; and

will be enforced from 12 p.m. to 6 p.m. on September 6, 2014, and from 11 a.m. to 6 p.m. on September 7, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0729. To view documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov,* type the docket number in the ''SEARCH'' box, and click ''Search.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, email *Adrian.F.Palomeque@uscg.mil.* If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 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
TFR Temporary Final Rule

A. Regulatory History and 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 with respect to this rule because waiting for a notice and comment period to run would be impracticable, unnecessary, and contrary to the public interest. The final details of this boat race were not known to the Coast Guard with sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, delaying this temporary rule to wait for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public from the hazards associated with power boat race.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to issue regulations to promote the safety of life on navigable waters during regattas or marine parades: 33 U.S.C. 1233.

The Coast Guard was informed that on September 6, 2014 from 12 p.m. until 6 p.m., and on September 7, 2014 from 11 a.m. to 6 p.m., OPA Racing LLC will hold powerboat races that will require the immediate area to be clear of all vessel traffic. The likely combination of powerboats traveling at high speeds, large numbers of recreation vessels, and large numbers of spectators in close proximity to the water could result in serious injuries or fatalities. Thus, the Captain of the Port Detroit has determined that establishing a Special Local Regulation around the location of the race's course will help minimize risks to safety of life and property during this event.

C. Discussion of Rule

In light of the aforementioned hazards, the Captain of the Port Detroit has determined that a Special Local Regulation is necessary to protect spectators, vessels, and participants. The Special Local Regulation will encompass all U.S. waters of the Detroit River, beginning at a point on land near the Chene Park Pavilion at position 42°20′03″ N, 083°01′12″ W; southerly to the international boundary at position 42°19′47″ N, 083°01′04″ W; then downriver along the international boundary to position 42°18′53″ N, 083°04′07″ W; then northerly to a point on land approximately 650 yards upriver from the Ambassador Bridge at position 42°19′03″ N, 083°04′12″ W; before proceeding along the shoreline upriver to the point of origin. All geographic coordinates are North American Datum of 1983 (NAD 83). This regulation will be enforced from 12 p.m. to 6 p.m. on September 6, 2014, and from 11 a.m. to 6 p.m. on September 7, 2014.

Entry into, transiting, or anchoring within the regulated area is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated 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 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. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The special local regulation created by this rule will be of relatively small size and short duration, and it is designed to minimize the impact on navigation. Moreover, vessels may still transit through the regulated area when permitted by the Captain of the Port or his on-scene representative.

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 might be small entities: the owners or operators of vessels intending to transit or anchor in this portion of the Detroit River adjacent to Detroit, MI between the hours 12 p.m. to 6 p.m. on September 6, 2014, and from 11 a.m. to 6 p.m. on September 7, 2014.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will only be in effect and enforced for six hours on September 6, and seven hours on September 7. Traffic may be allowed to pass through the regulated area with the permission of the Captain of the Port, who can be reached via VHF channel 16. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect, allowing vessel owners and operators to plan accordingly.

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 to that they can better evaluate its effects on them. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section 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 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 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 concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a special local regulation issued in conjunction with a regatta or marine parade, and, therefore it is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. During the annual permitting process for this event an environmental analysis was conducted, and thus, no preliminary environmental analysis checklist or Categorical Exclusion Determination (CED) are required for this rulemaking action. 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 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.T09–0729 to read as follows:

§ 100.T09–0729 Special Local Regulation; Detroit Offshore Grand Prix, Detroit, MI.

(a) *Regulated Area.* A regulated area is established to include all U.S. waters of the Detroit River, beginning at a point on land near the Chene Park Pavilion at position 42°20′03″ N, 083°01′12″ W; southerly to the international boundary at position 42°19′47″ N, 083°01′04″ W; then downriver along the international boundary to position 42°18′53″ N, 083°04′07″ W; then northerly to a point

on land approximately 650 yards upriver from the Ambassador Bridge at position 42°19′03″ N, 083°04′12″ W; before proceeding along the shoreline upriver to the point of origin (NAD 83).

(b) *Effective and enforcement period.* This section is effective from 12 p.m. on September 6 until 6 p.m. on September 7, 2014; and will be enforced from 12 p.m. to 6 p.m. on September 6, 2014, and from 11 a.m. to 6 p.m. on September 7, 2014.

(c) *Regulations.* (1) No vessel may enter, transit through, or anchor within the regulated area unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) Commercial vessels will have right-of-way over event participants. The races will stop for oncoming freighter or commercial traffic and will resume after the vessel has completed its passage through the regulated area.

(3) The ''on-scene representative'' of the Captain of the Port Detroit is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators desiring to enter or operate within the regulated area shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the Captain of the Port Detroit or his on-scene representative. The Captain of the Port Detroit or his on-scene representative may be contacted via VHF Channel 16 or at 313–568–9464.

Dated: August 18, 2014.

S. B. Lemasters,

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

[FR Doc. 2014–21035 Filed 9–3–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG–2013–0874]

RIN 1625–AA00

Safety Zones, Facilities on the Outer Continental Shelf in the Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety zones around four Chevron North America (Chevron) facilities located on the Outer Continental Shelf (OCS) in the Gulf of Mexico. The facilities are listed in the Supplementary Information.The purpose of these safety zones is to protect each facility from vessels operating outside the normal shipping channels and fairways. Placing a safety zone around each facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

DATES: This rule is effective October 6, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0874. 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 rule, call or email Mr. Rusty Wright, U.S. Coast Guard, District Eight Waterways Management Branch; telephone 504–671–2138, *rusty.h.wright@uscg.mil.* If you have questions on the docket, call Cheryl F. 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
OCS Outer Continental Shelf
USCG United States Coast Guard

A. Regulatory History and Information

On April 9, 2014 we published a Notice of Proposed Rulemaking (NPRM) with a request for comments entitled, ''Safety Zones, Facilities on the Outer Continental Shelf in the Gulf of Mexico'' in the **Federal Register** (79 FR 19569). We received no comments on the NPRM.

B. Basis and Purpose

Under the authority provided in 14 U.S.C. 85, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1, Title 33, CFR Part 147 permits the establishment of safety zones for facilities located on the OCS for the purpose of protecting life, property and the marine environment. Chevron requested that the Coast Guard establish safety zones around four of its facilities located in the deepwater area of the Gulf of Mexico on the OCS. Placing a safety zone around each of these four facilities significantly reduces the threat of allisions, oil spills, and releases of natural gas, and thereby protects the safety of life, property, and the environment. The facilities are as follows:

(1) The Jack St. Malo Semi-Sub Facility located in Walker Ridge Block 718;

(2) The Petronius Compliant Tower Facility located in Viosca Knoll Block 786;

(3) The Blind Faith Semi-Sub Facility located in Mississippi Canyon Block 650; and

(4) The Tahiti SPAR Facility located in Green Canyon Block 641.

For the purpose of safety zones established under 33 CFR part 147, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the vicinity of each safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

C. Discussion of Comments, Changes and the Final Rule

We received no comments in response to the proposed rule. There is one technical amendment to the final rule regarding the name of one of the facilities. In the NPRM, the first listed facility requesting a safety zone was listed as ''The Jack & St Malo Semi-Sub Facility.'' The Coast Guard was notified by Chevron that the facility name should be ''The Jack St. Malo.'' In this final rule the Coast Guard has corrected the name throughout the rulemaking and regulatory text. Otherwise, this rule is publishing as proposed without change.

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. This rule is not a significant regulatory action due to the location of the safety zones on the OCS and the distance between each facility and both land and safety fairways. Vessel traffic can pass safely around each safety zone using alternate routes. Exceptions to this rule include vessels measuring less than 100 feet in length overall and not engaged in towing. Deviation to transit through each safety zone may be requested. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative.

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 received zero comments from the Small Business Administration on this rule. 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 might be small entities: The owners or operators of vessels intending to transit or anchor in; Walker Ridge Block 718; Viosca Knoll Block 786; Mississippi Canyon Block 650; and Green Canyon Block 641, where these safety zones are now established.

These safety zones will not have a significant economic impact or a substantial number of small entities for the following reasons: Vessel traffic can pass safely around each safety zone using alternate routes. Use of alternate routes may cause minimal delay in reaching a final destination, depending on other traffic in the area and vessel speed. Additionally, exceptions to this rule include vessels measuring less than 100 feet in length overall and not engaged in towing. Also, vessels may request deviation from this rule to transit through each safety zone. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative. Therefore, the Coast Guard expects any impact of this rulemaking establishing safety zones around OCS facilities to be minimal, with no significant economic impact on small entities.

3. 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).

4. 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.

5. 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.

6. 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.

7. Taking of Private Property

This 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.

8. 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.

9. Protection of Children From Environmental Health Risks

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.

10. 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.

11. 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.

12. Technical Standards

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

13. 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of safety zones around OCS Facilities to protect life, property and the marine environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. The environmental analysis checklists supporting this determination and Categorical Exclusion Determinations

are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.851, § 147.853, § 147.855, and § 147.857 to read as follows:

§ 147.851 Jack St. Malo Semi-Sub Facility Safety Zone.

(a) *Description.* The Jack St. Malo Semi-Sub facility is in the deepwater area of the Gulf of Mexico at Walker Ridge block 718. The facility is located at 26°14′5.94″ N, 91°15′39.99″ W and the area within 500 meters (1640.4 feet) from each point on the facility structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

§ 147.853 Petronius Compliant Tower Facility Safety Zone.

(a) *Description.* The Petronius Compliant Tower facility is in the deepwater area of the Gulf of Mexico at Viosca Knoll Block 786. The facility is located at 28°13′44″ N/−87°47′51″ W and the area within 500 meters (1640.4 feet) from each point on the facility structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

§ 147.855 Blind Faith Semi-Sub Facility Safety Zone.

(a) *Description.* The Blind Faith Semi-Sub facility is in the deepwater area of the Gulf of Mexico at Mississippi Canyon Block 650. The facility is located at 28°20′29.5279″ N/−88°15′56.4728″ W and the area within 500 meters (1640.4 feet) from each point on the facility structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

§ 147.857 Tahiti SPAR Facility Safety Zone.

(a) *Description.* The Tahiti SPAR facility is in the deepwater area of the Gulf of Mexico at Tahiti SPAR. The facility is located at 27°19′33.3″ N/−90°42′50.9″ W and the area within 500 meters (1640.4 feet) from each point on the facility structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

Dated: August 6, 2014.

Kevin S. Cook,

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

[FR Doc. 2014–20986 Filed 9–3–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0600]

RIN 1625–AA00

Safety Zone; San Diego Tri-Rock Triathlon; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the navigable waters of San Diego Bay in San Diego, CA in support of the San Diego Tri-Rock Triathlon. This safety zone is necessary to provide for the safety of the swimmers, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 6:30 a.m. to 10:30 a.m. on September 21, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0600]. 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 rule, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *d11marineeventssandiego@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
TFR Temporary Final Rule

A. Regulatory History and 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 an NPRM would be impracticable. The San Diego TriRock Triathlon event occurs annually in San Diego Bay off the East Basin of Embarcadero Park South in San Diego, CA. This annual marine event is listed in Table 1 to 33 CFR 100.1101, item 11. In that regulation, the event's date is listed as a ''Saturday in September.'' The Coast Guard is issuing this rule without prior notice because the Coast Guard did not learn until

recently that the event will not be held on a Saturday in September but will be held on Sunday, September 21, 2014. When this information came to light, the Coast Guard did not have enough time to draft, publish, and receive public comment on an NPRM. As such, the event would occur before the rulemaking process was complete. Immediate action is needed to help protect the safety of the swimmers, crew, spectators, and participating vessels from other vessels during this one day event.

Under 5 U.S.C. 553(d)(3), for the same reasons 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**. Any delay in the effective date of this rule would be contrary to the public interest, because immediate action is necessary to protect the safety of the swimmers from the dangers associated with other vessels transiting this area while the race occurs.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 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; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. Competitor Group, Inc is sponsoring the San Diego Tri-Rock Triathlon, which will involve 1800 swimmers. The safety zone will encompass the navigable waters adjacent to South Embarcadero Park. This temporary safety zone is necessary to provide for the safety of the swimmers, crew, spectators, sponsor vessels, other vessels, and users of the waterway.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 6:30 a.m. to 10:30 a.m. on September 21, 2014. The limits of the safety zone will encompass the navigable waters adjacent to South Embarcadero Park within the following positions:
32°42′14.4″ N, 117°10′01.2″ W
32°42′17.4″ N, 117°09′58.8″ W
32°42′00.9″ N, 117°09′42.6″ W
32°42′02.9″ N, 117°09′40.6″ W

The safety zone is necessary to provide for the safety of the swimmers, crew, spectators, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM).

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. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size, location, and the limited duration of the safety zone.

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 transit or anchor in the impacted portion of San Diego Bay from 6:30 a.m. to 10:30 a.m. on September 21, 2014.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone would only apply to a small area of San Diego Bay, located off of south Embarcadero Park south. Also traffic would be allowed to pass through the zone with the permission of the Captain of the Port, or his designated representative. Before the effective period, the Coast Guard will publish a Local Notice to Mariners.

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 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 INTFORMATION 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 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 establishment of a safety zone on the navigable waters of San Diego Bay. 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–653 to read as follows:

§ 165.T11–653 Safety zone; San Diego Tri-Rock Triathlon; San Diego Bay, San Diego, CA.

(a) *Location.* The limits of the safety zone will encompass the navigable waters adjacent to South Embarcadero Park within the following positions:
32°42′14.4″ N, 117°10′01.2″ W
32°42′17.4″ N, 117°09′58.8″ W
32°42′00.9″ N, 117°09′42.6″ W
32°42′02.9″ N, 117°09′40.6″ W

(b) *Enforcement Period.* This safety zone will be enforced on September 21, 2014 from 6:30 a.m. to 10:30 a.m.

(c) *Definitions.* The following definition applies to this section: *Designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(3) Upon being hailed by U.S. Coast Guard or designated patrol personnel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(4) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: August 18, 2014.

J.S. Spaner,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2014–21036 Filed 9–3–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2014–0277 and EPA–HQ–OPPT–2014–0166; FRL–9915–69]

RIN 2070–AB27

Significant New Use Rule on Certain Chemical Substances; Withdrawal of Significant New Use Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is withdrawing significant new use rules (SNURs) promulgated under the Toxic Substances Control Act (TSCA) for chemical substances which were the subject of premanufacture notices (PMNs). EPA published these SNURs using direct final rulemaking procedures. EPA received notices of intent to submit adverse comments on these rules. Therefore, the Agency is withdrawing these SNURs, as required under the expedited SNUR rulemaking process. EPA intends to publish in the near future proposed SNURs for these six chemical substances under separate notice and comment procedures.

DATES: This final rule is effective September 8, 2014.

ADDRESSES: The dockets for this action, identified by docket identification (ID) numbers EPA–HQ–OPPT–2014–0277 and EPA–HQ–OPPT–2014–0166, are available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

A list of potentially affected entities is provided in the **Federal Register** of July 8, 2014 (79 FR 38464) (FRL–9911–05) and July 9, 2014 (79 FR 39268) (FRL–9910–01). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What rules are being withdrawn?

In the **Federal Register** of July 8, 2014 (79 FR 38464) and July 9, 2014 (79 FR 39268), EPA issued several direct final SNURs, including SNURs for the chemical substances that are the subject of this withdrawal. These direct final rules were issued pursuant to the procedures in 40 CFR part 721, subpart D. In accordance with § 721.160(c)(3)(ii), EPA is withdrawing the rules issued for chemical substances generically identified as 1,1'-methylenebis[isocyanatobenzene], polymer with polycarboxylic acids in alkane polyols; aromatic dibenzoate; propylene glycol, alpha isocyanate, omega silane; aromatic dicarboxylic acid polymer with alkanediol, alkyl alkyl-2-alkenoate,1,4- dialkyl aromatic dicarboxylate, alkanedioic acid, alkanediol, .alpha.- hydro-.omega.-hydroxypoly[oxy(alkyl- alkanediyl)], hydroxyalkyl 2-alkyl-2- alkenoate, aromatic diisocyanate, alkyl 2-alkyl-2-alkenoate and 2-alkyl-2- alkenoic acid; alkanedioic acid, polymer with alkyl 2-alkyl-2-alkenoate, alkanedioic acid, alkanediol, .alpha.-hydro-.omega.-hydroxypoly[oxy(alkyl-1 2-alkanediyl)], hydroxyalkyl 2-alkyl-2-alkenoate, aromatic diisocyanate, alkyl 2-alkyl-2-alkenoate and 2-alkyl-2-alkenoic acid; and alkanedioic acid, polymer with alkyl alkyl- alkenoate, alkanedioic acid, alkanediol, .alpha.-hydro-.omega.-hydroxypoly[oxy(alkyl-1,2-alkanediyl)], aromatic diisocyanate, alkyl alkyl-alkeneoate and alkyl-alkenoic acid, which were the subject of PMNs P–14–60, P–13–270, P–13–563, P–13–617, P–13–618, and P–13–619 respectively, because the Agency received notices of intent to submit adverse comments. EPA intends to publish proposed SNURs for these chemical substances under separate notice and comment procedures.

For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D, and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNURs for the chemical substances that are being removed were established at EPA–HQ–OPPT–2014–0277 and EPA–HQ–OPPT–2014–0166. These records include information considered by the Agency in developing these rules and the notices of intent to submit adverse comments.

III. Statutory and Executive Order Reviews

This final rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and executive order review requirements applicable to the direct final rule were discussed in the **Federal Register** of July 8, 2014 and July 9, 2014. Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

IV. Congressional Review Act (CRA)

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

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

Dated: August 28, 2014.

Maria J. Doa,

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

Therefore, 40 CFR chapter I is amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

§ 9.1 [Amended]

■ 2. In § 9.1, under the undesignated center heading ''Significant New Uses of Chemical Substances,'' remove §§ 721.10735, 721.10741, 721.10742, 721.10743, 721.10744 and 721.10762.

PART 721—[AMENDED]

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

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

§ 721.10735 [Removed]

■ 4. Remove § 721.10735.

§§ 721.10741 through 721.10744 [Removed]

■ 5. Remove §§ 721.10741 through 721.10744.

§ 721.10762 [Removed]

■ 6. Remove § 721.10762.

[FR Doc. 2014–21091 Filed 9–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2014–0595; FRL–9916–10-Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri, Control of Gasoline Reid Vapor Pressure

AGENCY: Environmental Protection Agency (EPA).

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 and received by EPA on July 18, 2013, related to the Missouri rule that controls Gasoline Reid Vapor Pressure (RVP) in the Kansas City metropolitan area. This action amends the SIP by updating no longer existing references to certain sampling procedures and test procedures.

DATES: This direct final rule will be effective November 3, 2014, without further notice, unless EPA receives adverse comment by October 6, 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–2014–0595, 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–2014–0595. 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 Missouri SIP received on July 18, 2013, related to Missouri rule 10–CSR 10–2.330, ''Control of Gasoline Reid Vapor Pressure (RVP).'' This rule limits the volatility of motor vehicle gasoline in the previous 1-hour ozone Kansas City maintenance area of Clay, Jackson and Platte counties in Missouri and Johnson and Wyandotte counties in Kansas. This action amends the SIP by updating no longer existing references to certain sampling procedures and test procedures.

Specifically, prior to this revision, the gasoline sampling procedure in section (4) of the rule references 40 CFR part 80, appendix D, which is outdated. This reference is being replaced by the Federally approved American Society for Testing and Materials (ASTM) standard reference (ASTM D4057–06 (2011)). Similarly, prior to this revision, the gasoline testing procedures for RVP and determination of compliance reference in section (5)(A) of the rule was also outdated. This reference is being replaced by the Federally approved ASTM standard reference (ASTM D6378–10 or ASTM D5191–10b). In addition, minor administrative corrections are being made to subsections (6)(A) and (6)(D), and section (7).

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 this **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 November 3, 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 this **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 20, 2014.

Mark Hague,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency amends 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 for 10–2.330 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 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	*	*	*	*
10–2.330	Control of Gasoline Reid Vapor Pressure.	07/30/2013	09/04/2014 *[Insert Federal Register citation].*	
*	*	*	*	*

* * * * *

[FR Doc. 2014–20915 Filed 9–3–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0033; 4500030113]

RIN 1018–AZ15

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Brickellia mosieri (Florida Brickell-bush) and Linum carteri var. carteri (Carter's Small-flowered Flax)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for *Brickellia mosieri* (Florida brickell-bush) and *Linum carteri* var. *carteri* (Carter's small-flowered flax), two plants from Miami-Dade County, Florida. The effect of this regulation will be to add these plants to the List of Endangered and Threatened Plants.

DATES: This rule becomes effective October 6, 2014.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* and at *http://www.fws.gov/verobeach/.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, South Florida Ecological Services Office, 1339 20th Street, Vero Beach, FL 32960; telephone 772–562–3909; facsimile 772–562–4288.

FOR FURTHER INFORMATION CONTACT: Craig Aubrey, Field Supervisor, U.S. Fish and Wildlife Service, South Florida Ecological Services Office, 1339 20th Street, Vero Beach, FL 32960, by telephone 772–562–3909, or by facsimile 772–562–4288. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species may warrant protection through listing if we find that it is an endangered or threatened species throughout all or a significant portion of its range. Listing a species as endangered or threatened can only be completed by issuing a rule. We will also be finalizing the designation of critical habitat for *Brickellia mosieri* and *Linum carteri* var. *carteri* under the Act in the near future.

This rule will finalize the listing of *Brickellia mosieri* and *Linum carteri* var. *carteri* as endangered species.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that *Brickellia mosieri* and *Linum carteri* var. *carteri* meet the definition of an endangered species based on Factors A, D, and E.

Peer review and public comment. We sought comments from six independent specialists to ensure that our action is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all other comments and information received during the comment period.

Previous Federal Action

Please refer to the proposed listing rule for *Brickellia mosieri* and *Linum carteri* var. *carteri* (78 FR 61273; October 3, 2013) for a detailed description of previous Federal actions concerning these plants.

Summary of Comments and Recommendations

In the proposed rule published on October 2, 2013 (78 FR 61273), we requested that all interested parties submit written comments on the proposal by December 2, 2013. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Miami Herald.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from six knowledgeable individuals with scientific expertise that included familiarity with *Brickellia mosieri* and *Linum carteri* var. *carteri* and/or their habitat, biological needs, and threats; the geographical region of South Florida in which these plants occur; and conservation biology principles. We received responses from all six of the peer reviewers we contacted.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of *Brickellia mosieri* and *Linum carteri* var. *carteri.* The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the final listing rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

(1) Comment: One peer reviewer commented on the lack of discussion related to the threat of herbivory from invertebrates, both native and nonnative, and noted that *Brickellia cordifolia,* a north Florida species, experiences considerable damage on an annual basis from a not-yet-identified, leaf-boring-type arthropod. The reviewer also noted the possible threat of unnaturally high herbivory from deer, rabbits, and other vertebrates, as well as threats associated with feral hogs, both of which he stated are threats throughout most of Florida.

Our Response: We appreciate the information provided; however, biologists monitoring *Brickellia mosieri* in Miami-Dade County have not observed any significant damage to the species from invertebrates or vertebrates, native or nonnative. In addition, another peer reviewer noted that deer no longer occur in the areas where these plants exist, and rabbits occur only sparingly, and not in all areas. Based on the information available at this time, the Service does believe that predation poses a threat to *Brickellia mosieri.*

(2) Comment: One peer reviewer noted that two specimens of *Brickellia mosieri* (filed as *B. eupatorioides* and annotated by K.A. Bradley as *B. eupatorioides* var. *floridana*) in the collection at the Fairchild Tropical Botanic Garden Herbarium indicate that the historical range of this species probably extended north of South Miami. Based on these specimens, the reviewer stated that the historical range is better characterized as extending from approximately Coconut Grove to Florida City, while allowing that these observations may have been included

with those described as not giving accurate or precise location information under ''Historical Range'' in the proposed rule.

Our Response: We appreciate the information provided. The Service was aware of one of these samples (by Buswell in 1947 from a pineland south of Coral Gables), which was referenced by Bradley and Gann (1999, p. 16), and incorporated into their approximation of historical range (South Miami is less than 3.2 km (2.0 mi) southwest of Coral Cables). However, we were not aware of the second sample (by Small in 1912 from pinelands near Coconut Grove). Based on this new information, we agree that the northern extent of the historical range is more appropriately characterized as Coconut Grove. We have incorporated the revised text and related changes (i.e., calculations of range contraction) in the Background and Determination sections in this final rule.

Comment: One peer reviewer noted that an understanding of these plants' reproductive biology, especially their floral biology, pollination, and breeding systems, is especially critical to helping them recover more robust numbers. A second peer reviewer had a similar comment regarding the need for additional study related to seed dispersal, pollinator mechanisms, and augmentation and reintroduction studies. The first reviewer noted that the effects of habitat conditions on the reproductive allocation of both plants has not yet been quantified, and that individuals in smaller, more isolated, and/or degraded pine rockland habitat fragments have lower reproductive rates than counterparts in larger, more well-maintained pine rockland sites, leading to the likely loss of genetic diversity represented in those low-quality sites over time.

Our Response: We agree and had incorporated similar statements in our discussion of Habitat Fragmentation and Effects of Small Population Size and Isolation (under Factors A and E, respectively, in the Summary of Factors Affecting the Species section) in the proposed listing rule.

(4) Comment: One peer reviewer requested further identification of the area identified as ''Rockdale Pineland Addition'' in Table 2 of the proposed rule (78 FR 61273; October 3, 2013).

Our Response: According to the Florida Natural Area Inventory's (FNAI) Florida Conservation Lands data layer (September 2013 version), the area known as Rockdale Pineland consists of two parcels: Rockdale Pineland (approximately 26 acres, owned by the State of Florida and managed by Miami-Dade County), and the Rockdale Pineland Addition (approximately 21 acres, owned and managed by Miami-Dade County). Rockdale Pineland Addition surrounds Rockdale Pineland, like a buffer. The *Linum carteri* var. *carteri* occurrence is within this ''buffer,'' along the edges of the abandoned FEC Railroad tracks, adjacent to pine rockland habitat.

(5) Comment: One peer reviewer noted an apparent discrepancy between the occupancy of *Brickellia mosieri* on Federal lands (U.S. Coast Guard (USCG) and National Oceanic Atmospheric Association (NOAA) lands in the Richmond Pinelands), as described in Table 1 and in the Federal section under the discussion of Factor D, *The Inadequacy of Existing Regulatory Mechanisms,* in the proposed rule (78 FR 61273; October 3, 2013).

Our Response: The discrepancy was related to the difference between how *Brickellia mosieri* occurrences were reported in Table 1 (i.e., specific to managed area and owner) versus how we evaluated whether an area was considered occupied (i.e., described at the habitat patch level). We considered contiguous pine rockland habitat to be the same habitat patch, regardless of where ownership boundaries were located within it. A habitat patch was considered occupied if the species occurs within its boundaries, although the species may not have been observed throughout the entire patch. Thus, NOAA and some USCG lands are considered occupied by *Brickellia mosieri* because an extant population occurs within the same habitat patches (Martinez Pineland and University of Miami, respectively). That said, we have revised the language in the discussion of Federal regulations under Factor D in the Summary of Factors Affecting the Species section to explain this distinction.

(6) Comment: One peer reviewer noted that *Lygodium microphyllum* (Old World climbing fern) is not likely a threat to *Brickellia mosieri* and *Linum carteri* var. *carteri* as it primarily occupies wetland habitats, and is not known to invade pine rockland habitat.

Our Response: We agree and have removed this language from our discussion of nonnative plants under Factor E in the Summary of Factors Affecting the Species section.

(7) Comment: One peer reviewer stated that the U.S. General Services Administration property within the Richmond Pinelands Complex should be more thoroughly surveyed for both plants, especially *Brickellia mosieri.*

Our Response: The lands referenced are now owned by the U.S. Army Corps of Engineers. However, we agree with the peer reviewer and would encourage and support such a survey being conducted. The Richmond Pinelands Complex represents the largest remaining group of contiguous fragments of pine rockland habitat outside of Everglades National Park (ENP), and the Service hopes to cooperatively engage all landowners, including Federal agencies, to survey, manage, and conserve this area.

(8) Comment: One peer reviewer specifically supported our rationale for the proposed listing determination, which focused on a more qualitative assessment of threats, rather than some form of population viability analysis, due to limited data available, especially in relation to population response to stochastic events and long-term disturbances. The reviewer also noted that guidelines developed for medium-to-large size animals do not work well for herbaceous plants, which could have 1,000 individuals concentrated in a single site, making the species vulnerable to a single event of human or natural origin.

Our Response: We agree, and thank the reviewer for this comment.

Comments From States

The two plants occur only in Florida. We received no comments from the State of Florida regarding the listing proposal. We note, however, that one peer reviewer was from the Florida Forest Service, Florida Department of Agriculture and Consumer Services; those comments are addressed above.

Public Comments

During the first comment period, we received two public comment letters directly addressing the proposed listing. Both commenters suggested technical corrections to sections of the proposed rule pertaining to the Background and Summary of Factors Affecting the Species, related to scientific names, species biology, and citations, to include additional information and correct minor errors. We did not receive any requests for a public hearing, nor did we receive any comments on the listing rule during the second comment period. The comments are appreciated and have been incorporated into the appropriate sections of the final rule. The remaining comments we received are grouped below into two general issues.

Issue 1: Habitat

(9) Comment: One commenter noted that the sandhill community does not occur in Miami-Dade County (per FNAI 2010), and suggests that mesic flatwoods

would be a more appropriate description of an intergrade community with pine rocklands on the northern Miami Rock Ridge.

Our Response: We thank the reviewer for this comment, and acknowledge that there is an apparent discrepancy between the described pine rockland-sandhill community association on the northern Miami Rock Ridge (per Snyder et al. 1990, p. 257, as well as FNAI 2010, p. 63) and the described extent of sandhill within Florida (does not extend into Miami-Dade County; FNAI 2010, p. 40). Based on review of the FNAI community descriptions, we agree that the classification of mesic flatwoods most accurately describes the community into which pine rockland merges in northern Miami-Dade County, and have incorporated this information in the Background section.

(10) Comment: One commenter noted that, in our discussion of natural forest communities (NFCs) in Miami-Dade County (in the Local section under the discussion of Factor D, *The Inadequacy of Existing Regulatory Mechanisms* of the proposed rule (78 FR 61273; October 3, 2013)), tropical hardwood hammocks include rockland hammocks.

Our Response: We agree. In this instance, we used the term ''tropical hardwood hammock'' in keeping with the terminology used on Miami-Dade County environmental Web sites to describe this type of habitat within NFCs and Environmentally Endangered Lands. Because of this, and because pine rocklands are the focus of the discussion, we believe it is suitable to retain the existing wording in this section.

Issue 2: Threats

(11) Comment: One commenter stated that Pine Shore Pineland Preserve burned in a wildfire on April 8, 2013, resulting in improved habitat conditions. Because of this, and in relation to this commenter's previous cited personal communication (in the proposed rule (78 FR 61273; October 3, 2013)), the commenter believes that this population of *Brickellia mosieri* is no longer the most endangered.

Our Response: We appreciate the information provided and have removed the subject sentence related to the habitat condition and status of *Brickellia mosieri* on Pine Shore Pineland Preserve from the Summary of Factors Affecting the Species section.

(12) Comment: One commenter indicated that the threat of mountain biking at R. Hardy Matheson Preserve has been mitigated (as opposed to remedied, as stated in the proposed rule (78 FR 61273; October 3, 2013)) by the installation of fencing. This commenter also stated that habitat succession has increased since mountain bikers have been fenced out, which has not benefited habitat for *Linum carteri* var. *carteri.*

Our Response: We appreciate the information provided and have incorporated it into the Summary of Factors Affecting the Species section.

Summary of Changes From the Proposed Rule

Based on information we received in peer review and public comments, we made the following changes:

In the Background section:

(1) We made the following five changes to scientific names: Revised the names of three plants to reflect the accepted taxonomy per the Integrated Taxonomic Information System (ITIS), added a subspecies designation and corrected the common name of one plant to represent the intended pine rockland subspecies, and deleted one plant from the vegetation list to prevent potential taxonomic confusion.

(2) We corrected one citation (Bradley and Gann 1999), which was missing a digit in the year.

(3) We revised the description of pine rockland's natural community associations on the northern Miami Rock Ridge, changing the association with sandhill to an association with mesic flatwoods.

(4) We revised the historical range of *Brickellia mosieri,* extending the northern extent from ''South Miami'' to ''approximately Coconut Grove'', to reflect new information regarding herbarium samples. Related to this change, we revised our calculations of the contraction of historical range, from more than 13 percent to more than 30 percent.

(5) We included additional information on the flowering response of *Brickellia mosieri* to fire.

In the Summary of Factors Affecting the Species section:

(6) We deleted a sentence related to the habitat condition and status of *Brickellia mosieri* on Pine Shore Pineland Preserve, as it was no longer applicable.

(7) We revised wording related to the occurrence of *Brickellia mosieri* in the Richmond Pinelands and specifically on lands managed by USCG and NOAA.

(8) We made the following changes to two scientific names: Revised the name of one plant to reflect the accepted taxonomy per ITIS, and changed the name of one plant in two places to correct a typographical error.

(9) We removed a sentence referencing the potential future threat of *Lygodium microphyllum,* since this plant is unlikely to pose a threat to pine rockland species due to its strong association with wetter habitats.

(10) We revised and included additional information on the threat of mountain biking and habitat conditions at R. Hardy Matheson Preserve.

(11) We revised a sentence regarding IRC's *Brickellia mosieri* reintroduction site, replacing ''George and Avery Pineland'' with ''one private site.''

Background

Brickellia mosieri

Please refer to the proposed listing rule (78 FR 61273; October 3, 2013) for the description of *Brickellia mosieri,* its taxonomy, and its suitable climate. Below we present updated summaries of information in the proposed rule, and new information based on peer review and public comment, related to its habitat, historical and current range, population estimates, demographics, reproduction, and genetics.

Habitat

Brickellia mosieri grows exclusively in pine rocklands on the Miami Rock Ridge in Miami-Dade County outside the boundaries of ENP. This area extends from the ENP boundary, near the park entrance road, northeast approximately 72 kilometers (km) (45 miles (mi)) to the ridge's end near North Miami. Habitat conditions more specific to this area are highlighted below. The pine rocklands are a unique ecosystem found on limestone substrates in three areas in Florida—the Miami Rock Ridge, in the Florida Keys, and in the Big Cypress Swamp. The pine rocklands differ to some degree between and within these areas with regard to substrate (e.g., amount of exposed limestone, type of soil), elevation, hydrology, and species composition (both plant and animal). The substrate, elevation, and hydrology of pine rocklands on the Miami Rock Ridge outside of ENP are discussed in detail in the proposed listing rule for *B. mosieri* and *Linum carteri* var. *carteri* (78 FR 61273; October 3, 2013), while the species composition of this area is discussed below.

Pine rockland is characterized by an open canopy of South Florida slash pine (*Pinus elliottii* var. *densa*). Subcanopy development is rare in well-maintained pine rocklands, with only occasional hardwoods, such as *Lysiloma latisiliquum* (wild tamarind) and *Quercus virginiana* (live oak) growing to tree size in Miami Rock Ridge pinelands (Snyder *et al.* 1990, p. 253). The shrub/understory layer is a diverse mix of

species including both temperate and tropical shrubs and palms. Dominant plants in the shrub layer of pine rocklands vary based on elevation, substrate, and nearby associated natural communities. The pine rocklands where *Brickellia mosieri* occurs are characterized by an open shrub canopy of *Serenoa repens* (saw palmetto), *Myrica cerifera* (wax myrtle), *Metopium toxiferum* (poisonwood), and *Sideroxylon salicifolium* (willow bustic) as well as species with more restricted distribution within pine rocklands including *Sideroxylon reclinatum* ssp. *austrofloridense* (Everglades bully), *Callicarpa americana* (beauty berry), *Dodonaea angustifolia* (varnish leaf), and *Ilex cassine* (dahoon holly) (Snyder *et al.* 1990, p. 254; Bradley and Gann 1999, p. 12). The shrub layer in pinelands occurring in the northern end of the Miami Rock Ridge more closely resembles pine flatwoods as a result of the amount of sandy soils in this area, with species such as *Lyonia fruticosa* (staggerbush), *Quercus minima* (dwarf live oak), *Quercus pumila* (running oak), and *Vaccinium myrsinites* (shiny blueberry) becoming more common (Snyder *et al.* 1990, p. 255). The height and density of the shrub layer vary based on fire frequency, with understory plants growing taller and more dense as time since fire increases.

Pine rocklands in all three areas of Florida contain a richly diverse herbaceous layer, including a large number of rare and endemic species, such as *Brickellia mosieri.* The diversity of the herbaceous layer decreases as the density of the shrub layer increases (i.e., as understory openness decreases), and pine rockland on the mainland has a more diverse herbaceous layer, due to the presence of temperate species and some tropical species that do not occur in the Florida Keys (FNAI 2010, p. 63). The herbaceous layer can range from mostly continuous in areas with more soil development and little exposed limestone, to sparse where much of the limestone is at the surface. Most herbaceous species in pine rocklands are perennials (Snyder *et al.* 1990, p. 257). Common herbaceous associates of *B. mosieri* in the Miami Rock Ridge pine rocklands include *Schizachyrium sanguineum* (crimson bluestem), *Schizachyrium gracile* (wire bluestem), *Symphyotrichum adnatum* (scaleleaf aster), and *Acalypha chamaedrifolia* (bastard copperleaf) (Bradley and Gann 1999, p. 12). *B. mosieri* may also be found in close association with several other rare plants, including *Chamaesyce deltoidea* ssp. *deltoidea* (deltoid spurge), *Chamaesyce deltoidea* ssp. *adhaerens* (wedge sandmat), *Chamaesyce deltoidea* ssp. *pinetorum* (pineland sandmat), *Galactia smallii* (Small's milkpea), *Polygala smallii* (tiny polygala), and *Argythamnia blodgettii* (Blodgett's silverbush) (Bradley and Gann 1999, p. 12).

Pine rockland occurs in a mosaic with primarily two other natural community types—rockland hammock and marl prairie. Pine rockland grades into rockland hammock; pine rockland has an open pine canopy, and rockland hammock has a closed, hardwood canopy. Pine rockland is a fire-maintained ecosystem—a well-maintained pine rockland is a savanna-like forest, but, in the absence of fire, it will eventually succeed into rockland hammock. The functional relationship and response of pine rocklands and *Brickellia mosieri* to fire and other natural disturbances are discussed in detail in the proposed listing rule for *B. mosieri* and *Linum carteri* var. *carteri* (78 FR 61273; October 3, 2013).

Pine rockland on the Miami Rock Ridge can also occur within lower, seasonally flooded marl prairies, which differ from pine rockland in having no pines, an understory dominated by grasses and sedges, and a minimal cover of shrubs (FNAI 2010, p. 63). Where pine rockland occurs close to the ocean, it may be bordered by mangrove swamp or salt marsh and can receive flooding by extremely high tides (FNAI 2010, p. 63). Pine rocklands on the northern Miami Rock Ridge grade into scrub and mesic flatwoods vegetation where the three communities intermix in areas with deep sands and rock outcrops (Snyder *et al.* 1990, p. 257; Gann 2014, pers. comm.).

Historical Range

Brickellia mosieri is endemic to the pine rocklands of the Miami Rock Ridge in Miami-Dade County. It was historically known from central and southern Miami-Dade County from approximately Coconut Grove to Florida City, a range of approximately 45.0 km (28.0 mi), along the Miami Rock Ridge (based on data in Bradley and Gann 1999, p. 11, and Fairchild Tropical Botanic Garden Virtual Herbarium 2014, page numbers not applicable). However, Bradley and Gann (1999, p. 11) state that herbarium specimens have not been studied from the New York Botanical Garden, so the full extent of its historical range is unknown. Some available herbarium specimens and other records for this plant (Bradley and Gann 1999, p. 16; Wunderlin and Hansen 2008, page numbers not applicable) do not give precise or accurate location information.

Current Range, Population Estimates, and Status

Brickellia mosieri is currently distributed from central and southern Miami-Dade County from SW 120 St. (latitude ca. 25 degrees (°) 39.4 minutes (′)N) to Florida City (latitude ca. 25° 26.0′N) (Bradley and Gann 1999, p. 11), suggesting its historical range has contracted at least 13.6 km (8.5 mi), or more than 30 percent. A detailed account of *B. mosieri* occurrences and population status were provided in the proposed listing rule (78 FR 61273) published in the **Federal Register** on October 2, 2013.

Demographic, Reproductive Biology, and Population Genetics

Little research has been done into the demography, reproductive biology, or genetics of *Brickellia mosieri.* Field observations indicate that the species does not usually occur in great abundance—populations are typically sparse and contain a low density of plants even in well-maintained pine rockland habitat (Bradley and Gann 1999, p. 12). Reproduction is sexual (Bradley and Gann 1999, p. 12). While specific pollinators or dispersers are unknown, flower morphology suggests this species may be pollinated by butterflies, bees, or both (Koptur 2013, pers. comm.); wind is one likely dispersal vector (Gann 2013b, pers. comm.). Flowering takes place primarily in the fall (August–October) (Bradley and Gann 1999, p. 12). Off-season flowering is usually the result of fire, and *B. mosieri* will flower within 1 to 2 months following a fire, regardless of the time of year (Possley 2013 pers. comm.).

Linum carteri var. carteri

Please refer to the proposed listing rule (78 FR 61273; October 3, 2013) for a detailed discussion of *Linum carteri* var. *carteri's* taxonomy, suitable climate, habitat, historical and current range, population estimates, demographics, reproduction, and genetics. Below we provide an updated summary of information in the proposed rule, and new information based on peer review and public comment, related to the description of the plant.

Description

Linum carteri var. *carteri* (Family: Linaceae) is an annual or short-lived perennial herb endemic to Miami-Dade County, where it grows in pine rocklands, particularly in disturbed pine rocklands (Bradley and Gann 1999, p. 70). Its stem is erect, 230–360 millimeters (mm) (9.0–14.2 inches (in)) tall, commonly branched near the base,

and puberulent (covered with minute hairs). Its leaves are slender (18–26 mm (0.7–1.0 in) long and 0.8–1.2 mm (0.03–0.05 in) wide), entire, alternate, and closely overlap at the base of the plant. This variety has stipules (pair of appendages at the base of the petiole, which is the stalk by which a leaf is attached to a stem) with paired dark glands. Its inflorescence (cluster of flowers arranged on a branching stem) is an ascending or spreading cyme (usually flat-topped or convex flower cluster in which the main axis and each branch end in a flower that opens before the flowers below or to the side of it), with yellow petals that are broadly obovate (egg-shaped), 9–17 mm (0.35–0.67 in) long, and quickly deciduous. The fruit is straw-colored, ovoid, 4.1–4.6 mm (0.16–0.18 in) long, 3.4–3.7 mm (0.13–0.15 in) in diameter, and dehisces (opens spontaneously at defined places) into five two-seeded segments; seeds are narrowly ovoid-elliptic, 2.3–2.8 mm (0.09–0.11 in) long, 1.0–1.3 mm (0.04–0.05 in) wide. In habit and flower, the plant closely resembles *Piriqueta cistoides* ssp. *caroliniana* (pitted stripeseed) in the family Turneraceae (Bradley and Gann 1999, p. 70).

Summary of Factors Affecting the Species

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 species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may determine a species to be endangered or threatened due to one or more of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Each of these factors as applied to these two plants is discussed below or in the proposed listing rule for *Brickellia mosieri* and *Linum carteri* var. *carteri* (78 FR 61273; October 3, 2013).

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Brickellia mosieri and *Linum carteri* var. *carteri* have experienced substantial destruction, modification, and curtailment of their habitat and range (see Status Assessment, in the proposed listing rule for *B. mosieri* and *L. c.* var. *carteri* (78 FR 61273; October 3, 2013) and revised information above). Specific threats to these plants included in this factor include habitat loss, fragmentation, and modification caused by development (i.e., conversion to both urban and agricultural land uses) and inadequate fire management. Human population growth and development and habitat fragmentation and their specific effects on these plants are discussed in the proposed listing rule for *B. mosieri* and *L. c.* var. *carteri* (78 FR 61273; October 3, 2013), while fire management is summarized below.

Fire Management

One of the primary threats to both of these plants is habitat modification and degradation through inadequate fire management, which includes both the lack of prescribed fire and suppression of natural fires. Where the term ''fire-suppressed'' is used below and in the proposed rule, it describes degraded pine rockland conditions resulting from a lack of adequate fire (natural or prescribed) in the landscape. The effects of fire suppression on pine rocklands, and fire-adapted species such as *Brickellia mosieri* and *Linum carteri* var. *carteri,* are discussed in detail in the proposed listing rule for *B. mosieri* and *L. c.* var. *carteri* (78 FR 61273; October 3, 2013).

Brickellia mosieri—All occurrences of *Brickellia mosieri* are affected by some degree of inadequate fire management, with the primary threat being shading by hardwoods (Bradley and Gann 1999, p. 15; Bradley and Gann 2005, page numbers not applicable). While management of some County conservation lands (e.g., those in Richmond Pinelands complex and Navy Wells Pineland Preserve) includes regular burning, other such lands can be severely fire-suppressed. Even in areas under active management, some portions are typically fire-suppressed, thereby threatening populations of this species.

Linum carteri var. *carteri*—The status of *Linum carteri* var. *carteri* populations in relation to fire suppression are described in the proposed listing rule for *Brickellia mosieri* and *L. c.* var. *carteri* (78 FR 61273; October 3, 2013).

Implementation of a prescribed fire program in Miami-Dade County has been hampered by a shortage of resources, and by logistical difficulties and public concern related to burning next to residential areas. Many homes have been built in a mosaic of pine rockland, so the use of prescribed fire in many places has become complicated because of potential danger to structures and smoke generated from the burns. Nonprofit organizations, such as the Institute for Regional Conservation (IRC) have similar difficulties in conducting prescribed burns due to difficulties with permitting and obtaining the necessary permissions as well as hazard insurance limitations (Gann 2013a, pers. comm.). Few private landowners have the means and/or desire to implement prescribed fire on their property, and doing so in a fragmented urban environment is logistically difficult and may be costly. One of the few privately owned pine rocklands that is successfully managed with prescribed burning is Pine Ridge Sanctuary, located in a more agricultural (less urban) matrix in the southwestern portion of *Brickellia mosieri's* current range; it was last burned in November 2010 (Glancy 2013, pers. comm.).

Conservation Efforts To Reduce the Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range

These are discussed in detail in the proposed listing rule for *Brickellia mosieri* and *Linum carteri* var. *carteri* (78 FR 61273; October 3, 2013).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Factor B is discussed in detail in the proposed listing rule for *Brickellia mosieri* and *Linum carteri* var. *carteri* (78 FR 61273; October 3, 2013).

C. Disease or Predation

No diseases or incidences of predation have been reported for *Brickellia mosieri* and *Linum carteri* var. *carteri.*

D. The Inadequacy of Existing Regulatory Mechanisms

State and local regulations, and fee title properties, are discussed in detail in the proposed listing rule for *Brickellia mosieri* and *Linum carteri* var. *carteri* (78 FR 61273; October 3, 2013), while Federal regulations are discussed below.

Federal

If these plants were not listed, they would have no Federal regulatory protection in their known occupied and suitable habitat. Neither taxon occurs on National Wildlife Refuge or National Park land. *Brickellia mosieri* is known to occur within habitat patches (where patch boundaries are based on contiguous pine rockland habitat, irrespective of land ownership) that include Federal lands within the Richmond Pinelands Complex, including lands owned by the USCG

and NOAA. The only known Federal occurrence of *Linum carteri* var. *carteri* is on the U.S. Department of Agriculture's Subtropical Horticultural Research Station (Chapman Field). There are no Federal protections for candidate species on these properties. These plants primarily occur on State- or County-owned and private land (Tables 1 and 2 of the proposed rule), and development of these areas would likely require no Federal permit or other authorization. Therefore, projects that affect them would usually not be analyzed under the National Environmental Policy Act (NEPA) (*42 U.S.C. 4321 et seq.*).

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Brickellia mosieri and *Linum carteri* var. *carteri* are both threatened by other natural or manmade factors that affect each taxon to varying degrees. Specific threats to these plants included in this factor consist of the spread of nonnative invasive plants, potentially incompatible management practices (such as mowing and herbicide use), direct impacts to plants from recreation and other human activities, small population size and isolation, climate change, and the related risks from environmental stochasticity (extreme weather) on these small populations. With the exception of nonnative plants and recreation, which are discussed below, the rest of these threats and their specific effect on these plants are discussed in detail in the proposed listing rule for *B. mosieri* and *L. c.* var. *carteri* (78 FR 61273; October 3, 2013).

Nonnative Plant Species

Nonnative plants have significantly affected pine rocklands, and threaten all occurrences of *Brickellia mosieri* and *Linum carteri* var. *carteri* to some degree (Bradley and Gann 1999, pp. 15, 72; Bradley and Gann 2005, page numbers not applicable; Bradley 2007, pers. comm.; Bradley and van der Heiden 2013, pp. 12–16). As a result of human activities, at least 277 taxa of nonnative plants have invaded pine rocklands throughout south Florida (Service 1999, p. 3–175). *Neyraudia reynaudiana* (Burma reed) and *Schinus terebinthifolius* (Brazilian pepper) threaten both plants (Bradley and Gann 1999, pp. 13, 72). *S. terebinthifolius,* a nonnative tree, is the most widespread and one of the most invasive species. It forms dense thickets of tangled, woody stems that completely shade out and displace native vegetation (Loflin 1991, p. 19; Langeland and Craddock Burks 1998, p. 54). *Acacia auriculiformis* (earleaf acacia), *Melinis repens* (natal grass), *Lantana camara* (shrub verbena), and *Albizia lebbeck* (tongue tree) are some of the other nonnative species in pine rocklands.

Nonnative invasive plants compete with native plants for space, light, water, and nutrients, and make habitat conditions unsuitable for both *Brickellia mosieri* and *Linum carteri* var. *carteri,* which respond positively to open conditions. They also affect the characteristics of a fire when it does occur. Historically, pine rocklands had an open, low understory where natural fires remained patchy with low temperature intensity, thus sparing many native plants such as *B. mosieri* and *L. c.* var. *carteri.* Dense infestations of *Neyraudia reynaudiana* and *Schinus terebinthifolius* cause higher fire temperatures and longer burning periods. With the presence of invasive nonnative species, it is uncertain how fire, even under a managed situation, will affect these plants. Bradley and Gann (1999, pp. 13, 71–72) indicated that the control of nonnative plants is one of the most important conservation actions for these plants and a critical part of habitat maintenance.

Management of nonnative invasive plants in pine rocklands in Miami-Dade County is further complicated because the vast majority of pine rocklands are small, fragmented areas bordered by urban development. Areas near managed pine rockland that contain nonnative species can act as a seed source of nonnatives allowing them to continue to invade the surrounding pine rockland (Bradley and Gann 1999, p. 13).

Recreation and Other Human Activities

Linum carteri var. *carteri*'s occurrence in disturbed, open areas such as firebreaks and road rights-of-way also makes it much more susceptible than *Brickellia mosieri* to recreational and other human activities. These activities may inadvertently impact some populations of *L. c.* var. *carteri.* In the past, mountain biking has been identified as a threat at R. Hardy Matheson Preserve (Bradley and Gann 1999, pp. 71, 74; Bradley 2007, pers. comm.). This threat was mitigated by the placement of protective fencing, however, since mountain bikers have been fenced out, habitat succession has increased and resulted in less suitable conditions for *L. c.* var. *carteri* (Possley 2013, pers. comm.). More recently, a colony of *L. c.* var. *carteri* at Camp Owaissa Bauer Addition has been impacted by ''yard sales'' and car parking along Krome Avenue (Bradley and van der Heiden 2013, p. 13). While these impacts are usually some distance from the plants, they sometimes encroach on the edge of the natural area and have the potential to trample the plants. This plant occurs in similar habitat on Rockdale Pineland, where it is found along the edges of the abandoned Florida East Coast Railway tracks, adjacent to pine rockland habitat (Bradley and van der Heiden 2013, p. 16). Here, plants have also been trampled from parking vehicles and machinery along the edges of the railroad right-of-way (Bradley and van der Heiden 2013, p. 16). While these activities have affected individual plants in some populations, they are not likely to have caused significant population declines in the taxon.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Continued Existence

An IRC program included reintroduction of both *Brickellia mosieri* and *Linum carteri* var. *carteri* in an effort to establish new occurrences of these plants and increase population sizes. To date, *B. mosieri* has been reintroduced to at least one private site, although the status of these plants is currently unknown (Gann 2013b, pers. comm.).

Ex-situ conservation by Fairchild Tropical Botanic Garden consists of seed collection of pine rockland plants, including *Brickellia mosieri* and *Linum carteri* var. *carteri,* to learn about their germination, storage, and cultivation requirements to help safeguard these plants from extinction. This program is discussed in detail in the proposed listing rule for *Brickellia mosieri* and *Linum carteri* var. *carteri* (78 FR 61273; October 3, 2013).

Summary of Biological Status and Threats

Only small and fragmented occurrences of these two plants remain. The current ranges of *Brickellia mosieri* and *Linum carteri* var. *carteri* span such a small geographic area—a narrow band no more than 4.0 km (2.5 mi) in width, and approximately 30.1 km (18.7 mi) and 26.9 km (16.7 mi) in length, respectively, along the Miami Rock Ridge—that all populations could be affected by a single event (*e.g.,* hurricane). Four of the seven remaining populations of *L. c.* var. *carteri* have fewer than 20 individual plants. *B. mosieri* populations occur in higher numbers, but are still not considered sizable. *L. c.* var. *carteri* shows great differences in plant numbers from year to year, probably because individuals typically live 1–2 years and grow from seed. This trait makes them more vulnerable than perennials to changes in

environment. Viable plant populations for small, short-lived herbs may consist of tens of thousands of plants (Menges 1991, p. 48; Lande 1995, p. 789). Although robust population viability analyses (including minimum viable population calculations) have not been conducted for these plants, indications are that most existing populations for both plants are at best marginal.

We have determined that the threats to both *Brickellia mosieri* and *Linum carteri* var. *carteri* consist primarily of habitat loss and modification through urban and agricultural development, lack of adequate fire management, proliferation of nonnative invasive plants, and sea level rise. Threats described under Factor A—habitat loss, fragmentation, and degradation resulting from development and inadequate fire management, and Factor E—competition from nonnative invasive plants, are believed to be the primary drivers in the historical and recent declines of *B. mosieri* and *L. c.* var. *carteri*. *L. c.* var. *carteri* has also been threatened by anthropogenic disturbances which threaten populations in disturbed habitats, such as firebreaks and road rights-of-way, and both plants are suspected to be negatively affected by threats related to small, isolated populations (Factor E). All of these threats are ongoing and expected to continue to impact populations of these plants in the future. Current local, State, and Federal regulatory mechanisms (Factor D) are inadequate to protect these plants from taking and habitat loss. Despite these existing regulatory mechanisms, *B. mosieri* and *L. c.* var. *carteri* continue to decline.

Other factors that are likely to threaten *Brickellia mosieri* and *Linum carteri* var. *carteri* in the future include climate change (including sea level rise) and extreme weather events (hurricanes, frost events). Effects of these could be catastrophic on isolated, small populations of both plants (Factor E). The narrow distribution of their populations makes them more susceptible to extirpation from a single catastrophic event. This level of isolation makes natural recolonization of extirpated populations virtually impossible without human intervention.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to *Brickellia mosieri* and *Linum carteri* var. *carteri*. As described in detail above and in the proposed listing rule (78 FR 61273; October 3, 2013), both plants are currently at risk throughout all of their respective ranges due to the immediacy and severity of threats from habitat destruction and modification (Factor A) and other natural or manmade factors affecting their continued existence (Factor E), and existing regulatory mechanisms are inadequate to reduce these threats (Factor D). Although actions are ongoing to alleviate some threats, no populations appear to be free of major threats. As a result, impacts from increasing threats, singly or in combination, are likely to result in the extinction of these plants.

Brickellia mosieri

Numerous threats are occurring now and are likely to continue in the foreseeable future, at a high intensity, and across the entire range of *Brickellia mosieri;* therefore, we have determined the species is in danger of extinction throughout its range. The threats are currently active, and will continue to affect the populations of *B. mosieri* into the foreseeable future, and these threats will individually and collectively contribute to the species' local extirpation and potential extinction. Because these threats are placing the species in danger of extinction now and not only at some point in the foreseeable future, we find that this species meets the definition of an endangered species, rather than a threatened species. Therefore, we have determined that *B. mosieri* meets the definition of endangered in accordance with sections 3(6) and 4(a)(1) of the Act.

Linum carteri var. carteri

Numerous threats are occurring now and are likely to continue in the foreseeable future, at a high intensity, and across the entire range of *Linum carteri* var. *carteri;* therefore, we have determined the taxon is in danger of extinction throughout its range. The threats are currently active, and will continue to affect the populations of *L. c.* var. *carteri* into the foreseeable future, and these threats will individually and collectively contribute to the plant's local extirpation and potential extinction. Because these threats are placing the taxon in danger of extinction now and not only at some point in the foreseeable future, we find this taxon meets the definition of an endangered species rather than a threatened species. Therefore, we have determined that *L. c.* var. *carteri* meets the definition of endangered in accordance with sections 3(6) and 4(a)(1) of the Act.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that threatened species status is not appropriate for these plants because of contracted range, because the threats are occurring rangewide and are not localized, and because the threats are ongoing and expected to continue into the future.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. The threats to the survival of these plants occur throughout the plants' respective ranges and are not restricted to any particular significant portion of those ranges. Accordingly, our assessment and proposed determination applies to the plants throughout their entire ranges.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent

recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Florida would be eligible for Federal funds to implement management actions that promote the protection or recovery of *Brickellia mosieri* and *Linum carteri* var. *carteri.* Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for *Brickellia mosieri* and *Linum carteri* var. *carteri.* Additionally, we invite you to submit any new information on these plants whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include, but are not limited to, management and any other landscape-altering activities on Federal lands administered by the Department of Defense, Homeland Security/U.S. Coast Guard, U.S. Prisons Bureau, National Oceanic and Atmospheric Administration, National Park Service, U.S. Fish and Wildlife Service, and U.S. Department of Agriculture; the issuance of Federal permits under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) by the U.S. Army Corps of Engineers; construction and management of gas pipeline and power line rights-of-way by the Federal Energy Regulatory Commission; construction and maintenance of roads or highways by the Federal Highway Administration; and implementation of the National Flood Insurance Program and disaster relief efforts conducted by the Federal Emergency Management Agency.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as an endangered species, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Exceptions to these prohibitions are outlined in 50 CFR 17.62.

Preservation of native flora of Florida (Florida Statutes 581.185) sections (3)(a) and (b) provide limited protection to species listed in the State of Florida Regulated Plant Index including *Brickellia mosieri* and *Linum carteri* var. *carteri,* as described under Factor D, *The Inadequacy of Existing Regulatory Mechanisms.* Federal listing increases protection for these plants by making violations of section 3 of the Florida Statute punishable as a Federal offense under section 9 of the Act. This statutory relationship provides increased protection from unauthorized collecting and vandalism for the plants on State and private lands, where they might not otherwise be protected by the Act, and increases the severity of the penalty for unauthorized collection, vandalism, or trade in these plants.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened plant species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.62 for endangered plants, and at 50 CFR 17.72 for threatened plants. With regard to endangered plants, a permit must be issued for activities undertaken for scientific purposes or to enhance the propagation or survival of the species.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of listed species. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Import *Brickellia mosieri* or *Linum carteri* var. *carteri* into, or export these plants from, the United States.

(2) Remove and reduce to possession *Brickellia mosieri* or *Linum carteri* var. *carteri* from areas under Federal jurisdiction; maliciously damage or

destroy these plants on any such area; or remove, cut, dig up, or damage or destroy these plants on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law.

(3) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, *Brickellia mosieri* or *Linum carteri* var. *carteri*.

(4) Sell or offer for sale in interstate or foreign commerce *Brickellia mosieri* or *Linum carteri* var. *carteri*.

(5) Introduce any nonnative wildlife or plant species to the State of Florida that compete with or prey upon *Brickellia mosieri* or *Linum carteri* var. *carteri*.

(6) Release any unauthorized biological control agents that attack any life stage of *Brickellia mosieri* or *Linum carteri* var. *carteri*.

(7) Manipulate or modify the habitat of *Brickellia mosieri* or *Linum carteri* var. *carteri* on Federal lands without authorization.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. No tribal lands are impacted by this listing.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the South Florida Ecological Services Field Office.

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; 1531–1544; and 4201–4245; unless otherwise noted.

■ 2. Amend § 17.12(h) by adding entries for ''*Brickellia mosieri''* and ''*Linum carteri* var. *carteri'',* in alphabetical order under Flowering Plants, to the List of Endangered and Threatened Plants, to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historical range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Brickellia mosieri	Brickell-bush, Florida	U.S.A. (FL)	Asteraceae	E	844	NA	NA
*	*	*	*	*	*	*	
Linum carteri var. *carteri.*	Flax, Carter's small-flowered.	U.S.A. (FL)	Linaceae	E	844	NA	NA
*	*	*	*	*	*	*	

* * * * *

Dated: August 8, 2014.

David Cottingham

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

[FR Doc. 2014–21110 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2014–0037; 4500030113]

RIN 1018–BA55

Endangered and Threatened Wildlife and Plants; Adding 10 Species to the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in accordance with the Endangered Species Act of 1973, as amended (Act), are amending the List of Endangered and Threatened Wildlife (List) by adding: five species of foreign sturgeon (Adriatic sturgeon (*Acipenser naccarii*), Chinese sturgeon (*A. sinensis*), European sturgeon (*A. sturio*), Kaluga sturgeon (*Huso dauricus*), and Sakhalin sturgeon (*A. mikadoi*)); four distinct population segments (DPSs) of scalloped hammerhead shark (*Sphyrna lewini*) (Central and Southwest Atlantic (Central & SW Atlantic) DPS, Eastern Atlantic DPS, Indo-West Pacific DPS, and Eastern Pacific DPS); and a nonessential experimental population of Upper Columbia River spring-run Chinook salmon (*Oncorhynchus tshawytscha*). These amendments are based on previously published determinations by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for these species.

DATES: This rule is effective September 4, 2014. Applicability dates: The five sturgeon listings are effective as of July 2, 2014; the scalloped hammerhead shark DPS listings are effective as of September 2, 2014; and the designation of a nonessential experimental population of Upper Columbia River spring-run Chinook salmon is effective as of August 11, 2014.

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, Chief, Branch of Endangered Species Listing, U.S. Fish and Wildlife Service, MS–ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; 703–358–2171.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Act (16 U.S.C. 1531 et seq.) and Reorganization Plan No. 4 of 1970 (35 FR 15627; October 6, 1970), NMFS has jurisdiction over the marine and anadromous taxa identified in this rule. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as an endangered or threatened species. NMFS makes these determinations via its rulemaking process. We, the Service, are then responsible for publishing final rules to amend the List in the Code of Federal Regulations (CFR) at 50 CFR 17.11(h).

On October 31, 2013, NMFS published a proposed rule (78 FR 65249) to list the Adriatic sturgeon, Chinese sturgeon, European sturgeon, Kaluga sturgeon, and Sakhalin sturgeon as endangered species. NMFS solicited public comments on the proposed rule through December 30, 2013. On June 2, 2014, NMFS published a final rule (79 FR 31222) to list the five species of sturgeon as endangered species. The listing is effective as of July 2, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

On April 5, 2013, NMFS published a proposed rule (78 FR 20718) to list four DPSs of scalloped hammerhead shark under the Act. NMFS proposed to list the Central & SW Atlantic DPS and Indo-West Pacific DPS as threatened species, and the Eastern Atlantic DPS and Eastern Pacific DPS as endangered species. NMFS solicited public comments on the proposed rule through June 4, 2013. On July 3, 2014, NMFS published a final rule (79 FR 38214) to list the Central & SW Atlantic DPS and Indo-West Pacific DPS of scalloped hammerhead shark as threatened species, and the Eastern Atlantic DPS and Eastern Pacific DPS of scalloped hammerhead shark as endangered species. The listing is effective as of September 2, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

On October 24, 2013, NMFS published a proposed rule (78 FR 63439) to designate and authorize the release of a nonessential experimental population (NEP) of Upper Columbia River spring-run Chinook salmon under section 10(j) of the Act in the Okanogan River subbasin, and to establish a limited set of take prohibitions for that population. NMFS solicited public comments on the proposed rule through December 9, 2013. On July 11, 2014, NMFS published a final rule (79 FR 40004) to designate and authorize the release of this NEP of Upper Columbia River spring-run Chinook salmon in the Okanogan River subbasin, and established a limited set of take prohibitions for this NEP. The listing is effective as of August 11, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

Administrative Procedure Act

Because NMFS provided a public comment period on the proposed rules for these taxa, and because this action of the Service to amend the List in accordance with the determination by NMFS is nondiscretionary, the Service finds good cause that the notice and public comment procedures of 5 U.S.C. 553(b) are unnecessary for this action. We also find good cause under 5 U.S.C. 553(d)(3) to make this rule effective immediately. The NMFS rules extended protection under the Act to these species and listed them in 50 CFR parts 223 and 224; this rule is an administrative action to add the species to the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). The public would not be served by delaying the effective date of this rulemaking action.

Required Determinations

National Environmental Policy Act

We have determined that an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We outlined our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—[AMENDED]

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

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

■ 2. Amend § 17.11(h) by adding entries to the List of Endangered and Threatened Wildlife under FISHES as follows:

■ a. Immediately following the entry for ''Salmon, Chinook (Upper Columbia River spring-run ESU)'', add an entry for ''Salmon, Chinook (Upper Columbia River spring-run ESU–XN)''; and

■ b. In alphabetical order, add entries for ''Shark, scalloped hammerhead (Central & SW Atlantic DPS)''; ''Shark, scalloped hammerhead (Eastern Atlantic DPS)''; ''Shark, scalloped hammerhead (Eastern Pacific DPS)''; ''Shark, scalloped hammerhead (Indo-West Pacific DPS)''; ''Sturgeon, Adriatic''; ''Sturgeon, Chinese''; ''Sturgeon, European''; ''Sturgeon, Kaluga''; and ''Sturgeon, Sakhalin''.

The additions read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
FISHES							
*	*	*	*	*	*		*
Salmon, Chinook (Upper Columbia River spring-run ESU—XN).	*Oncorhynchus tshawytscha*.	North America from Ventura River in California to Point Hope, Alaska, and the Mackenzie River area in Canada; northeast Asia from Hokkaido, Japan, to the Anadyr River, Russia.	Upper Columbia River spring-run ESU—XN—see 50 CFR 223.102.	XN	845	NA	223.301
*	*	*	*	*	*		*
Shark, scalloped hammerhead (Central & SW Atlantic DPS).	*Sphyrna lewini*	Central and Southwest Atlantic Ocean, including Caribbean Sea.	Central & SW Atlantic DPS—see 50 CFR 223.102.	T	845	NA	NA
Shark, scalloped hammerhead (Eastern Atlantic DPS).	*Sphyrna lewini*	Eastern Atlantic Ocean, including Mediterranean Sea.	Eastern Atlantic DPS—see 50 CFR 224.101.	E	845	NA	NA
Shark, scalloped hammerhead (Eastern Pacific DPS).	*Sphyrna lewini*	Eastern Pacific Ocean.	Eastern Pacific DPS—see 50 CFR 224.101.	E	845	NA	NA
Shark, scalloped hammerhead (Indo-West Pacific DPS).	*Sphyrna lewini*	Indian Ocean and Western Pacific Ocean.	Indo-West Pacific DPS—see 50 CFR 223.102.	T	845	NA	NA
*	*	*	*	*	*		*
Sturgeon, Adriatic	*Acipenser naccarii* ..	Adriatic Sea	Entire	E	845	NA	NA
*	*	*	*	*	*		*
Sturgeon, Chinese ...	*Acipenser sinensis*	Northwest Pacific Ocean in China, Japan, South Korea, and North Korea.	Entire	E	845	NA	NA
Sturgeon, European	*Acipenser sturio*	North Sea, the English Channel, and most European coasts of the Atlantic Ocean, the Mediterranean Sea, and the Black Sea.	Entire	E	845	NA	NA
*	*	*	*	*	*		*
Sturgeon, Kaluga	*Huso dauricus*	Amur River basin, Sea of Okhotsk and the Sea of Japan.	Entire	E	845	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Sturgeon, Sakhalin ..	*Acipenser mikadoi* ..	Northwest Pacific Ocean in Japan and Russia.	Entire	E	845	NA	NA
*	*	*	*	*	*	*	

* * * * *

Dated: August 25, 2014.

Stephen Guertin,

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

[FR Doc. 2014–21078 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140128077–4691–02]

RIN 0648–BD93

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States

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

ACTION: Final rule.

SUMMARY: This final rule changes on-reel trawl gear stowage requirements when fishing vessels are transiting closed areas or fishing in areas with mesh size restrictions. Specifically, this action allows a vessel to use a highly visible orange or yellow mesh material as an alternative to the current requirement to use a tarp or similar canvas material. In addition, this action removes the requirement to detach the towing wires from the doors for all on-reel gear stowage and removes the requirement to detach the towing wires from the net. Finally, to help streamline the gear stowage requirements, this action also reorganizes the current gear stowage regulations. This action is being implemented under authority delegated to the NMFS Regional Administrator. This action is intended to improve safety of fishing operations while at sea.

DATES: This rule is effective September 4, 2014.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, phone: (978) 281–9177.

SUPPLEMENTARY INFORMATION:

Background

The current trawl gear stowage regulations, at 50 CFR 648.23(b), require that trawl gear being stowed on the net reel be covered with a ''canvas or similar opaque material'' when transiting closed areas and areas with mesh size restrictions. The industry typically uses a commonly available opaque plastic tarp to meet this requirement, which is intended to help facilitate enforcement. However, industry has raised two safety concerns with this requirement. First, the tarps most frequently used have very few places where a rope or similar material can be attached to assist in pulling the tarp over the net reel. As a result, crew members at sea often have to climb or stand on the net reel or surrounding parts of the vessel to successfully cover the reel. This creates a safety concern for crew members who may slip or fall and injure themselves or others. In addition, because the tarps are non-porous, they catch wind, similar to a sail, adding to the difficulty of covering the net reel and increasing the safety risks.

As a result of these safety concerns, the New England Fishery Management Council's Enforcement Committee has been working with the fishing industry and the United States Coast Guard (USCG) to develop an alternative to the tarp requirement for stowing trawl nets on the reel. Through public workshops and at-sea trials, the industry, USCG, and NMFS developed an orange mesh material as a safer alternative to the current tarp requirement. At its September 2013 meeting, the Council approved a motion requesting that the Regional Administrator implement two new trawl gear stowage methods and modify one provision of the existing methods. This action adds a provision to allow the use of a highly visible orange or yellow mesh material, as an alternative to the current requirement to use a tarp or similar canvas material. This action is being implemented under authority delegated to the NMFS Regional Administrator at § 648.23(b)(5), at the request of the Council.

In addition, when considering this revision to the gear stowage regulations, the Committee examined whether the current requirement that the ''towing wires are detached from the doors'' was also a safety concern. When trawl gear is being stowed, detaching the wires leaves the doors unsecured and swinging freely, which can result in damage to the vessel. This is particularly problematic for smaller fiberglass vessels. If the wires were allowed to remain attached to the doors, the doors could be held securely in place, preventing them from moving and causing damage to the vessel or injuring crew. The Committee, with support from the USCG and NMFS Office of Law Enforcement (OLE), concluded that this measure is no longer needed to conduct enforcement and, as such, recommends this measure be removed from the regulations pertaining to all on-reel gear stowage requirements. As a result, the new stowage methods do not include the requirement to remove the towing wires from the doors, and for all on-reel trawl gear stowage methods where it currently applies, this requirement is removed. In addition, the requirement that vessels remove the towing wire from the net is removed in this action. During the public comment period, as described below, the Council indicated that this requirement is outdated, as it was designed for use on Eastern rigged vessels, which have become obsolete, and is not necessary for the proper enforcement of the gear stowage provisions.

NMFS is also taking this opportunity under its authority at section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act to reorganize the current gear stowage regulations. Currently, all Greater Atlantic Region gear stowage regulations reside under the Atlantic mackerel, squid, and butterfish regulations at subpart B of 50 CFR part 648. The gear stowage regulations were originally implemented in Amendment 1 to the Northeast Multispecies Fishery Management Plan as part of the exempted fishing programs. These regulations were subsequently expanded and modified a number of

times. In 1996, NMFS undertook a comprehensive reorganization of fishery regulations in response to a Presidential directive. As a result, the gear stowage regulations that had previously been part of the Northeast multispecies regulations were moved to subpart B of the regulations. While there is not information available as to exactly why this move occurred, it is likely because the mackerel, squid, and butterfish fisheries constitute a large majority of the small-mesh fisheries, which were the original focus of the gear stowage regulations.

Consequently, when considering updating or revising the gear stowage regulations for fisheries other than mackerel, squid, and butterfish, the rulemaking process is unnecessarily complex and confusing because these regulations are in subpart B, but are referenced by the regulations in several other subparts. To help streamline the regulations and to assist in making future adjustments to these regulations, this action moves the entirety of the gear stowage regulations at § 648.23(b) to the definitions section of subpart A at § 648.2. The way the regulations are currently organized can be interpreted that gear stowage regulations are specific to mackerel, squid, and butterfish fisheries, when in fact they apply to several fisheries. This change should help clarify that these regulations apply to numerous fisheries and not just mackerel, squid, and butterfish. The current organization of these regulations also causes confusion with the Council process, because the regulations are within a section of the regulations managed by the Mid-Atlantic Council, but also apply to several fisheries managed by the New England Council. Although this is outside of the request of the Council, this restructuring will not directly affect fisheries operations and would better organize the regulations. As such, this change should be beneficial to fisheries, future policy development, and Council proceedings.

Comments and Responses

One comment was received from the New England Fishery Management Council in support of the action; the Council also requested some additional measures.

Comment 1: The New England Council submitted a comment in support of the proposed action, but also requested that we add a highly visible yellow mesh color as an optional color for the mesh material.

In addition, the comment received from the Council also requested that we remove the requirement that the towing wires be detached from the net. The Council explained that this requirement is outdated and no longer applicable. The towing wires were only attached to the net on eastern rigged type vessels, which no longer operate in the fishery. The Council is recommending this requirement be removed for consistency with the intent of this rule and to avoid confusion for fishermen and enforcement.

Response: The Council's Enforcement Committee previously discussed adding a yellow mesh, but the Committee had not agreed to add the yellow mesh due to concerns from the USCG. While the proposed rule for this action was being developed, discussion on the yellow mesh continued, and at the April 23, 2014, Council meeting, the Council agreed to add the yellow mesh. We have consulted with the USCG and OLE and they have since concurred that a yellow mesh is acceptable as an additional option. As such, this action implements the yellow mesh material as an optional color for the mesh material.

With regard to removing the requirement that the towing wire be detached from the net, this provision was previously considered and recommended by the Enforcement Committee, but due to an oversight by the Committee, never made it into the Council's final recommendation that prompted the rulemaking. Because this requirement is no longer considered necessary, this action removes it based on the request from the Council received during the comment period and the work previously conducted by the Enforcement Committee.

Changes From the Proposed Rule

Based on the recommendation from the Council and with concurrence from the USCG and OLE, this final rule adds the yellow mesh as an optional mesh color. Also, based on recommendation from the Council and a previous workshop held by the Enforcement Committee, this final rule includes removing the requirement that the towing wires be detached from the net since this provision is no longer relevant. These changes should provide the industry with some added flexibility and should have no effects on the resource or the enforceability of the gear stowage measures. Although these measures were not specifically considered in the proposed rule, they are logical outgrowths of the type of measures that were considered, and, therefore, are being implemented without further prior public comment. These additional measures have been part of the public dialog and consideration before the proposed rule was published and will not be a surprise to the public. In addition, these measures have no effect on the resource or any additional impacts outside of the additional flexibility and increase to safety at sea for the industry and are not considered to be controversial.

Classification

Pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this final rule is consistent with the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries finds good cause to waive the 30-day delay in effectiveness provision of the Administrative Procedure Act pursuant to 5 U.S.C. 553(d)(3). This rule imposes no new requirements or burdens on the public; to the contrary, it provides additional flexibility for the fishing industry and should help increase safety at-sea. Specifically, this rule provides for an additional gear stowage method option. An additional gear stowage method allows fishermen to choose how to stow their gear, allowing them to pick whichever method works best for them. The new method is also designed to be easier and safer than existing methods. The mesh material allows the net reel to be covered without having to climb on top of the reel, and because there are holes between meshes, the mesh material would not catch the wind the way a tarp would with the existing method. Further, this new method is optional only and not required. As such, the fishing industry can choose to continue to use the existing stowage method of using a common tarp. In addition, this rule adds yellow mesh as an optional mesh color, which provides the industry with some added flexibility.

Finally, to help streamline the regulations and to assist in making future adjustments to these regulations, this action moves the entirety of the gear stowage regulations at § 648.23(b) to the definitions section of subpart A at § 648.2. This provision is merely an administrative reorganization of the regulations and does not change the rights or obligations of regulated entities.

Failure to make this final rule effective upon publication will undermine the intent of the rule to increase safety at-sea. Imposing a 30-day delay in effectiveness would be another 30 days that the industry would not be allowed to use the new, safer method implemented by this rule. For these reasons, the 30-day delay is waived and this rule will become effective upon publication in the **Federal Register**.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was provided in the proposed rule for this action (May 29, 2014; 79 FR 30799) and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

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

This final rule does not contain policies with federalism or ''takings'' implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This action does not contain any new recordkeeping or reporting requirements, and does not impose any additional costs to affected vessels.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 27, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, add a definition for ''Not available for immediate use'' in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Not available for immediate use means that the gear is not being used for fishing and is stowed in conformance with one of the following methods:

(1) *Nets*—(i) *Below-deck stowage.* (A) The net is stored below the main working deck from which it is deployed and retrieved;

(B) The net is fan-folded (flaked) and bound around its circumference.

(ii) *On-deck stowage.* (A) The net is fan-folded (flaked) and bound around its circumference;

(B) The net is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net.

(iii) *On-reel stowage.* (A) The net is on the net reel;

(B) The codend of the net is removed from the net and stored below deck; and

(C) The entire surface of the net is covered and securely bound by:

(*1*) Canvas of other similar opaque material; or

(*2*) A highly visible orange or yellow mesh material that is not capable of catching fish or being utilized as fishing gear. An example of highly visible orange or yellow mesh includes but is not limited to the orange fence material commonly used to enclose construction sites.

(iv) *On-reel stowage for vessels transiting the Gulf of Maine Rolling Closure Areas and the Georges Bank Seasonal Closure Area.* (A) If a vessel is transiting the *Gulf of Maine Rolling Closure Areas and the Georges Bank Seasonal Closure Area,* not available for immediate use also means, the net is on the net reel;

(B) No containment rope, codend tripping device, or other mechanism to close off the codend is attached to the codend;

(C) The entire surface of the net is covered and securely bound by:

(*1*) Canvas of other similar opaque material; or

(*2*) A highly visible orange or yellow mesh material that is not capable of catching fish or being utilized as fishing gear. Highly visible orange or yellow mesh includes but is not limited to the orange fence material commonly used to enclose construction sites.

(2) *Scallop dredges.* (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured, and the dredge or the winch is covered so that it is rendered unusable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

(3) *Hook gear (other than pelagic).* All anchors and buoys are secured and all hook gear, including jigging machines, are covered.

(4) *Sink gillnet gear.* All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the **Federal Register**.

* * * * *

§§ 648.13, 648.14, 648.17, 648.23, 648.51, 648.58, 648.59, 648.60, 648.61, 648.62, 648.80, 648.81, 648.82, 648.85, 648.86, 648.88, 648.89, 648.90, 648.91, 648.94, 648.95, 648.124, 648.125, 648.201 and 648.202 [Amended]

■ 3. In the table below, for each paragraph indicated in the left column, remove the reference in the middle column from wherever it appears in the paragraph and add the text indicated in the right column.

Section	Remove	Add
§ 648.13(i)(2)(ix)	in accordance with § 648.23(b)(1);	and not available for immediate use as defined in § 648.2;
§ 648.14(g)(2)(iii)(A)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.14(i)(1)(vi)(B)	unavailable for immediate use as defined in § 648.23(b),	not available for immediate use as defined in § 648.2,
§ 648.14(i)(2)(v)(C)	unavailable for immediate use as defined in § 648.23(b),	not available for immediate use as defined in § 648.2,
§ 648.14(i)(3)(iv)(C)	unavailable for immediate use as defined in § 648.23(b),	not available for immediate use as defined in § 648.2,
§ 648.14(k)(5)(ii)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.14(k)(5)(vi)(B)	stowage requirements of § 648.23(b),	definition of not available for immediate use as defined in § 648.2,

Section	Remove	Add
§ 648.14(k)(5)(vii)(B)	stowage requirements of § 648.23(b),	definition of not available for immediate use as defined in § 648.2,
§ 648.14(k)(6)(i)(E)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.14(k)(13)(ii)(G)	in accordance with § 648.23(b)	with gear stowed and not available for immediate use as defined in § 648.2
§ 648.14(r)(1)(vi)(C)	as required by § 648.23(b)	as defined in § 648.2
§ 648.14(r)(1)(vi)(F)	as required by § 648.23(b)	as defined in § 648.2
§ 648.14(r)(1)(vii)(A)	is stowed as specified by § 648.23(b)	is not available for immediate use as defined in § 648.2
§ 648.14(r)(1)(vii)(D)	as required by § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.17(b)(3)	one of the applicable methods specified in § 648.23(b);	the definition of not available for immediate use as defined in § 648.2;
§ 648.23(a)(2) introductory text	they are fishing consistent with exceptions specified in paragraph (b) of this section.	their gear is stowed and not available for immediate use as defined in § 648.2.
§ 648.23(a)(2)(ii)	as specified in paragraph (b) of this section.	and not available for immediate use as defined in § 648.2.
§ 648.23(a)(3)	paragraph (b) of this section	§ 648.2
§ 648.51(a)(1)	specified in § 648.23,	defined in § 648.2,
§ 648.51(b)(5)(ii)(C)	in accordance with § 648.23(b) and not available for immediate use	and not available for immediate use as defined in § 648.2
§ 648.58(c)	unavailable for immediate use as defined in § 648.23(b),	stowed and not available for immediate use as defined in § 648.2,
§ 648.59(f)	in accordance with § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.60(a)(4)	in accordance with § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.60(a)(7)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.61(b)	in accordance with the provisions of § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.62(b)(2)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.80(a)(3)(vi)	as specified in § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.80(a)(4)(i)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(4)(ii)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(4)(iii)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(4)(iv) introductory text	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(6)(i)(E)	in accordance with one of the methods specified in § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.80(a)(7)(i)	in accordance with one of the methods specified in § 648.23(b).	as defined in § 648.2.
§ 648.80(a)(7)(ii)	in accordance with one of the methods specified in § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.80(a)(7)(iii)(A)	in accordance with one of the methods specified in § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.80(a)(10)(i)(C)	unavailable for immediate use in accordance with § 648.23(b).	not available for immediate use as defined in § 648.2.
§ 648.80(b)(2)(i)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(ii)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(iii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(b)(2)(iv) introductory text	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(vi)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.80(b)(3)(ii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(b)(6)(i)(C)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.80(b)(9)(i)(E)	in accordance with one of the methods described under § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.80(c)(2)(i)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(ii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(iii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(v) introductory text	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(3)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.81(b)(2)(iv)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(h)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(j)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(k)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2

Section	Remove	Add
§ 648.81(l)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(m)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(n)(2)(iii)(B)	pursuant to § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.82(b)(6)(iv)	in accordance with the provisions at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.82(j)(1)(ii)(A)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(iii) introductory text	according to the regulations in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(iv)(E)	in accordance with the provisions of§ 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(vii)	in accordance with the regulations in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(b)(3)(x)(A)	according to the regulations at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(b)(8)(v)(E)(*1*)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.86(a)(3)(ii)	vessel complies with the gear stowage provisions specified in § 648.23(b)	vessel's gear is stowed and not available for immediate use as defined in § 648.2
§ 648.86(b)(4)(ii)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.88(a)(2)(iv)	in accordance with the provisions at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.89(a)	must stow all other fishing gear on board the vessel as specified in § 648.23(b)	all other gear on board must be stowed and not available for immediate use as defined in § 648.2
§ 648.90(a)(5)(i)(D)(*2*)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.90(a)(5)(i)(D)(*3*)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.91(c)(2)(ii)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.94(e)	in accordance with the regulations specified under § 648.23(b)	as defined in § 648.2
§ 648.95(f)	in accordance with the gear stowage provisions specified under § 648.23(b)	as defined in § 648.2
§ 648.124(c)	not available for immediate use and are stowed in accordance with the provisions of § 648.23(b)	stowed and not available for immediate use as defined in § 648.2
§ 648.125(a)(1)	in accordance with § 648.23(b)(1)	and not available for immediate use as defined in § 648.2
§ 648.125(a)(5)	in conformance with one of the methods specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.201(a)(2)	vessel complies with the gear stowage provisions specified in § 648.23(b)	vessel's gear is stowed and not available for immediate use as defined in § 648.2
§ 648.201(b)	required by § 648.23(b)	defined in § 648.2
§ 648.201(c)	required by § 648.23(b)	defined in § 648.2
§ 648.202(a)	pursuant to § 648.23(b)	and not available for immediate use as defined in § 648.2

§ 648.23 [Amended]

■ 4. In § 648.23, remove and reserve paragraph (b).

■ 5. In § 648.80:

■ a. Revise the last sentence of paragraph (a)(4)(iv)(B)(*2*).

■ b. Revise the last sentence of paragraph (b)(2)(iv)(B)(*1*).

■ c. Revise the last sentence of paragraph (c)(2)(v)(B)(*1*).

The revisions read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(4) * * *

(iv) * * *

(B) * * *

(*2*) * * * Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

(b) * * *

(2) * * *

(iv) * * *

(B) * * *

(*1*) * * * Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(B) * * *

(*1*) * * * Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

■ 6. In § 648.85, revise the last sentence of paragraph (b)(6)(iv)(J)(*1*) to read as follows:

§ 648.85 Special management programs.

* * * * *

(b) * * *

(6) * * *

(iv) * * *

(J) * * *

(*1*) * * * When the vessel is fishing under the Regular B DAS Program other gear may be on board provided it is stowed and not available for immediate use as defined in § 648.2.

* * * * *

■ 7. In § 648.108, revise the last sentence of paragraph (e) to read as follows:

§ 648.108 Summer flounder gear restrictions.

* * * * *

(e) * * * Nets must be stowed and not available for immediate use as defined in § 648.2.

* * * * *

■ 8. In § 648.144, revise the last sentence of paragraph (a)(4) to read as follows:

§ 648.144 Black sea bass gear restrictions.

(a) * * *

(4) * * * Nets must be stowed and not available for immediate use as defined in § 648.2.

* * * * *

[FR Doc. 2014–20966 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD480

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2014 total allowable catch of Pacific cod allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2014, through 2400 hrs, A.l.t., December 31, 2014. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 15, 2014.

ADDRESSES: You may submit comments on this document, identified by *2013–0152,* by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0152,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI under § 679.20(d)(1)(iii) on February 4, 2014 (79 FR 7404, February 7, 2014).

NMFS has determined that as of August 20, 2014, approximately 2,050 metric tons of Pacific cod remain in the 2014 Pacific cod apportionment for catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2014 total allowable catch (TAC) of Pacific cod in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 20, 2014.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 15, 2014.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2014.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–21061 Filed 8–29–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 171
Thursday, September 4, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0620; Directorate Identifier 2013–NM–238–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2007–22–10, for all Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. AD 2007–22–10 currently requires repetitive inspections of the left-hand and right-hand wing main landing gear (MLG) rib 6 aft bearing lugs (forward and aft) to detect any cracking, and replacement if necessary. Since we issued AD 2007–22–10, we have received reports of additional cracking of the MLG rib 6 aft bearing forward lug. This proposed AD would expand the applicability and reduce certain compliance times. We are proposing this AD to detect and correct cracking of the MLG rib 6 aft bearing lugs, which could result in collapse of the MLG upon landing.

DATES: We must receive comments on this proposed AD by October 20, 2014.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this 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–2014–0620; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0620; Directorate Identifier 2013–NM–238–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On October 24, 2007, we issued AD 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007. (A correction of that AD was published in the **Federal Register** on November 16, 2007 (72 FR 64532).) AD 2007–22–10 superseded AD 2007–03–04, Amendment 39–14915 (72 FR 4416, January 31, 2007). AD 2007–22–10 requires actions intended to address an unsafe condition on all Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes.

Since we issued AD 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007; corrected November 16, 2007 (72 FR 64532)), we have received reports of additional cracking of the MLG rib 6 aft bearing forward lug on several other Model A330 and A340 airplanes. Based on the safety analysis performed by the manufacturer, this proposed AD would expand the applicability and reduce certain compliance times.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0271, dated November 14, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During Main Landing Gear (MLG) lubrication, a crack was visually found in the MLG rib 6 aft bearing forward lug on one A330 in-service aeroplane. The crack had extended through the entire thickness of the forward lug at approximately the 4 o'clock position (when looking forward). It has been determined that similar type of crack can develop on other aeroplane types that are listed in the Applicability paragraph.
>
> This condition, if not detected and corrected, could affect the structural integrity of the MLG attachment.
>
> To address this situation, Airbus issued inspection Service Bulletins (SB) A330–57–3096, A340–57–4104 and A340–57–5009 to instruct repetitive inspection [for cracking] of the gear rib lugs.
>
> Prompted by these findings, EASA issued Emergency AD 2006–0364–E [*http://*

ad.easa.europa.eu/ad/2006-0364-E] to require repetitive detailed visual inspections of the Left Hand (LH) and Right Hand (RH) wing MLG rib 6 aft bearing lugs [and replacement if necessary]. Later EASA issued AD 2007–0247R1–E [which corresponds to FAA AD 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007)], which superseded EAD 2006–0364–E, to:

—Expand the applicability to all A330 and A340 aeroplanes, because the interference fit bushes cannot be considered as a terminating action, owing to unknown root cause; and

—Add a second parameter quoted in Flight Hours (FH) to the inspection interval in order to reflect the aeroplane utilization in service.

EASA AD 2007–0247R1–E was republished to correct a typographical error.

Since the first crack finding and issuance of the inspection SBs and related ADs, six further cracks have been reported.

For the reasons described above, this [EASA] AD, which supersedes EASA EAD 2007–0247 R1–E and retains its requirements, is issued to expand the applicability to the newly certified models A330–223F and A330–243F and to reduce the threshold further to the risk assessment of recent in-service experience.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0620.

Relevant Service Information

Airbus has issued the following service bulletins.

- Airbus Service Bulletin A330–57–3096, Revision 05, dated October 17, 2013.
- Airbus Service Bulletin A340–57–4104, Revision 04, dated October 17, 2013.
- Airbus Service Bulletin A340–57–5009, Revision 03, dated October 17, 2013.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

''Contacting the Manufacturer'' Paragraph in This Proposed 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 an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), 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 the 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.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) 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 proposed AD to obtain corrective actions from a manufacturer, the actions 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 proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 81 airplanes of U.S. registry.

We estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $13,770, or $170 per product.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Amend § 39.13 by removing Airworthiness Directive (AD) 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007; corrected November 16, 2007 (72 FR 64532)), and adding the following new AD:

Airbus: Docket No. FAA–2014–0620; Directorate Identifier 2013–NM–238–AD.

(a) Comments Due Date

We must receive comments by October 20, 2014.

(b) Affected ADs

This AD replaces AD 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007; corrected November 16, 2007 (72 FR 64532)).

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213 –311, –312, –313, –541, and –642 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracking of the main landing gear (MLG) rib 6 aft bearing forward lug. We are issuing this AD to detect and correct cracking of the MLG rib 6 aft bearing lugs, which could result in collapse of the MLG upon landing.

(f) Compliance

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

(g) Inspections

Before the accumulation of 42 months since the airplane's first flight or since the last MLG support rib replacement, as applicable; or within 4 months after the effective date of this AD; whichever occurs later: Do a detailed inspection for cracking of the left-hand and right-hand wing MLG rib 6 aft bearing lugs (forward and aft), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–57–3096, Revision 05, dated October 17, 2013 (for Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes); A340–57–4104, Revision 04, dated October 17, 2013 (for Model A340–211, –212, –213, –311, –312, –313 airplanes); or A340–57–5009, Revision 03, dated October 17, 2013 (for Model A340–541 and –642 airplanes). Repeat the inspections at the times specified in paragraphs (g)(1) through (g)(7) of this AD, as applicable.

(1) For Model A330–201, –202, –203, –223, and –243 airplanes, repeat the inspections at intervals not to exceed 300 flight cycles or 1,500 flight hours, whichever occurs first.

(2) For Model A330–223F and –243F airplanes, repeat the inspections at intervals not to exceed 300 flight cycles or 900 flight hours, whichever occurs first.

(3) For Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, repeat the inspections at intervals not to exceed 300 flight cycles or 900 flight hours, whichever occurs first.

(4) For Model A340–211, –212, and –213 airplanes, repeat the inspections at intervals not to exceed 200 flight cycles or 800 flight hours, whichever occurs first.

(5) For Model A340–311 and –312 airplanes; and Model A340–313 airplanes (except weight variant (WV) 27), repeat the inspections at intervals not to exceed 200 flight cycles or 800 flight hours, whichever occurs first.

(6) For Model A340–313 (only WV27) airplanes, repeat the inspections at intervals not to exceed 200 flight cycles or 400 flight hours, whichever occurs first.

(7) For Model A340–541 and –642 airplanes, repeat the inspections at intervals not to exceed 100 flight cycles or 500 flight hours, whichever occurs first.

(h) Corrective Action

If any cracking is found during any inspection required by paragraph (g) of this AD, before further flight, replace the cracked MLG support rib 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. Replacement of a MLG support rib does not terminate the repetitive inspections required by paragraph (g) of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for the corresponding actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the applicable service bulletin identified in paragraphs (i)(1) through (i)(12) of this AD.

(1) Airbus Service Bulletin A330–57A3096, dated December 5, 2006, which was incorporated by reference in AD 2007–03–04, Amendment 39–14915 (74 FR 4416, January 31, 2007), on February 15, 2007.

(2) Airbus Service Bulletin A330–57A3096, Revision 01, dated April 18, 2007, which is not incorporated by reference by this AD.

(3) Airbus Service Bulletin A330–57–3096, Revision 02, dated August 13, 2007, which was incorporated by reference in AD 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007; corrected November 16, 2007 (72 FR 64532)), on November 16, 2007.

(4) Airbus Service Bulletin A330–57–3096, Revision 03, dated October 24, 2012, which is not incorporated by reference by this AD.

(5) Airbus Service Bulletin A330–57–3096, Revision 04, dated February 6, 2013, which is not incorporated by reference by this AD.

(6) Airbus Service Bulletin A340–57A4104, dated December 5, 2006, which was incorporated by reference in AD 2007–03–04, Amendment 39–14915 (72 FR 4416, January 31, 2007), on February 15, 2007.

(7) Airbus Service Bulletin A340–57–4104, Revision 01, dated August 13, 2007, which is not incorporated by reference by this AD.

(8) Airbus Service Bulletin A340–57–4104, Revision 02, dated September 5, 2007, which was incorporated by reference in AD 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007; corrected November 16, 2007 (72 FR 64532)), on November 16, 2007.

(9) Airbus Service Bulletin A340–57–4104, Revision 03, dated October 24, 2012, which is not incorporated by reference by this AD.

(10) Airbus Service Bulletin A340–57A5009, dated December 5, 2006, which was incorporated by reference in AD 2007–03–04, Amendment 39–14915 (72 FR 4416, January 31, 2007), on February 15, 2007.

(11) Airbus Service Bulletin A340–57–5009, Revision 01, dated August 13, 2007, which was incorporated by reference in AD 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007; corrected November 16, 2007 (72 FR 64532)), on November 16, 2007.

(12) Airbus Service Bulletin A340–57–5009, Revision 02, dated October 24, 2012, which is not incorporated by reference by 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, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0271, dated November 14, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0620.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 25, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–21055 Filed 9–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0622; Directorate Identifier 2014–NM–009–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. This proposed AD was prompted by our determination of the need to revise the airplane airworthiness limitations to the pylon and fuselage. This proposed AD would require revising the maintenance or inspection program. We are proposing this AD to prevent fatigue cracking of various structural elements, which could affect the structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by October 20, 2014.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.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–2014–0622; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0622; Directorate Identifier 2014–NM–009–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2014–01–01, dated January 20, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all EMBRAER Model EMB –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. The MCAI states:

> This [Brazilian] AD was prompted by a new revision to the airworthiness limitations requirements [related to the pylon yokes I and II, and the skin panel of the windshield pillar] of the Maintenance Review Board Report. We are issuing this [Brazilian] AD to ensure that fatigue cracking of various structural elements is detected and corrected.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0622.

Relevant Service Information

EMBRAER has issued EMB145 Temporary Revision 15–3, dated August 26, 2013, to the Airworthiness Limitation Requirements (ALIs) of the EMBRAER EMB145 Maintenance Review Board Report MRB–145/1150; and EMB145 Temporary Revision 15–4, dated August 26, 2013, to the Airworthiness Limitation Requirements (ALIs), of the EMBRAER EMB145 Maintenance Review Board Report MRB–145/1150. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD would require revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, an operator might not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval of an alternative method of compliance (AMOC) in accordance with the provisions of paragraph (i) of this proposed AD. The request should include a description of changes to the proposed inspections that will ensure the continued operational safety of the airplane.

''Contacting the Manufacturer'' Paragraph in This Proposed 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 an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), 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 the 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.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) 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 proposed AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, ANAC, or ANAC's authorized Designee.

The Contacting the Manufacturer paragraph also clarifies that, if approved by the ANAC Designee, the approval must include the Designee's authorized signature. The Designee signature indicates that the data and information contained in the document are ANAC-approved, which is also FAA-approved.

Messages and other information provided by the manufacturer that do not contain the ANAC Designee's authorized signature approval are not ANAC-approved, unless ANAC 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.

Costs of Compliance

We estimate that this proposed AD affects 688 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $58,480, 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2014–0622; Directorate Identifier 2014–NM–009–AD.

(a) Comments Due Date

We must receive comments by October 20, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons; 53, Fuselage.

(e) Reason

This AD was prompted by our determination of the need to revise the airplane airworthiness limitations to the pylons and fuselage. We are issuing this AD to prevent fatigue cracking of various structural elements, which could affect the structural integrity of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 60 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, by incorporating EMBRAER EMB145 Temporary Revision (TR) 15–3, dated August 26, 2013, to the Airworthiness Limitation Requirements (ALIs) of the EMBRAER EMB145 Maintenance Review Board Report MRB 145/1150; and EMBRAER EMB145 TR 15–4, dated August 26, 2013, to the Airworthiness Limitation Requirements (ALIs) of the EMBRAER Maintenance Review Board Report MRB–145/1150; as applicable.

(1) The compliance times depend on the airplane model, and the pre-modification and post-modification conditions specified in EMBRAER EMB145 TR 15–3, dated August 26, 2013, to the Airworthiness Limitation Requirements (ALIs) of the EMBRAER EMB145 Maintenance Review Board Report MRB 145/1150; and EMBRAER EMB145 TR 15–4, dated August 26, 2013, to the Airworthiness Limitation Requirements (ALIs) of the EMBRAER Maintenance Review Board Report MRB–145/1150; as applicable.

(2) The initial compliance times for the tasks specified in EMBRAER EMB145 TR 15–3, dated August 26, 2013, to the Airworthiness Limitation Requirements (ALIs) of the EMBRAER EMB145 Maintenance Review Board Report MRB 145/1150; and EMBRAER EMB145 TR 15–4, dated August 26, 2013, to the Airworthiness Limitation Requirements (ALIs) of the EMBRAER Maintenance Review Board Report MRB–145/1150; as applicable; are at the applicable threshold compliance times specified in EMBRAER EMB145 TR 15–3, dated August 26, 2013; and EMBRAER EMB145 TR 15–4, dated August 26, 2013; or within 600 flight cycles after the effective date of this AD, whichever occurs later. For purposes of this AD, the initial compliance times (identified as ''Threshold'' or ''T'' in the service information) are expressed in ''total flight cycles.''

(h) No Alternative Actions and Intervals

After accomplishment of 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 (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested

using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1175; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directive 2014–01–01, dated January 20, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0622.

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 25, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–21059 Filed 9–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Chapter VII

[Docket No. 140814670–4670–01]

Effectiveness of Licensing Procedures for Agricultural Commodities to Cuba

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments.

SUMMARY: The Bureau of Industry and Security (BIS) is requesting public comments on the effectiveness of its licensing procedures as defined in the Export Administration Regulations for the export of agricultural commodities to Cuba. BIS will include a description of these comments in its biennial report to Congress, as required by the Trade Sanctions Reform and Export Enhancement Act of 2000, as amended.

DATES: Comments must be received by October 6, 2014.

ADDRESSES: Comments may be submitted to the Federal eRulemaking portal (*www.regulations.gov*). The regulations.gov ID for this notice is: BIS–2014–0034. Comments may also be sent by email to *publiccomments@bis.doc.gov* with a reference to ''TSRA 2014 Report'' in the subject line. Paper comments may be submitted by mail to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, Washington, DC 20230 with a reference to ''TSRA 2014 Report.''

FOR FURTHER INFORMATION CONTACT: Tracy L. Patts, Office of Nonproliferation and Treaty Compliance, Telephone: (202) 482–4252. Additional information on agricultural commodity export policy towards Cuba is available at *http://www.bis.doc.gov/index.php/policy-guidance/country-guidance/13-policy-guidance/country-guidance/187-cuba.*

SUPPLEMENTARY INFORMATION: Pursuant to section 906(a) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (22 U.S.C. 7205(a)), the Bureau of Industry and Security (BIS) authorizes exports of agricultural commodities, as defined in § 772.1 of the Export Administration Regulations (EAR) (15 CFR 772.1), to Cuba. Requirements and procedures associated with such authorization are set forth in § 740.18 of the EAR. These are the only licensing procedures in the EAR currently in effect pursuant to the requirements of section 906(a) of TSRA.

Under the provisions of section 906(c) of TSRA (22 U.S.C. 7205(c)), BIS must submit a biennial report to Congress on the operation of the licensing system implemented pursuant to section 906(a) for the preceding two-year period. This report must include the number and types of licenses applied for, the number and types of licenses approved, the average amount of time elapsed from the date of filing of a license application until the date of its approval, the extent to which the licensing procedures were effectively implemented, and a description of comments received from interested parties during a 30-day public comment period about the effectiveness of the licensing procedures. BIS is currently preparing a biennial report on the operation of the licensing system for the two-year period from October 1, 2012, through September 30, 2014.

Request for Comments

By this notice, BIS requests public comments on the effectiveness of the licensing procedures for the export of agricultural commodities to Cuba set forth under § 740.18 of the EAR. Parties submitting comments are asked to be as specific as possible. All comments received by the close of the comment period will be considered by BIS in developing the report to Congress. All comments must be in writing and will be available for public inspection and copying. Any information that the commenter does not wish to be made available to the public should not be submitted to BIS.

Dated: August 29, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–21081 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0592]

RIN 1625–AA11

Regulated Navigation Area; Lake Michigan, Chicago Harbor Lock, Chicago, IL to Calumet Harbor, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a regulated navigation area for waters of Lake Michigan within 5 nautical miles from shore from the Chicago Harbor Lock, Chicago, Illinois

to Calumet Harbor, Chicago, Illinois. This regulated navigation area is intended to allow barges to transit an alternate route on a portion of Lake Michigan due to the temporary closure of the Thomas J. O'Brien Lock on RM 326.5 on the Calumet River. This proposed regulated navigation area is necessary to ensure vessel safety and facilitate commerce.

DATES: Comments and related material must be received by the Coast Guard on or before October 6, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2014–0592 using any one of the following methods:

(1) *Federal eRulemaking Portal: 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) *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.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Heidi Bragalone, U.S. Coast Guard Marine Safety Unit Chicago; telephone 630–986–2131, email *Heidi.E.Bragalone@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
RNA Regulated Navigation Area

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2014–0592), 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 at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone 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,* click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2014–0592'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. 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 the rule based on your comments.

2. 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,* type the docket number USCG–2014–0592 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.

3. 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).

4. Public Meeting

We do not now plan to hold a public meeting. You may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

B. Regulatory History and Information

On June 4, 2014, Coast Guard Marine Safety Unit Chicago, Willowbrook, Illinois hosted a meeting with industry stakeholders and the United States Army Corps of Engineers to discuss the upcoming closure of the Thomas J. O'Brien Lock between November 3, 2014, and March 6, 2015. The Thomas J. O'Brien Lock permits barge traffic to transit the Illinois River System from Calumet Harbor to Chicago Harbor, Illinois. To facilitate commerce during the projected closure of the Thomas J. O'Brien Lock, it was determined during the meeting that barges could be transported on an alternate route on Lake Michigan through the Chicago Harbor Lock, Chicago, Illinois. Because federal regulations for inspected and uninspected barges do not address this temporary alternate route, it was also determined that requirements for safe operation of barges were necessary for the transit to Chicago Harbor Lock, Chicago, Illinois from Calumet Harbor, Chicago, Illinois. In order to establish safe operating requirements for the temporary alternate route, the District Commander is establishing a regulated navigation area.

For uninspected dry cargo river barges, Table 45.171 in 46 CFR 45.171 was used as a reference to establish safe operating parameters. The barge requirements found in the voyage listed between Calumet Harbor, Chicago, Illinois and Burns Harbor, Indiana were used for an uninspected dry cargo river barge transiting the temporary alternate route between Calumet Harbor, Chicago, Illinois and Chicago Harbor Lock, Chicago, Illinois.

For inspected river barges, special-service-limited-domestic-voyages

regulations in 46 CFR part 44, Great Lakes load lines regulations in 46 CFR part 45, and Section 14 of the United States Coast Guard Load Line Policy Notes were used as a reference. These regulations and Coast Guard policy outlined the requirements for an inspected river barge transiting the temporary alternate route between Calumet Harbor, Chicago, Illinois and Chicago Harbor Lock, Chicago, Illinois. Inspected river barges typically carry petroleum or chemical cargoes.

C. Basis and Purpose

The legal basis for this proposed rule is the Coast Guard's authority to establish RNAs and limited access areas: 33 U.S. C. 1226, 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.

Between November 3, 2014, and March 6, 2015, the United States Army Corps of Engineers anticipates closing the Thomas J. O'Brien Lock for two 45-day periods in order to perform maintenance on the lock. The Thomas J. O'Brien Lock closures present a significant challenge to the barge industry and an alternate route is necessary in order to sustain commerce. Further safe operating requirements for this temporary alternate route are necessary to ensure safety of transiting barge traffic.

D. Discussion of Proposed Rule

This proposed regulated navigation area is necessary to facilitate commerce and establish safe operating requirements for this temporary alternate route. Thus, this proposed rule would establish an RNA on the waters of Lake Michigan, between Chicago Harbor Lock, Chicago, Illinois and Calumet Harbor, Chicago, Illinois, within 5 nautical miles from shore.

This proposed regulated navigation area would be effective and enforced from November 1, 2014, through March 31, 2015.

The enforcement dates and times for this regulated navigation area are subject to change. In the event of a change, the Ninth District Commander will provide notice to the public by issuing a Notice of Enforcement for publication in the **Federal Register,** and announcing a Broadcast Notice to Mariners.

The Ninth District Commander will notify the public that the regulated navigation area in this proposal is or will be enforced in accordance with 33 CFR 165.7(a). Such means of notification may include publication in the **Federal Register,** Broadcast Notice to Mariners, or Local Notice to Mariners.

Inspected and uninspected river barges transiting this regulated navigation area, would need to operate in accordance with the following regulations:

Uninspected Dry Cargo Barges

In accordance with 46 CFR 45.171, unmanned dry cargo river barges transiting between Chicago Harbor Lock, Chicago, Illinois and Calumet Harbor, Chicago, Illinois must meet the requirements for voyages between Burns Harbor, Indiana and Calumet Harbor, Chicago, Illinois outlined in Table 45.171 of 46 CFR 45.171, as follows:

- Load line requirement: Conditionally exempted from load line assignment.
- Where to register/apply: Exempted barges must be registered with the USCG Marine Safety Unit Chicago, 555A Plainfield Road, Willowbrook, IL 60527; Fax (630) 986–2120.
- Eligible barges are dry cargo river barges, built and maintained in accordance with ABS River Rules, Length-to-depth ratio is less than 22, and all weathertight and watertight closures are in proper working condition. There is no age limitation.
- Barges freeboard must be at least 24 inches (610mm). On open hopper barges, the coaming height + freeboard must be at least 54 inches (1,372 mm).
- Tow limitations: Barges must be unmanned. Barges must transit within 5 nautical miles from shore. There is no limit on the number of barges in tow.
- Cargo limitations: Dry cargoes only. Liquid cargoes, even in drums or tank containers, are prohibited. No hazardous materials. HazMats are defined in 46 CFR part 148 and 49 CFR chapter 1, subchapter C.
- Weather limitations: Voyages will be conducted in ''Fair weather'' only. If worse conditions arise during the transit, the voyage must be discontinued and tow must proceed to shelter.
- Pre-departure preparations: Required; as specified in 46 CFR 45.191.
- Tow requirements:
  - Power: sufficient to handle tow.
  - Communication system: Recommended; 46 CFR 45.195(a).
  - Cutting gear: Recommended; 46 CFR 45.195(b).
  - Operational plan: Recommended; 46 CFR 45.197.

Coast Guard Inspected Tank Barges

Unmanned inspected river barges operating between Chicago Harbor Lock, Chicago, Illinois and Calumet Harbor, Chicago, Illinois must meet the following requirements:

- Markings: Great Lakes diamond without seasonal marks.
- Stability: Applicable 46 CFR subchapter S requirements.
- Strength: ABS Rules for Rivers and Intracoastal Waterways. Tank barges over 300 feet in length must have loading information per 46 CFR 31.10–32.
- Freeboard: Dry cargo and tank barges are to comply with the freeboard requirements of 46 CFR Part 45. Dry cargo barges will not be assessed penalties for hatch coaming or hatch cover deficiencies.
- Load Line Certificate: Great Lakes certificate with the following notation: *''This certificate is valid only for unmanned fair weather voyages between Calumet Harbor, Chicago, Illinois and Burns Harbor, Indiana.''*
- Operating restrictions: Voyages will be conducted in ''Fair weather'' only. If worse conditions arise during the transit, the voyage must be discontinued and tow must proceed to shelter. Barges must transit within 5 nautical miles of shore.

E. Regulatory Analyses

We developed this proposed 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 proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order, or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. This proposed regulated navigation area is intended to facilitate commerce and will not restrict navigation because it will allow barges to transit an additional route without making any changes to the current barge requirements. Overall, we expect the economic impact of this proposed rule to be minimal and that a full Regulatory Evaluation is unnecessary.

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 proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed regulated navigation area will not have a significant economic impact on a substantial number of small entities because it is intended to facilitate commerce and will not restrict navigation because it will allow barges to transit an additional route without making any changes to the current barge requirements. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Lieutenant Heidi Bragalone, Waterways Management Branch, Coast Guard Marine Safety Unit Chicago, Willowbrook, IL at (630) 986–2131. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. 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.).

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 proposed 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 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. 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.

9. 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.

10. 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.

11. 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.

12. Energy Effects

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

14. 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 (NEPA)(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 **ADDRESSES**. This proposed rule involves the establishment of a regulated navigation area and is therefore categorically excluded under figure 2–1, paragraph 34(g) of the Instruction. 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 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

Subpart F—Specific Regulated Navigation Areas and Limited Access Areas

■ 2. Add § 165.T09–0592 under the undesignated center heading ''Ninth Coast Guard District'' to read as follows:

§ 165.T09–0592 Regulated Navigation Area, Lake Michigan; Chicago Harbor Lock, Chicago, IL to Calumet Harbor, Chicago, IL.

(a) *Location.* All waters of Lake Michigan, between Chicago Harbor Lock, Chicago, Illinois to Calumet Harbor, Chicago, Illinois, extending within 5 nautical miles from shore.

(b) *Effective period and enforcement.* The regulated navigation area described in paragraph (a) of this section will be effective from November 1, 2014, through March 31, 2015. This section is expected to be enforced from November 1, 2014, through March 31, 2015, but the enforcement dates and times for this regulated navigation area are subject to change. In the event of a change, the Ninth District Commander will provide notice to the public by issuing a Notice of Enforcement for publication in the **Federal Register,** and announcing a Broadcast Notice to Mariners.

(c) *Regulations.* (1) In accordance with 46 CFR 45.171, unmanned dry cargo river barges transiting between Chicago Harbor Lock, Chicago, Illinois and Calumet Harbor, Chicago, Illinois must meet the requirements for voyages between Burns Harbor, Indiana and Calumet Harbor, Chicago, Illinois outlined in Table 45.171 of 46 CFR 45.171, as follows:

(i) Load line requirement: Conditionally exempted from load line assignment.

(ii) Where to register/apply: Exempted barges must be registered with the USCG Marine Safety Unit, 555A Plainfield Road, Willowbrook, IL 60527; Fax (630) 986–2120.

(iii) Eligible barges are dry cargo river barges, built and maintained in accordance with ABS River Rules, Length-to-depth ratio is less than 22, and all weathertight and watertight closures are in proper working condition. There is no age limitation.

(iv) Barges freeboard must be at least 24 inches (610mm). On open hopper barges, the coaming height + freeboard must be at least 54 inches (1,372 mm)

(v) Tow limitations: Barges must be unmanned. Barges must transit within 5 nautical miles from shore. There is no limit on the number of barges in tow.

(vi) Cargo limitations: Dry cargoes only. Liquid cargoes, even in drums or tank containers, are prohibited. No hazardous materials. Hazardous materials are defined in 46 CFR part 148 and 49 CFR chapter 1, subchapter C.

(vii) Weather limitations: Voyages will be conducted in ''Fair weather'' only. If worse conditions arise during the transit, the voyage must be discontinued and tow must proceed to shelter.

(viii) Pre-departure preparations: Required; as specified in 46 CFR 45.191.

(ix) Tow requirements:

(A) Power: sufficient to handle tow.

(B) Communication system: Recommended; 46 CFR 45.195(a).

(C) Cutting gear: Recommended; 46 CFR 45.195(b).

(D) Operational plan: Recommended; 46 CFR 45.197.

(2) Unmanned inspected river barges operating between Chicago Harbor Lock, Chicago, Illinois and Calumet Harbor, Chicago, Illinois must meet the following requirements:

(i) Markings: Great Lakes diamond without seasonal marks.

(ii) Stability: Applicable 46 CFR subchapter S requirements.

(iii) Strength: ABS Rules for Rivers and Intracoastal Waterways. Tank barges over 300 feet in length must have loading information per 46 CFR 31.10–32.

(iv) Freeboard: Dry cargo and tank barges are to comply with the freeboard requirements of 46 CFR Part 45. Dry cargo barges will not be assessed penalties for hatch coaming or hatch cover deficiencies.

(v) Load Line Certificate: Great Lakes certificate with the following notation: *''This certificate is valid only for unmanned fair weather voyages between Calumet Harbor, Chicago, Illinois and Burns Harbor, Indiana.''*

(vi) Operating restrictions: Voyages will be conducted in ''Fair weather'' only. If worse conditions arise during the transit, the voyage must be discontinued and tow must proceed to shelter. Barges must transit within 5 nautical miles from shore.

Dated: August 8, 2014.

F.M. Midgette,

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

[FR Doc. 2014–20939 Filed 9–3–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

[NPS–AKRO–15122; PPAKAKROZ5, PPMPRLE1Y.L00000]

RIN 1024–AE21

Alaska; Hunting and Trapping in National Preserves

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend its regulations for sport hunting and trapping in National Preserves in Alaska. This proposed rule would not adopt state laws or regulations that authorize taking of wildlife, hunting or trapping activities, or management actions involving predator reduction efforts with the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes to increase harvest of ungulates by humans. The rule would maintain long-standing prohibited sport hunting and trapping practices; update procedures for closing an area or restricting an activity in National Park Service areas in Alaska; update obsolete subsistence regulations; prohibit obstructing persons engaged in lawful hunting or trapping; and authorize use of native species as bait for fishing.

DATES: Comments must be received by December 3, 2014.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024–AE21, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail or hand deliver to:* National Park Service, Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. For additional information see ''Public Participation'' under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Andee Sears, Regional Law Enforcement Specialist, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Phone (907) 644–3417. Email: *AKR_Regulations@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

In enacting the Alaska National Interest Lands Conservation Act (ANILCA) (Pub. L. 96–487, Dec. 2 1980; 16 U.S.C. 410hh–410hh5; 3101–3233) in 1980, Congress' stated purpose was to establish nationally significant areas including National Park System units in Alaska in order to preserve them ''for the benefit, use, education, and inspiration of present and future generations[.]'' ANILCA Sec. 101(a); 16 U.S.C. 3101(a). Included among the express purposes in ANILCA are preservation of wildlife, wilderness values, and natural undisturbed, unaltered ecosystems while allowing for recreational opportunities, including sport hunting. ANILCA, Sec. 101(a)–(b); 16 U.S.C. 3101(a)–(b).

The legislative history of ANILCA reinforces the purpose of the National Park System units to maintain natural, undisturbed ecosystems. ''Certain units have been selected because they provide undisturbed natural laboratories—among them the Noatak, Charley, and Bremner River watersheds.'' Alaska National Interest Lands, Report of the Senate Committee on Energy and Natural Resources, Report No. 96–413 at page 137 [hereafter Senate Report]. Legislative history identifies Gates of the Artic, Denali, Katmai, and Glacier Bay National Parks as ''large sanctuaries where fish and wildlife may roam freely, developing their social structures and evolving over long periods of time as nearly as possible without the changes that extensive human activities would cause.'' Senate Report, at page 137.

The congressional designation of ''National Preserves'' in Alaska was for the specific and sole purpose of allowing sport hunting and commercial trapping, unlike areas designated as national parks. 126 Cong. Rec. H10549 (Nov. 12, 1980) (Statement of Rep. Udall). Section 1313 directs that National Preserves shall be managed ''in the same manner as a national park . . . except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve[.]'' Under ANILCA and as used in this document, the term ''subsistence'' refers to subsistence activities by rural Alaska residents authorized by Title VIII of ANILCA, which ANILCA identifies as the priority consumptive use of fish and wildlife on federal public lands. ANILCA, Sec. 804; 16 U.S.C. 3144. Subsistence taking of fish and wildlife in NPS areas is generally regulated by the Department of the Interior. Taking wildlife for sport purposes in National Preserves is generally regulated by the State of Alaska (SOA).

In addressing wildlife harvest, the legislative history provided ''the Secretary shall manage National Park System units in Alaska to assure the optimum functioning of entire ecological systems in undisturbed natural habitats. The standard to be met in regulating the taking of fish and wildlife and trapping, is that the preeminent natural values of the Park System shall be protected in perpetuity, and shall not be jeopardized by human uses.'' 126 Cong. Rec. H10549 (Nov. 12, 1980) (Statement of Rep. Udall).

Activities related to taking wildlife remain subject to other federal laws, including the mandate of the NPS Organic Act (16 U.S.C. 1, *et. seq.*) ''to conserve the scenery and the natural and historic objects and the wild life therein'' and provide for visitor enjoyment of the same for this and future generations. Policies implementing the NPS Organic Act require the National Park Service (NPS) to protect natural ecosystems and processes, including the natural abundances, diversities, distributions, densities, age-class distributions, populations, habitats, genetics, and behaviors of wildlife. NPS Management Policies 2006 §§ 4.1, 4.4.1, 4.4.1.2, 4.4.2. The legislative history of ANILCA reflects that Congress did not intend to modify the NPS Organic Act in this respect: ''the Committee recognizes that the policies and legal authorities of the managing agencies will determine the nature and degree of management programs affecting ecological relationships, population's dynamics, and manipulations of the components of the ecosystem.'' Senate Report, at pages 232–331. Activities to reduce native species for the purpose of increasing numbers of harvested species (i.e. predator control) are not allowed on lands managed by the NPS. NPS Management Policies 2006 § 4.4.3.

The SOA's legal framework for managing wildlife in Alaska is based on sustained yield, which is defined by state statute to mean ''the achievement and maintenance in perpetuity of the ability to support a high level of human harvest of game[.]'' AS § 16.05.255(k)(5). To that end, the Alaska Board of Game (BOG) ''shall adopt regulations to provide for intensive management programs to restore the abundance or productivity of identified big game prey populations as necessary to achieve human consumptive use goals[.]'' AS § 16.05.255(e). Allowances that manipulate natural systems and processes to achieve these goals, including actions to reduce or increase wildlife populations for harvest, conflict with laws and policies applicable to NPS areas that require preserving natural wildlife populations. See, e.g., NPS Management Policies 2006 §§ 4.1, 4.4.3.

This potential for conflict was recognized by the Senate Committee on Energy and Natural Resources prior to the passage of ANILCA, which stated that ''[i]t is contrary to the National Park Service concept to manipulate habitat or populations to achieve maximum utilization of natural resources. Rather, the National Park System concept requires implementation of management policies which strive to maintain natural abundance, behavior, diversity and ecological integrity of native animals as part of their ecosystem, and that concept should be maintained.'' Senate Report, at page 171.

In the last several years, the SOA has adopted an increasing number of liberalized methods of hunting and trapping wildlife and extended seasons to increase opportunities to harvest predator species. Among the predator harvest practices recently authorized on lands in the state, which included several National Preserves:

- Hunting black bears, including sows with cubs, with artificial light at den sites;
- harvesting brown bears over bait (which often includes dog food, bacon/meat grease, donuts, and other human food sources); and
- taking wolves and coyotes (including pups) during the denning season when their pelts have little trophy, economic, or subsistence value.

These practices are not consistent with the NPS implementation of ANILCA's authorization of sport hunting and trapping in National Preserves. To the extent such practices are intended or reasonably likely to manipulate wildlife populations for harvest purposes or alter natural wildlife behaviors, they are not consistent with NPS management policies implementing the NPS Organic Act. Additional liberalizations by the SOA that are inconsistent with NPS management directives and policy are anticipated in the future.

ANILCA Section 1313 (16 U.S.C. 3201) provides ''within national preserves the Secretary may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment.'' In order to comply with federal law and NPS policy, the NPS has adopted temporary restrictions to prevent the application of the above

listed predator harvest practices to National Preserves in Alaska (see, e.g., 2013 Superintendent's Compendium for Denali National Park and Preserve). These restrictions protect fauna and provide for public use and enjoyment consistent with ANILCA. While the NPS prefers a state solution to these conflicts, the SOA has been mostly unwilling to accommodate the different management directives for NPS areas. In the last 10 years, the NPS has objected to more than 50 proposals to liberalize predator harvest in areas that included National Preserves and each time the BOG has been unwilling to exclude National Preserves from state regulations designed to manipulate predator/prey dynamics for human consumptive use goals. Had these requests been accommodated, this proposed rule would not be necessary.

In deciding not to treat NPS lands different from state and other lands, the BOG suggested the NPS is responsible for ensuring that taking wildlife complies with federal laws and policies applicable to NPS areas, and that the NPS should use its own authority to ensure National Preserves are managed in a manner consistent with federal law and NPS policy. Statement of BOG Chairman Judkins to Superintendent Dudgeon, BOG Public Meeting in Fairbanks, Alaska (February 27, 2010) (NPS was testifying in opposition to allowing the take of black bear cubs and sows with artificial light in National Preserves). In the absence of state action excluding preserves, this rulemaking is required to make the temporary restrictions permanent. 36 CFR 13.50(d). This rule would also respond to the BOG's suggestion by promulgating NPS regulations to ensure preserves are managed consistent with federal law and policy and prevent historically illegal sport hunting practices from being authorized in National Preserves.

The scope of this rule is limited—sport hunting and trapping are still allowed throughout National Preserves and the vast majority of state hunting regulations are consistent with federal law and policy and would continue to apply in National Preserves. This proposed rule would only affect sport hunting and trapping in National Preserves, which constitute less than 6% of the lands in Alaska open to hunting. The proposed rule would not limit the taking of wildlife for subsistence uses under the federal subsistence regulations.

The Proposed Rule

The proposed rule would separate taking of fish and taking of wildlife into two sections; 13.40 and 13.42, respectively. The proposed rule would make the following substantive changes:

(1) In accordance with NPS policies, taking wildlife, hunting or trapping activities, or management actions involving predator reduction efforts with the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes to increase harvest of ungulates by humans would not be allowed on NPS-managed lands. It would also explain how the NPS would notify the public of specific activities that are not consistent with this section.

(2) Prohibit historically illegal practices for taking wildlife for sport purposes, including the practices recently authorized by the state for taking predators: (i) Taking black bear cubs and sows with artificial light at den sites; (ii) taking brown bears over bait; and (iii) taking wolves and coyotes during the denning season.

(3) Prohibit intentionally obstructing or hindering persons actively engaged in lawful hunting or trapping.

(4) Update procedures for implementing closures or restrictions in park areas, including taking fish and wildlife for sport purposes, to more effectively engage the public.

(5) Update NPS regulations to reflect federal assumption of the management of subsistence hunting and fishing under Title VIII of ANILCA from the SOA in the 1990s.

(6) Allow the use of native species to be used as bait, commonly salmon eggs, for fishing in accordance with non-conflicting state law. This would supercede for park areas in Alaska the Service-wide prohibition on using certain types of bait in 36 CFR 2.3(d)(2).

Prohibiting Methods and Means of Taking Wildlife in National Preserves

Activities or management actions involving predator reduction efforts with the intent or potential to alter or manipulate natural ecosystems or processes (including natural predator/prey dynamics, distributions, densities, age-class distributions, populations, genetics, or behavior of a species) are inconsistent with the laws and policies applicable to NPS areas. The proposed rule would clarify in regulation that these activities are not allowed on NPS lands in Alaska. Under the proposed rule, the regional director would compile a list updated at least annually of activities prohibited by this section of the proposed rule. Notice would be provided in accordance with 36 CFR 13.50(e).

The proposed rule would codify in federal regulations applicable to National Preserves what had been traditional and long-standing prohibited sport hunting and trapping practices, some of which have been recently authorized by the state for taking predators. It would also prohibit the use of electronic devices not specifically approved by the Regional Director, the use of airborne devices controlled remotely and used to spot or locate game with the use of a camera, video, or other sensing device, and eliminate an allowance under adopted state laws that authorizes sport hunters to take caribou while swimming in certain National Preserves.

In 2013, the NPS adopted temporary restrictions on taking brown bears over bait in National Preserves which the proposed rule would make permanent. At that time, the NPS received several comments suggesting that black bear baiting also be prohibited. The NPS specifically seeks comment on whether taking black bears over bait should be allowed in National Preserves.

Unlike the practice of taking brown bears over bait, black bear baiting has been authorized in Alaska for several decades, including in National Preserves. Black bear baiting is authorized by the state pursuant to a permit. State regulations prohibit setting up a bait station within a mile of a home or other dwelling, business, campground and other places. State regulations also prohibit setting up a bait station within a quarter mile of a road or trail. As mentioned above, items that are inexpensive and highly attractive are used to bait bears; commonly old bread, donuts, bacon grease, dog food, and marshmallows, among other things.

Though authorized since the 1980s, the practice of black bear baiting in National Preserves is relatively uncommon. From the harvest data reported to the SOA, ≤37 black bears were hunted over bait in National Preserves, and ≤34 of these were harvested in Wrangell-St. Elias National Preserve. Of the 37 reported, only three black bears were harvested over bait by rural Alaska residents from NPS preserves between the commencement of federal subsistence regulation in 1992 and 2010.

Many of the same concerns with taking brown bears over bait also apply to black bear baiting. It is generally agreed that food-conditioned bears are more likely to be a danger to humans than bears that are not food-conditioned and are also more likely to be killed in defense of life and property. For these reasons, natural resource agencies throughout North America discourage intentionally feeding bears.

The NPS also specifically seeks comment on whether to continue to allow the practice of using dogs to hunt black bears in National Preserves. Current state hunting regulations allow individuals to obtain a state permit to use dogs to hunt black bears. These state regulations apply in National Preserves. The proposed rule would maintain current state prohibitions on taking big game with the aid or use of a dog, except for using a leashed dog to track wounded big game and using dogs to take black bears pursuant to a state permit. The proposed rule would not limit the use of dogs in support of hunting wildlife other than big game, such as waterfowl or game birds.

Prohibiting the Obstruction of Persons Engaged in Lawful Hunting or Trapping

This proposed rule would prohibit the intentional obstruction or hinderance of another person's lawful hunting or trapping activities. This would include (i) placing one's self in a location in which human presence may alter the behavior of the game that another person is attempting to take; or the imminent feasibility of taking game by another person; or (ii) creating a visual, aural, olfactory, or physical stimulus in order to alter the behavior of the game that another person is attempting to take. These actions are prohibited by state law but are not adopted under the existing regulations for National Preserves because the state law does not directly regulate hunting and trapping. The proposed rule would codify these prohibitions as federal law to prevent the frustration of lawful hunting and trapping in National Preserves.

Updating Closure and Restriction Procedures

This proposed rule would also amend the procedures for implementing closures and restrictions on certain activities in NPS areas in Alaska. The proposed rule would update the current procedures to reflect the availability of alternative communications technologies and approaches that have emerged or evolved over the last 33 years. Current regulations rely on public hearings to engage the public and newspapers, radio broadcast, and notices posted at postal offices to provide public notice. The proposed changes recognize the internet has become a primary method to communicate with the public and is often more effective tool for engaging Alaskans and the broader American public.

The proposed changes are not intended to limit public involvement or reduce public notice; rather the NPS intends to engage in ways more likely to encourage public involvement in a manner that is fiscally sustainable. For example, in 2013, the NPS held seven public hearings on three restrictions to taking wildlife for sport purposes. In total, about 75 individuals attended the hearings. One of the hearings was attended by fewer than five individuals. On the same topics, the NPS received over 59,000 email comments and significant interest and participation in NPS-hosted web chats. This year, the NPS expects to hold 15–20 public hearings on the same three wildlife harvest restrictions, including those part of this proposed rule.

The NPS does recognize that in-person public meetings will still be the most effective way to engage Alaskans on some issues and in certain areas and the NPS intends to continue that practice when appropriate. The NPS also recognizes that many individuals in rural Alaska do not have access to high speed internet and for that reason the NPS will continue to use other methods of communication, such as newspapers, where available to provide adequate notice.

The NPS is also proposing to simplify categories of restrictions. The current regulations address emergency, temporary and permanent closures and restrictions. We propose a duration of up to 60 days for emergency closures and restrictions which is the same as adopted by the Federal Subsistence Board (FSB) after notice and comment. See 50 CFR 100.19(a)(2). Non-emergency closures and restrictions or the termination and relaxation of them would not require rulemaking after a specific period of time. Instead, rulemaking would be required if these closures or restrictions (or the termination and relaxation of them) are of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the area, adversely affect the area's natural, aesthetic, scenic or cultural values, or require a long-term or significant modification in the resource management objectives of the area. These rulemaking criteria are modeled after the rulemaking criteria in 36 CFR 1.5(b) that apply to NPS areas outside of Alaska.

The following table summarizes changes from the existing procedures in the proposed rule:

Current procedures	Proposed procedures
Criteria used to determine whether to close an area or restrict an activity	
Criteria only apply to emergency closures or restrictions	Apply to all types of closures or restrictions. Clarifies the critieria to include protecting the integrity of naturally-functioning ecosystems as an appropriate reason for a closure or restriction.
Public Notice	
Newspaper, radio, and signs are the primary methods of notifying the public of closures or restrictions.	Updated to reflect the internet as the primary source of information for closures or restrictions. Other methods will be utilized as appropriate.
Non-Emergency Closures or Restrictions	
Duration: Cannot exceed 12 months, no extensions. Permanent closures or restrictions published as rulemaking. Fish and wildlife related: —consultation with the state and representatives of affected user groups and —notice and hearing in the vicinity of the area directly affected prior to adopting a closure or restriction	Duration: No time limit provided rulemaking criteria are not triggered. Fish and wildlife related: —consultation with the state and —Opportunity for public comment required prior to adopting a closure or restriction.

Current procedures	Proposed procedures
Emergency Closures or Restrictions	
Duration: 30 days, no extensions ..... Fish and wildlife related: Effective upon notice and hearing	Duration: 60 days, extensions subject to nonemergency procedures. Fish and wildlife related: Effective upon notice.

Update Subsistence Regulations To Reflect Federal Management

The proposed rule would update the subsistence provisions in NPS regulations (36 CFR 13.470, 13.480, and 13.490) to reflect the federal government's assumption of the management and regulation of subsistence take of fish and wildlife under ANILCA and the transfer of subsistence management under Title VIII from the SOA to the FSB.

Allowing the Use of Native Species as Bait for Fishing

NPS regulations generally prohibit the use of bait for fishing to help protect against the spread of nonnative species. Fish eggs from native species (usually salmon), are commonly used for fishing in Alaska. This proposed rule would allow use of local native species as bait for fishing.

Compliance With Other Laws, Executive Orders, and Department Policy Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 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.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analyses found in the report entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Revisions to Wildlife Harvest Regulations in National Park System Alaska Region'' which can be viewed online at *http://parkplanning.nps.gov/akro,* by clicking the link entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Revisions to Wildlife Harvest Regulations in National Park System Preserves in Alaska'' and then clicking the link entitled ''Document List.''

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. 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 U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. The proposed rule is limited in effect to federal lands managed by the NPS in Alaska and would not have a substantial direct effect on state and local government in Alaska. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

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

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

Consultation With Indian Tribes (E.O. 13175 and Department Policy) and ANCSA Corporations

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's Tribal consultation and Alaska Native Claims Settlement Act (ANCSA) Native Corporation policies. While the NPS has determined the rule would not have a substantial direct effect on federally recognized Indian tribes or ANCSA Native Corporation lands, water areas, or resources, the NPS is consulting Alaska Native tribes and Alaska Native Corporations regarding potential NPS restrictions on taking of wildlife for sport purposes on preserves.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The NPS has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. We have prepared an environmental assessment to determine whether this rule will have a significant impact on the quality of the human environment. An environmental assessment entitled ''Wildlife Harvest On National Park System Preserves In Alaska'' (EA) has been prepared and is available for public comment during the comment period for this proposed rule. The EA is available available online at *http://www.parkplanning.nps.gov/akro,* by clicking on the link entitled ''Wildlife Harvest On National Park System Preserves In Alaska'' and then clicking on the link entitled ''Document List.''

Effects on the Energy Supply (Executive Order 13211)

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

Clarity of This Regulation

The NPS is required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section above. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Drafting Information

The primary authors of this regulation are Jay P. Calhoun, Regulations Program Specialist, National Park Service, Division of Jurisdiction, Regulations, and Special Park Uses; Philip Hooge, Denali National Park and Preserve; and Debora Cooper, Joel Hard, Grant Hilderbrand, Brooke Merrell, Sandy Rabinowitch, and Andee Sears of the Alaska Regional Office, National Park Service.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section above.

Public Availability of Comments

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.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 13 as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; Subpart N also issued under 16 U.S.C. 1a–2(h), 20, 1361, 1531, 3197; Pub. L. 105–277, 112 Stat. 2681–259, October 21, 1998; Pub. L. 106–31, 113 Stat. 72, May 21, 1999; Sec. 13.1204 also issued under Sec. 1035, Pub. L. 104–333, 110 Stat. 4240.

■ 2. In § 13.1, add in alphabetical order the terms ''Bait'', ''Big game'', ''Cub bear'', ''Fur animal'', ''Furbearer'', and ''Trapping'' to read as follows:

§ 13.1 Definitions.

* * * * *

Bait means, for purposes of taking wildlife other than fish, any material used to attract wildlife by sense of smell or taste except:

(1) Parts of legally taken wildlife that are not required to be salvaged as edible meat under state law if the parts are not moved from the kill site; or

(2) Game that died of natural causes, if not moved from the location where it was found.

Big game means black bear, brown bear, bison, caribou, Sitka black-tailed deer, elk, mountain goat, moose, muskox, Dall's sheep, wolf, and wolverine.

* * * * *

Cub bear means a brown (grizzly) bear in its first or second year of life, or a black bear (including the cinnamon and blue phases) in its first year of life.

* * * * *

Fur animal means a classification of animals subject to taking with a hunting license which consists of beaver, coyote, arctic fox, red fox, lynx, flying squirrel, ground squirrel, or red squirrel that has not been domestically raised.

Furbearer means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, least weasel, short-tailed weasel, muskrat, land otter, red squirrel, flying squirrel, ground squirrel, Alaskan marmot, hoary marmot, woodchuck, wolf and wolverine.

* * * * *

Trapping means taking furbearers under a trapping license.

* * * * *

■ 3. Add § 13.42 to read as follows:

§ 13.42 Taking of wildlife in national preserves.

(a) Hunting and trapping are allowed in national preserves in accordance with applicable Federal and non-conflicting State law and regulation.

(b)–(e) [Reserved]

(f) State of Alaska laws or regulations that authorize taking of wildlife, hunting or trapping activities, or management actions involving predator reduction efforts with the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes to increase harvest of ungulates by humans are not adopted in park areas.

(1) The Regional Director will compile a list updated at least annually of state laws and regulations not adopted under this paragraph (f).

(2) Taking of wildlife, hunting or trapping activities, or management actions identified in this paragraph (f) are prohibited. Notice of activities prohibited under this paragraph (f)(2) will be provided in accordance with § 13.50(e) of this chapter.

(g) This paragraph applies to the taking of wildlife in national preserves except for subsistence uses by local rural residents pursuant to applicable Federal law and regulation. The following are prohibited:

Prohibited acts	Any exceptions?
(1) Shooting from, on, or across a park road or highway	None.
(2) Using any poison or other substance that kills or temporarily incapacitates wildlife.	None.
(3) Taking wildlife from an aircraft, off-road vehicle, motorboat, motor vehicle, or snowmachine.	If the motor has been completely shut off and progress from the motor's power has ceased.
(4) Using an aircraft, snowmachine, off-road vehicle, motorboat, or other motor vehicle to harass wildlife, including chasing, driving, herding, molesting, or otherwise disturbing wildlife.	None.
(5) Taking big game while the animal is swimming	None.
(6) Using a machine gun, set gun, or a shotgun larger than 10 gauge	None.
(7) Using the aid of a pit, fire, artificial salt lick, explosive, expanding gas arrow, bomb, smoke, chemical, or a conventional steel trap with an inside jaw spread over nine inches.	Killer style traps with an inside jaw spread less than 13 inches may be used for trapping, except to take any species of bear or ungulate.
(8) Using any electronic device to take, harass, chase, drive, herd, or molest wildlife, including but not limited to: Artificial light; laser sights; electronically enhanced night vision scope; any device that has been airborne, controlled remotely, and used to spot or locate game with the use of a camera, video, or other sensing device; radio or satellite communication; cellular or satellite telephone; or motion detector.	(i) Rangefinders may be used. (ii) Electronic calls for big game animals except moose. (iii) Artificial light may be used for the purpose of taking furbearers under a trapping license during an open season from Nov. 1 through March 31 where authorized by the state. (iv) Artificial light may be used by a tracking dog handler with one leashed dog to aid in tracking and dispatching a wounded big game animal. (v) Electronic devices approved in writing by the Regional Director.
(9) Using snares, nets, or traps to take any species of bear or ungulate	None.
(10) Using bait	(i) Using bait to trap furbearers. (ii) Using bait to hunt black bears.
(11) Taking big game with the aid or use of a dog	(i) Leashed dog for tracking wounded big game. (ii) Taking black bears pursuant to a permit issued from the State.
(12) Taking wolves and coyotes from May 1 through August 9	None.
(13) Taking cub bears or female bears with cubs	None.
(14) Taking a fur animal or furbearer by disturbing or destroying a den	None.

(h) The Superintendent may prohibit or restrict the non-subsistence taking of wildlife in accordance with the provisions of § 13.50 of this chapter.

(i) A person may not intentionally obstruct or hinder another person's lawful hunting or trapping by:

(1) Placing one's self in a location in which human presence may alter the behavior of the game that another person is attempting to take or the imminent feasibility of taking game by another person; or

(2) Creating a visual, aural, olfactory, or physical stimulus in order to alter the behavior of the game that another person is attempting to take.

■ 4. Redesignate paragraphs (d)(2), (d)(3), (d)(4), and (d)(5) of § 13.40 as paragraphs (b), (c), (d), and (e), respectively, of § 13.42.

■ 5. In § 13.40, revise the section heading and paragraphs (d) and (e) to read as follows:

§ 13.40 Taking of fish.

* * * * *

(d) *Use of native species as bait.* Use of species native to Alaska as bait for fishing is allowed in accordance with applicable Federal law and non-conflicting State law and regulations.

(e) *Closures and restrictions.* The Superintendent may prohibit or restrict the non-subsistence taking of fish in accordance with the provisions of § 13.50 of this chapter.

■ 6. Amend § 13.50 by revising paragraphs (a) through (e), removing paragraph (f), and redesignating paragraphs (g) through (i) as paragraphs (f) through (h), respectively, to read as follows:

§ 13.50 Closure and restriction procedures.

(a) *Applicability and authority.* The Superintendent may close an area or restrict an activity, or terminate or relax a closure or restriction, in NPS areas in Alaska in accordance with this section.

(b) *Criteria.* In determining whether to close an area or restrict an activity, or whether to terminate or relax a closure or restriction, the Superintendent must ensure that the activity or area is managed in a manner compatible with the purposes for which the park area was established. The Superintendent's decision under this paragraph must therefore be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, conservation of endangered or threatened species, protecting the integrity of naturally-functioning ecosystems, and other management considerations.

(c) *Duration.* This paragraph applies only to a closure or restriction, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the area; adversely affect the area's natural, aesthetic, scenic, or cultural values; or require a long-term modification in the resource management objectives of the area. Except in emergency situations, the closure or restriction, or the termination or relaxation of such, must be published as a rulemaking in the **Federal Register**. Emergency closures or restrictions may not exceed a period of 60 days.

(d) *Restrictions on taking fish or wildlife.* Except in emergencies, the NPS will consult with the State agency having responsibility over fishing, hunting, or trapping and provide opportunity for public comment before adopting closures or restrictions relating to the taking of fish or wildlife.

(e) *Notice.* Closures or restrictions will be effective upon publication on individual park Web sites accessible through the NPS Web site at *www.nps.gov*. A list of closures and restrictions will be available at park headquarters. Additional means of notice reasonably likely to inform residents in the affected vicinity will also be provided where available, such as:

(1) Publication in a newspaper of general circulation in the State or in local newspapers;

(2) Use of electronic media, such as the internet and email lists;

(3) Radio broadcast; or

(4) Posting of signs in the local vicinity.

* * * * *

■ 7. In § 13.400, remove paragraph (e) and redesignate paragraph (f) as paragraph (e).

■ 8. Revise § 13.470 to read as follows:

§ 13.470 Subsistence Fishing.

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable Federal law and regulation, including the provisions of §§ 2.3 and 13.40 of this chapter. Local rural residents in park areas where subsistence uses are allowed may fish with a net, seine, trap, or spear; or use native species as bait, where permitted by applicable Federal law and regulation.

■ 9. Revise § 13.480 to read as follows:

§ 13.480 Subsistence Hunting and Trapping.

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with this chapter and 50 CFR Part 100.

■ 10. In § 13.490, revise paragraph (a) to read as follows:

§ 13.490 Closures and restrictions to subsistence uses of fish and wildlife.

(a) The Superintendent may temporarily restrict a subsistence activity or close all or part of a park area to subsistence uses of a fish or wildlife population in accordance with the provisions of this section. The Superintendent may make a temporary closure or restriction notwithstanding any other provision of this part, and only if the following conditions are met:

(1) The restriction or closure must be necessary for reasons of public safety, administration, or to ensure the continued viability of the fish or wildlife population;

(2) The Superintendent must provide public notice and hold a public hearing;

(3) The restriction or closure may last only so long as reasonably necessary to achieve the purposes of the closure.

* * * * *

Dated: August 25, 2014.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–20881 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2014–0595; FRL–9916–09–Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri, Control of Gasoline Reid Vapor Pressure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri and received by EPA on July 18, 2013, related to the Missouri rule that controls Gasoline Reid Vapor Pressure in the Kansas City metropolitan area. This action would amend the SIP by updating no longer existing references to certain sampling procedures and test procedures.

DATES: Comments on this proposed action must be received in writing by October 6, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0595, 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 20, 2014.

Mark Hague,

Acting Regional Administrator, Region 7.

[FR Doc. 2014–20912 Filed 9–3–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG–2014–0481]

RIN 1625–AC22

Great Lakes Pilotage Rates—2015 Annual Review and Adjustment

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes rate adjustments for pilotage services on the Great Lakes, last amended in March 2014. The proposed adjustments would establish new base rates made in accordance with a full ratemaking procedure. Additionally, the Coast Guard proposes to exercise the discretion provided by Step 7 of the Appendix A methodology. The result is an upward adjustment to match the rate increase of the Canadian Great Lakes Pilotage Authority. We also propose temporary surcharges to accelerate recoupment of necessary and reasonable training costs for the pilot associations. This notice of proposed rulemaking promotes the Coast Guard's strategic goal of maritime safety.

DATES: Comments and related material must either be submitted to our online

docket via *http://www.regulations.gov* on or before November 3, 2014 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2014–0481 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1914. If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2014–0481), 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 insert ''USCG–2014–0481'' in the ''Search'' box. Click on ''Submit a Comment'' in the ''Actions'' column. 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 notice of proposed rulemaking (NPRM) 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 insert ''USCG–2014–0481'' in the ''Search'' box. Click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. 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

AMOU American Maritime Officers Union
APA American Pilots Association
CFR Code of Federal Regulations
CPA Certified public accountant
CPI Consumer Price Index
E.O. Executive Order
FR Federal Register
MISLE Marine Information for Safety and Law Enforcement
MOA Memorandum of Arrangements
MOU Memorandum of Understanding
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
ROI Return on investment
§ Section symbol
U.S.C. United States Code

III. Basis and Purpose

The basis of this NPRM is the Great Lakes Pilotage Act of 1960 (''the Act'') (46 U.S.C. Chapter 93), which requires U.S. vessels operating ''on register'' [1] and foreign vessels to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system. 46 U.S.C. 9302(a)(1). The Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' 46 U.S.C. 9303(f). Rates must be established or reviewed and adjusted each year, not later than March 1. Base rates must be

[1] ''On register'' means that the vessel's certificate of documentation has been endorsed with a registry endorsement, and therefore, may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. 46 U.S.C. 12105, 46 CFR 67.17.

established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. *Id.* The Secretary's duties and authority under the Act have been delegated to the Coast Guard. Department of Homeland Security Delegation No. 0170.1, paragraph (92)(f). Coast Guard regulations implementing the Act appear in parts 401 through 404 of Title 46, Code of Federal Regulations (CFR). Procedures for use in establishing base rates appear in 46 CFR part 404, Appendix A, and procedures for annual review and adjustment of existing base rates appear in 46 CFR part 404, Appendix C.

The purpose of this NPRM is to establish new base pilotage rates, using the methodology found in 46 CFR part 404, Appendix A.

IV. Background

The vessels affected by this NPRM are those engaged in foreign trade upon the U.S. waters of the Great Lakes. United States and Canadian ''lakers,'' [2] which account for most commercial shipping on the Great Lakes, are not affected. 46 U.S.C. 9302.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Coast Guard Director of Great Lakes Pilotage to operate a pilotage pool. It is important to note that we do not control the actual compensation that pilots receive. The actual compensation is determined by each of the three district associations, which use different compensation practices.

District One, consisting of Areas 1 and 2, includes all U.S. waters of the St. Lawrence River and Lake Ontario. District Two, consisting of Areas 4 and 5, includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. District Three, consisting of Areas 6, 7, and 8, includes all U.S. waters of the St. Mary's River, Sault Ste. Marie Locks, and Lakes Michigan, Huron, and Superior. Area 3 is the Welland Canal, which is serviced exclusively by the Canadian Great Lakes Pilotage Authority and, accordingly, is not included in the United States rate structure. Areas 1, 5, and 7 have been designated by Presidential Proclamation, pursuant to the Act, to be waters in which pilots must, at all times, be fully engaged in the navigation of vessels in their charge. Areas 2, 4, 6, and 8 have not been so designated because they are open bodies of water. While working in those undesignated areas, pilots must only ''be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.'' 46 U.S.C. 9302(a)(1)(B).

This NPRM is a full ratemaking to establish new base pilotage rates, using the methodology found in 46 CFR part 404, Appendix A (hereafter ''Appendix A''). The last full ratemaking established the current base rates in 2014 (79 FR 12084; Mar. 4, 2014). Among other things, the Appendix A methodology requires us to review detailed pilot association financial information, and we contract with independent accountants to assist in that review. We have now completed our review of the independent accountants' 2012 financial reports. The comments by the pilot associations on those reports and the independent accountants' final findings are discussed in our document entitled ''Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses,'' which appears in the docket.

V. Discussion of Proposed Rule

A. Summary

We propose establishing new base pilotage rates in accordance with the methodology outlined in Appendix A to 46 CFR part 404. The proposed new rates would be established by March 1, 2015, and effective August 1, 2015. Our calculations under Steps 1 through 6 of Appendix A would result in an average 12 percent rate decrease. This rate decrease is not the result of increased efficiencies in providing pilotage services but rather is a result of changes to American Maritime Officers Union (AMOU) contracts. Therefore, we will continue to exercise the discretion outlined in Step 7, increasing rates by 2.5 percent, and matching the Canadian Great Lakes Pilotage Authority's rate adjustment for 2015. We will provide additional discussion when we explain our Step 7 adjustment of pilot rates. Table 1 shows the proposed percent change for the new rates for each area.

Secondly, we propose temporary surcharges for the pilot associations to recoup necessary and reasonable training expenses incurred or that are expected to be incurred prior to the required March 1, 2015 publication of the 2015 final rule. Normally, these expenses would not be recognized until the 2016 annual ratemaking or later. By authorizing the temporary surcharges now, we propose to accelerate the reimbursement for necessary and reasonable training expenses. The surcharge would be authorized for the duration of the 2015 shipping season which begins in March 2015. This action would merely accelerate the recoupment of these expenses. At the conclusion of the 2015 shipping season, we would account for the monies generated by the surcharge and make adjustments as necessary to the operating expenses for the following year.

In District One we propose a temporary surcharge of 5 percent to compensate pilots for $28,028.91 that the District One pilot association spent on training in 2013 and early 2014, as well as the anticipated $150,000 cost to train a new applicant pilot in the 2014 shipping season to prepare a replacement for a retiring pilot. We believe this training is necessary and reasonable to maintain safe, efficient, and reliable pilotage on the Great Lakes and support the St. Lawrence Seaway Pilots Association's continued commitment to the training and professional development of their pilots.

Additionally, we propose a temporary surcharge of 10 percent in District Two to compensate pilots for $300,000 that the District Two pilot association will spend training two applicant pilots in 2014. This is necessary and reasonable to allow the association to bring on new pilots in the face of upcoming retirements without adjusting the pilotage needs as determined by the ratemaking methodology. This surcharge would also accelerate the repayment of the association's investment in upgraded technology ($25,829.80) to enhance the situational awareness of pilots on the bridge. We believe this needed technology would assist in the safety, efficiency, and reliability of the system.

Next, we propose a temporary surcharge of 1 percent in District Three to compensate pilots for $26,950 that the District Three pilot association plans to spend on training at the conclusion of the 2014 shipping season. We believe this training is necessary and reasonable for the provision of safe pilotage service.

All figures in the tables that follow are based on calculations performed either by an independent accountant or by the Director's [3] staff. In both cases, those calculations were performed using common commercial computer programs. Decimalization and rounding of the audited and calculated data

[2] A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

[3] ''Director'' is the Coast Guard Director, Great Lakes Pilotage, which is used throughout this NPRM.

affects the display in these tables but does not affect the calculations. The calculations are based on the actual figures, which are rounded for presentation in the tables.

TABLE 1—SUMMARY OF RATE ADJUSTMENTS BASED ON STEP 7 DISCRETION

If pilotage service is required in:	Then the percent change over the current rate is:
Area 1 (Designated waters)	2.50
Area 2 (Undesignated waters)	2.50
Area 4 (Undesignated waters)	2.50
Area 5 (Designated waters)	2.50
Area 6 (Undesignated waters)	2.50
Area 7 (Designated waters)	2.50
Area 8 (Undesignated waters)	2.50

B. Discussion of Methodology

The Appendix A methodology provides seven steps, with sub-steps, for calculating rate adjustments. The following discussion describes those steps and sub-steps, and includes tables showing how we have applied them to the 2012 financial information supplied by the pilots association.

Step 1: Projection of Operating Expenses. In this step, we project the amount of vessel traffic annually. Based on that projection, we forecast the amount of necessary and reasonable operating expenses that pilotage rates should recover.

Step 1.A: Submission of Financial Information. This sub-step requires each pilot association to provide us with detailed financial information in accordance with 46 CFR part 403. The associations complied with this requirement, supplying 2012 financial information in 2013. This is the most current and complete data set we have available.

Step 1.B: Determination of Recognizable Expenses. This sub-step requires us to determine which reported association expenses will be recognized for ratemaking purposes, using the guidelines shown in 46 CFR 404.5. We contracted with an independent accountant to review the reported expenses and submit findings recommending which reported expenses should be recognized. The accountant also reviewed which reported expenses should be adjusted prior to recognition or disallowed for ratemaking purposes. The accountant's preliminary findings were sent to the pilot associations, they reviewed and commented on those findings, and the accountant then finalized the findings. The Director reviewed and accepted the final findings, resulting in the determination of recognizable expenses. The preliminary findings, the associations' comments on those findings, and the final findings are all discussed in the ''Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses,'' which appears in the docket. Tables 2 through 4 show each association's recognized expenses.

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported Expenses for 2012	Area 1	Area 2	Total
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$227,199	$137,315	$364,514
License insurance	0	0	0
Payroll taxes	62,038	48,452	110,490
Other	596	549	1,145
Total Other Pilotage Costs	289,833	186,316	476,149
Pilot Boat and Dispatch Costs:			
Pilot boat expense	108,539	95,405	203,944
Dispatch expense	0	0	0
Payroll taxes	13,429	11,804	25,233
Total Pilot and Dispatch Costs	121,968	107,209	229,177
Administrative Expenses:			
Legal—general counsel	1,369	1,281	2,650
Legal—lobbying	3,957	3,478	7,435
Insurance	21,907	18,998	40,905
Employee benefits	21,281	18,509	39,790
Payroll taxes	0	0	0
Other taxes	18,491	15,801	34,292
Travel	473	416	889
Depreciation/Auto leasing/Other	38,346	33,705	72,051
Interest	15,484	13,610	29,094
Dues and subscriptions	13,740	10,240	23,980
Utilities	4,549	3,897	8,446
Salaries	48,837	42,927	91,764

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

Reported Expenses for 2012	Area 1	Area 2	Total
	St. Lawrence River	Lake Ontario	
Accounting/Professional fees	4,683	4,317	9,000
Pilot Training	26,353	21,961	48,314
Other	10,689	8,974	19,663
Total Administrative Expenses	230,159	198,114	428,273
Total Operating Expenses	641,960	491,639	1,133,599
Proposed Adjustments (Independent certified public accountant (CPA)):			
Pilotage subsistence/Travel	(887)	(779)	(1,666)
Payroll taxes	(13,719)	(12,058)	(25,777)
Dues and subscriptions	(13,740)	(10,240)	(23,980)
TOTAL CPA ADJUSTMENTS	(28,346)	(23,077)	(51,423)
Proposed Adjustments (Director):			
APA Dues	11,679	8,704	20,383
Pilot Training (surcharge)	(26,353)	(21,961)	(48,314)
Legal—lobbying	(3,957)	(3,478)	(7,435)
TOTAL DIRECTOR ADJUSTMENTS	(18,631)	(16,735)	(35,366)
Total Operating Expenses	594,983	451,827	1,046,810

Note: Numbers may not total due to rounding.

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported Expenses for 2012	Area 4	Area 5	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$86,947	$130,421	$217,368
License insurance	6,168	9,252	15,420
Payroll taxes	42,218	63,328	105,546
Other	23,888	35,833	59,721
Total Other Pilotage Costs	159,221	238,834	398,055
Pilot Boat and Dispatch Costs:			
Pilot boat expense	131,285	196,930	328,215
Dispatch expense	6,600	9,900	16,500
Employee Benefits	48,310	72,465	120,775
Payroll taxes	7,412	11,119	18,531
Total Pilot and Dispatch Costs	193,607	290,414	484,021
Administrative Expenses:			
Legal—general counsel	2,054	3,082	5,136
Legal—lobbying	2,704	4,055	6,759
Legal—litigation	6,488	9,733	16,221
Office rent	26,275	39,413	65,688
Insurance	10,682	16,024	26,706
Employee benefits	16,452	24,678	41,130
Payroll taxes	4,143	6,216	10,359
Other taxes	12,546	18,819	31,365
Depreciation/Auto leasing/Other	9,074	13,610	22,684
Interest	2,989	4,483	7,472
Utilities	13,917	20,876	34,793
Salaries	36,252	54,377	90,629
Accounting/Professional fees	11,764	17,646	29,410
Pilot Training	0	0	0
Other	9,405	14,108	23,513
Total Administrative Expenses	164,745	247,120	411,865
Total Operating Expenses	517,573	776,368	1,293,941
Proposed Adjustments (Independent CPA):			
Pilot subsistence/Travel	(1,982)	(2,974)	(4,956)
Employee benefits	(3,585)	(5,378)	(8,963)

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported Expenses for 2012	Area 4	Area 5	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
TOTAL CPA ADJUSTMENTS	(5,567)	(8,352)	(13,919)
Proposed Adjustments (Director):			
Federal Tax Allowance	(5,200)	(7,800)	(13,000)
APA Dues	7,344	11,016	18,360
Legal—lobbying	(2,704)	(4,055)	(6,759)
Legal—litigation	(6,488)	(9,733)	(16,221)
TOTAL DIRECTOR ADJUSTMENTS	(7,048)	(10,572)	(17,620)
Total Operating Expenses	504,958	757,444	1,262,402

Note: Numbers may not total due to rounding.

TABLE 4—RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported Expenses for 2012	Area 6	Area 7	Area 8	Total
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Operating Expenses:				
Other Pilotage Costs:				
Pilot subsistence/Travel	$180,316	$77,278	$110,398	$367,992
License insurance	8,859	3,797	5,424	18,080
Payroll taxes	0	0	0	0
Other	2,875	1,232	1,760	5,867
Total Other Pilotage Costs	192,050	82,307	117,582	391,939
Pilot Boat and Dispatch Costs:				
Pilot boat expense	261,937	112,259	160,370	534,566
Dispatch expense	81,958	35,125	50,178	167,261
Payroll taxes	8,203	3,515	5,022	16,740
Total Pilot Boat and Dispatch Costs	352,098	150,899	215,570	718,567
Administrative Expenses:				
Legal—lobbying	4,304	1,845	2,635	8,784
Office rent	4,851	2,079	2,970	9,900
Insurance	6,469	2,773	3,961	13,203
Employee benefits	77,348	33,149	47,356	157,854
Payroll taxes	5,404	2,316	3,309	11,029
Other taxes	941	403	576	1,920
Depreciation/Auto leasing	17,462	7,484	10,691	35,637
Interest	2,692	1,154	1,648	5,494
Utilities	20,950	8,979	12,827	42,756
Salaries	54,003	23,144	33,063	110,210
Accounting/Professional fees	13,157	5,639	8,055	26,851
Pilot Training	0	0	0	0
Other	4,657	1,996	2,851	9,504
Total Administrative Expenses	212,238	90,961	129,942	433,141
Total Operating Expenses	756,386	324,167	463,094	1,543,647
Proposed Adjustments (Independent CPA):				
Pilot subsistence/travel	(5,303)	(2,273)	(3,247)	(10,823)
Payroll taxes	44,613	19,120	27,314	91,046
Other taxes	(1,761)	(755)	(1,078)	(3,594)
Other	(637)	(273)	(390)	(1,300)
TOTAL CPA ADJUSTMENTS	36,912	15,819	22,599	75,329
Proposed Adjustments (Director):				
APA dues	11,695	5,012	7,160	23,868
Legal—lobbying	(4,304)	(1,845)	(2,635)	(8,784)
TOTAL DIRECTOR ADJUSTMENTS	7,391	3,167	4,525	15,084
Total Operating Expenses	800,689	343,153	490,218	1,634,060

Note: Numbers may not total due to rounding.

Step 1.C: Adjustment for Inflation or Deflation. In this sub-step, we project rates of inflation or deflation for the succeeding navigation season. Because we used 2012 financial information, the ''succeeding navigation season'' for this ratemaking is 2013. We based our inflation adjustment of 1.4 percent on the 2013 change in the Consumer Price Index (CPI) for the Midwest Region of the United States, which can be found at *http://www.bls.gov/xg_shells/ro5xg01.htm.* This adjustment appears in Tables 5 through 7.

The Coast Guard is aware that the current annual adjustment for inflation does not account for the value of money over time. We are working on a solution to allow for a better approximation of actual costs.

TABLE 5—INFLATION ADJUSTMENT, DISTRICT ONE

Reported Expenses for 2012		Area 1 St. Lawrence River		Area 2 Lake Ontario		Total
Total Operating Expenses:		$594,983		$451,827		$1,046,810
2013 change in the CPI for the Midwest Region of the United States	×	.014	×	.014	×	.014
Inflation Adjustment	=	8,330	=	6,326	=	14,655

TABLE 6—INFLATION ADJUSTMENT, DISTRICT TWO

Reported Expenses for 2012		Area 4 Lake Erie		Area 5 Southeast Shoal to Port Huron, MI		Total
Total Operating Expenses:		$504,958		$757,444		$1,262,402
2013 change in the CPI for the Midwest Region of the United States	×	.014	×	.014	×	.014
Inflation Adjustment	=	7,069	=	10,604	=	17,674

TABLE 7—INFLATION ADJUSTMENT, DISTRICT THREE

Reported Expenses for 2012		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior		Total
Total Operating Expenses:		$800,689		$343,153		$490,218		$1,634,060
2013 change in the CPI for the Midwest Region of the United States	×	.014	×	.014	×	.014	×	.014
Inflation Adjustment	=	11,210	=	4,804	=	6,863	=	22,877

Step 1.D: Projection of Operating Expenses. In this final sub-step of Step 1, we project the operating expenses for each pilotage area on the basis of the preceding sub-steps and any other foreseeable circumstances that could affect the accuracy of the projection.

For District One, the projected operating expenses are based on the calculations from Steps 1.A through 1.C. Table 8 shows these projections.

TABLE 8—PROJECTED OPERATING EXPENSES, DISTRICT ONE

Reported Expenses for 2012		Area 1 St. Lawrence River		Area 2 Lake Ontario		Total
Total operating expenses		$594,983		$451,827		$1,046,810
Inflation adjustment 1.4%	+	8,330	+	6,326	+	14,655
Total projected expenses for 2015 pilotage season	=	603,313	=	458,153	=	1,061,465

Note: Numbers may not total due to rounding.

In District Two the projected operating expenses are based on the calculations from Steps 1.A through 1.C. Table 9 shows these projections.

TABLE 9—PROJECTED OPERATING EXPENSES, DISTRICT TWO

Reported Expenses for 2012		Area 4 Lake Erie		Area 5 Southeast Shoal to Port Huron, MI		Total
Total Operating Expenses		$504,958		$757,444		$1,262,402
Inflation adjustment 1.4%	+	7,069	+	10,604	+	17,674

TABLE 9—PROJECTED OPERATING EXPENSES, DISTRICT TWO—Continued

Reported Expenses for 2012		Area 4		Area 5		Total
		Lake Erie		Southeast Shoal to Port Huron, MI		
Total projected expenses for 2015 pilotage season	=	512,027	=	768,048	=	1,280,076

In District Three, projected operating expenses are based on the calculations from Steps 1.A through 1.C. Table 10 shows these projections.

TABLE 10—PROJECTED OPERATING EXPENSES, DISTRICT THREE

Reported Expenses for 2012		Area 6		Area 7		Area 8		Total
		Lakes Huron and Michigan		St. Mary's River		Lake Superior		
Total Expenses		$800,689		$343,153		$490,218		$1,634,060
Inflation adjustment 1.4%	+	11,210	+	4,804	+	6,863	+	22,877
Total projected expenses for 2015 pilotage season	=	811,899	=	347,957	=	497,081	=	1,656,937

Step 2: Projection of Target Pilot Compensation. In Step 2, we project the annual amount of target pilot compensation that pilotage rates should provide in each area. These projections are based on our latest information on the conditions that will prevail in 2015.

Step 2.A: Determination of Target Rate of Compensation. Target pilot compensation for pilots in undesignated waters approximates the average annual compensation for first mates on U.S. Great Lakes vessels. Compensation is determined based on the most current union contracts and includes wages and benefits received by first mates. We calculate target pilot compensation on designated waters by multiplying the average first mates' wages by 150 percent and then adding the average first mates' benefits.

We rely upon union contract data provided by the AMOU, which has agreements with three U.S. companies engaged in Great Lakes shipping. We derive the data from two separate AMOU contracts—we refer to them as Agreements A and B—and apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. Agreement A applies to vessels operated by Key Lakes, Inc., and Agreement B applies to vessels operated by American Steamship Co. and Mittal Steel USA, Inc.

Agreements A and B both expire on July 31, 2016. The AMOU has set the daily aggregate rate, including the daily wage rate, vacation pay, pension plan contributions, and medical plan contributions effective August 1, 2015, as follows: 1) In undesignated waters, $632.12 for Agreement A and $624.34 for Agreement B; and 2) In designated waters, $870.05 for Agreement A and $856.42 for Agreement B.

Because we are interested in annual compensation, we must convert these daily rates. We use a 270-day multiplier which reflects an average 30-day month, over the 9 months of the average shipping season. Table 11 shows our calculations using the 270-day multiplier.

TABLE 11—PROJECTED ANNUAL AGGREGATE RATE COMPONENTS

Aggregate Rate—Wages and Vacation, Pension, and Medical Benefits	
Pilots on undesignated waters	
Agreement A:	
$632.12 daily rate × 270 days	$170,672.40
Agreement B:	
$624.34 daily rate × 270 days	168,571.80
Pilots on designated waters	
Agreement A:	
$870.05 daily rate × 270 days	234,913.50
Agreement B:	
$856.42 daily rate × 270 days	231,233.40

We apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. Agreement A applies to vessels operated by Key Lakes, Inc., representing approximately 30 percent of tonnage, and Agreement B applies to vessels operated by American Steamship Co. and Mittal Steel USA, Inc., representing approximately 70 percent of tonnage. Table 12 provides details.

TABLE 12—SHIPPING TONNAGE APPORTIONED BY CONTRACT

Company	Agreement A	Agreement B
American Steamship Company		815,600
Mittal Steel USA, Inc.		38,826
Key Lakes, Inc.	361,385	
Total tonnage, each agreement	361,385	854,426
Percent tonnage, each agreement	361,385÷1,215,811=29.7238%	854,426÷1,215,811=70.2762%

We use the percentages from Table 12 to apportion the projected compensation from Table 11. This gives us a single tonnage-weighted set of figures. Table 13 shows our calculations.

TABLE 13—TONNAGE-WEIGHTED WAGE AND BENEFIT COMPONENTS

		Undesignated waters		Designated waters
Agreement A:				
Total wages and benefits	....	$170,672.40	....	$234,913.50
Percent tonnage	×	29.7238%	×	29.7238%
Total	=	$50,730	=	$69,825
Agreement B:				
Total wages and benefits	....	$168,571.80	....	$231,233.40
Percent tonnage	×	70.2762%	×	70.2762%
Total	=	$118,466	=	$162,502
Projected Target Rate of Compensation:				
Agreement A total weighted average wages and benefits	....	$50,730	....	$69,825
Agreement B total weighted average wages and benefits	+	$118,466	+	$162,502
Total	=	$169,196	=	$232,327

Step 2.B: Determination of the Number of Pilots Needed. Subject to adjustment by the Director to ensure uninterrupted service or for other reasonable circumstances, we determine the number of pilots needed for ratemaking purposes in each area through dividing projected bridge hours for each area by either the 1,000 (designated waters) or 1,800 (undesignated waters) bridge hours specified in Step 2.B. We round the mathematical results and express our determination as a whole number of pilots.

According to 46 CFR part 404, Appendix A, Step 2.B(1), bridge hours are the number of hours a pilot is aboard a vessel providing pilotage service. For that reason, and as we explained most recently in the 2011 ratemaking's final rule (76 FR 6351 at 6352 col. 3 (Feb. 4, 2011)), we do not include, and never have included, pilot delay, detention, or cancellation in calculating bridge hours. Projected bridge hours are based on the vessel traffic that pilots are expected to serve. We use historical data, input from the pilots and industry, periodicals and trade magazines, and information from conferences to project demand for pilotage services for the coming year.

In our 2014 final rule, we determined that 36 pilots would be needed for ratemaking purposes. For 2015, we project 36 pilots is still the proper number to use for ratemaking purposes. The total pilot authorization strength includes five pilots in Area 2, where rounding up alone would result in only four pilots. For the same reasons we explained at length in the 2008 ratemaking final rule (74 FR 220 at 221–22 (Jan. 5, 2009)), we have determined that this adjustment is essential for ensuring uninterrupted pilotage service in Area 2. Table 14 shows the bridge hours we project will be needed for each area and our calculations to determine the whole number of pilots needed for ratemaking purposes.

TABLE 14—NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2015 bridge hours		Divided by 1,000 (designated waters) or 1,800 (undesignated waters)		Calculated value of pilot demand	Pilots needed (total = 36)
Area 1 (Designated waters)	5,116	÷	1,000	=	5.116	6
Area 2 (Undesignated waters)	5,429	÷	1,800	=	3.016	5
Area 4 (Undesignated waters)	5,814	÷	1,800	=	3.230	4
Area 5 (Designated waters)	5,052	÷	1,000	=	5.052	6
Area 6 (Undesignated waters)	9,611	÷	1,800	=	5.339	6
Area 7 (Designated waters)	3,023	÷	1,000	=	3.023	4
Area 8 (Undesignated waters)	7,540	÷	1,800	=	4.189	5

Step 2.C: Projection of Target Pilot Compensation. In Table 15, we project total target pilot compensation separately for each area by multiplying the number of pilots needed in each area, as shown in Table 14, by the target pilot compensation shown in Table 13.

TABLE 15—PROJECTION OF TARGET PILOT COMPENSATION BY AREA

Pilotage area	Pilots needed (total = 36)		Target rate of pilot compensation		Projected target pilot compensation
Area 1 (Designated waters)	6	×	$232,327	=	$1,393,964
Area 2 (Undesignated waters)	5	×	169,196	=	845,981
Area 4 (Undesignated waters)	4	×	169,196	=	676,785
Area 5 (Designated waters)	6	×	232,327	=	1,393,964
Area 6 (Undesignated waters)	6	×	169,196	=	1,015,177
Area 7 (Designated waters)	4	×	232,327	=	929,309
Area 8 (Undesignated waters)	5	×	169,196	=	845,981

Note: Numbers may not total due to rounding.

Steps 3 and 3.A: Projection of Revenue. In Steps 3 and 3.A., we project the revenue that would be received in 2015 if demand for pilotage services matches the bridge hours we projected in Table 14, and if 2014 pilotage rates are left unchanged. Table 16 shows this calculation.

TABLE 16—PROJECTION OF REVENUE BY AREA

Pilotage area	Projected 2015 bridge hours		2014 Pilotage rates		Revenue projection for 2015
Area 1 (Designated waters)	5,116	×	$472.50	=	$2,417,285
Area 2 (Undesignated waters)	5,429	×	291.96	=	1,585,032
Area 4 (Undesignated waters)	5,814	×	210.40	=	1,223,262
Area 5 (Designated waters)	5,052	×	521.64	=	2,635,314
Area 6 (Undesignated waters)	9,611	×	204.95	=	1,969,800
Area 7 (Designated waters)	3,023	×	495.01	=	1,496,427
Area 8 (Undesignated waters)	7,540	×	191.34	=	1,442,677
Total	....	....	....	....	12,769,797

Note: Numbers may not total due to rounding.

Step 4: Calculation of Investment Base. In this step, we calculate each association's investment base, which is the recognized capital investment in the assets employed by the association to support pilotage operations. This step uses a formula set out in 46 CFR part 404, Appendix B. The first part of the formula identifies each association's total sources of funds. Tables 17 through 19 follow the formula up to that point.

TABLE 17—TOTAL SOURCES OF FUNDS, DISTRICT ONE

		Area 1		Area 2
Recognized Assets:				
Total Current Assets		$532,237		$467,833
Total Current Liabilities	−	61,808	−	54,329
Current Notes Payable	+	23,413	+	20,579
Total Property and Equipment (NET)	+	445,044	+	391,191
Land	−	11,727	−	10,308
Total Other Assets	+	0	+	0
Total Recognized Assets	=	927,159	=	814,966
Non-Recognized Assets:				
Total Investments and Special Funds	+	6,452	+	5,672
Total Non-Recognized Assets	=	6,452	=	5,672
Total Assets:				
Total Recognized Assets		927,159		814,966
Total Non-Recognized Assets	+	6,452	+	5,672
Total Assets	=	933,611	=	820,638
Recognized Sources of Funds:				
Total Stockholder Equity		659,141		579,380
Long-Term Debt	+	262,785	+	230,986
Current Notes Payable	+	23,413	+	20,579
Advances from Affiliated Companies	+	0	+	0

TABLE 17—TOTAL SOURCES OF FUNDS, DISTRICT ONE—Continued

		Area 1		Area 2
Long-Term Obligations—Capital Leases	+	0	+	0
Total Recognized Sources	=	945,339	=	830,945
Non-Recognized Sources of Funds:				
Pension Liability		0		0
Other Non-Current Liabilities	+	0	+	0
Deferred Federal Income Taxes	+	10,675	+	9,383
Other Deferred Credits	+	0	+	0
Total Non-Recognized Sources	=	10,675	=	9,383
Total Sources of Funds:				
Total Recognized Sources		945,339		830,945
Total Non-Recognized Sources	+	10,675	+	9,383
Total Sources of Funds	=	956,014	=	840,328

Note: Numbers may not total due to rounding.

TABLE 18—TOTAL SOURCES OF FUNDS, DISTRICT TWO

		Area 4		Area 5
Recognized Assets:				
Total Current Assets		$498,456		$747,683
Total Current Liabilities	–	494,410	–	741,614
Current Notes Payable	+	33,962	+	50,942
Total Property and Equipment (NET)	+	436,063	+	654,094
Land	–	0	–	0
Total Other Assets	+	60,418	+	90,627
Total Recognized Assets	=	534,488	=	801,733
Non-Recognized Assets:				
Total Investments and Special Funds	+	0	+	0
Total Non-Recognized Assets	=	0	=	0
Total Assets:				
Total Recognized Assets		534,488		801,733
Total Non-Recognized Assets	+	0	+	0
Total Assets	=	534,488	=	801,733
Recognized Sources of Funds:				
Total Stockholder Equity		85,846		128,768
Long-Term Debt	+	414,681	+	622,022
Current Notes Payable	+	33,962	+	50,942
Advances from Affiliated Companies	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0
Total Recognized Sources	=	534,488	=	801,733
Non-Recognized Sources of Funds:				
Pension Liability		0		0
Other Non-Current Liabilities	+	0	+	0
Deferred Federal Income Taxes	+	0	+	0
Other Deferred Credits	+	0	+	0
Total Non-Recognized Sources	=	0	=	0
Total Sources of Funds:				
Total Recognized Sources		534,488		801,733
Total Non-Recognized Sources	+	0	+	0
Total Sources of Funds	=	534,488	=	801,733

Note: Numbers may not total due to rounding.

TABLE 19—TOTAL SOURCES OF FUNDS, DISTRICT THREE

		Area 6		Area 7		Area 8
Recognized Assets:						
Total Current Assets		$656,459		$281,340		$401,914
Total Current Liabilities	–	82,775	–	35,475	–	50,679
Current Notes Payable	+	7,730	+	3,313	+	4,733
Total Property and Equipment (NET)	+	19,611	+	8,405	+	12,007
Land	–	0	–	0	–	0

TABLE 19—TOTAL SOURCES OF FUNDS, DISTRICT THREE—Continued

		Area 6		Area 7		Area 8
Total Other Assets	+	490	+	210	+	300
Total Recognized Assets	=	601,515	=	257,793	=	368,275
Non-Recognized Assets:						
Total Investments and Special Funds	+	0	+	0	+	0
Total Non-Recognized Assets	=	0	=	0	=	0
Total Assets:						
Total Recognized Assets		601,515		257,793		368,275
Total Non-Recognized Assets	+	0	+	0	+	0
Total Assets	=	601,515	=	257,793	=	368,275
Recognized Sources of Funds:						
Total Stockholder Equity	....	586,300	....	251,271	....	358,959
Long-Term Debt	+	7,485	+	3,208	+	4,583
Current Notes Payable	+	7,730	+	3,313	+	4,733
Advances from Affiliated Companies	+	0	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0	+	0
Total Recognized Sources	=	601,515	=	257,793	=	368,275
Non-Recognized Sources of Funds:						
Pension Liability		0		0		0
Other Non-Current Liabilities	+	0	+	0	+	0
Deferred Federal Income Taxes	+	0	+	0	+	0
Other Deferred Credits	+	0	+	0	+	0
Total Non-Recognized Sources	=	0	=	0	=	0
Total Sources of Funds:						
Total Recognized Sources		601,515		257,792		368,275
Total Non-Recognized Sources	+	0	+	0	+	0
Total Sources of Funds	=	601,515	=	257,792	=	368,275

Note: Numbers may not total due to rounding.

Tables 17 through 19 also relate to the second part of the formula for calculating the investment base. The second part establishes a ratio between recognized sources of funds and total sources of funds. Since non-recognized sources of funds (sources we do not recognize as required to support pilotage operations) only exist for District One for this year's rulemaking, the ratio between recognized sources of funds and total sources of funds is 1:1 (or a multiplier of 1) for Districts Two and Three. District One has a multiplier of 0.99. Table 20 applies the multiplier of 0.99 and 1 as necessary and shows the investment base for each association. Table 20 also expresses these results by area, because area results will be needed in subsequent steps.

TABLE 20—INVESTMENT BASE BY AREA AND DISTRICT

District	Area	Total recognized assets ($)	Recognized sources of funds ($)	Total sources of funds ($)	Multiplier (ratio of recognized to total sources)	Investment base ($) [1]
One	1	927,159	945,339	956,014	0.99	916,806
	2	814,966	830,945	840,328	0.99	805,866
Total	.....	.....	.....	.....	.....	1,722,672
Two [2]	4	534,488	534,488	534,488	1	534,488
	5	801,733	801,733	801,733	1	801,733
Total	.....	.....	.....	.....	.....	1,336,221
Three	6	601,515	601,515	601,515	1	601,515
	7	257,793	257,792	257,792	1	257,793
	8	368,275	368,275	368,275	1	368,275
Total	.....	.....	.....	.....	.....	1,227,581

[1] "Investment base" = "Total recognized assets" X "Multiplier (ratio of recognized to total sources)".

[2] The pilot associations that provide pilotage services in Districts One and Three operate as partnerships. The pilot association that provides pilotage service for District Two operates as a corporation.

Note: Numbers may not total due to rounding.

Step 5: Determination of Target Rate of Return. We determine a market-equivalent return on investment (ROI) that will be allowed for the recognized net capital invested in each association by its members. We do not recognize capital that is unnecessary or unreasonable for providing pilotage services. There are no non-recognized investments in this year's calculations. The allowed ROI is based on the preceding year's average annual rate of return for new issues of high-grade corporate securities. For 2013, the preceding year, the allowed ROI was 4.24 percent, based on the average rate of return for that year on Moody's AAA corporate bonds, which can be found at: *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.*

Step 6: Adjustment Determination. The first part of the adjustment determination requires an initial calculation, applying a formula described in Appendix A. The formula uses the results from Steps 1, 2, 3, and 4 to project the ROI that can be expected in each area if no further adjustments are made. This calculation is shown in Tables 21 through 23.

TABLE 21—PROJECTED ROI, AREAS IN DISTRICT ONE

		Area 1		Area 2
Revenue (from Step 3)		$2,417,285		$1,585,032
Operating Expenses (from Step 1)	−	603,313	−	458,153
Pilot Compensation (from Step 2)	−	1,393,964	−	845,981
Operating Profit/(Loss)	=	420,009	=	280,899
Interest Expense (from audits)	−	15,484	−	13,610
Earnings Before Tax	=	404,525	=	267,289
Federal Tax Allowance	−	0	−	0
Net Income	=	404,525	=	267,289
Return Element (Net Income + Interest)		420,009		280,899
Investment Base (from Step 4)	÷	916,806	÷	805,866
Projected Return on Investment	=	0.46	=	0.35

TABLE 22—PROJECTED ROI, AREAS IN DISTRICT TWO

		Area 4		Area 5
Revenue (from Step 3)		$1,223,262		$2,635,314
Operating Expenses (from Step 1)	−	512,027	−	768,048
Pilot Compensation (from Step 2)	−	676,785	−	1,393,964
Operating Profit/(Loss)	=	34,450	=	473,302
Interest Expense (from audits)	−	2,989	−	4,483
Earnings Before Tax	=	31,461	=	468,819
Federal Tax Allowance	−	5,200	−	7,800
Net Income	=	26,261	=	461,019
Return Element (Net Income + Interest)		29,250		465,502
Investment Base (from Step 4)	÷	534,488	÷	801,733
Projected Return on Investment	=	0.05	=	0.58

TABLE 23—PROJECTED ROI, AREAS IN DISTRICT THREE

		Area 6		Area 7		Area 8
Revenue (from Step 3)		$1,969,800		$1,496,427		$1,442,677
Operating Expenses (from Step 1)	−	811,899	−	347,957	−	497,081
Pilot Compensation (from Step 2)	−	1,015,177	−	929,309	−	845,981
Operating Profit/(Loss)	=	142,724	=	219,161	=	99,615
Interest Expense (from audits)	−	2,692	−	1,154	−	1,648
Earnings Before Tax	=	140,032	=	218,007	=	97,967
Federal Tax Allowance	−	0	−	0	−	0
Net Income	=	140,032	=	218,007	=	97,967
Return Element (Net Income + Interest)		142,724		219,161		99,615
Investment Base (from Step 4)	÷	601,515	÷	257,793	÷	368,275
Projected Return on Investment	=	0.24	=	0.85	=	0.27

The second part required for Step 6 compares the results of Tables 21 through 23 with the target ROI (4.24 percent) we obtained in Step 5 to determine if an adjustment to the base pilotage rate is necessary. Table 24 shows this comparison for each area.

TABLE 24—COMPARISON OF PROJECTED ROI AND TARGET ROI, BY AREA [1]

	Area 1	Area 2	Area 4	Area 5	Area 6	Area 7	Area 8
	St. Lawrence River	Lake Ontario	Lake Erie	Southeast Shoal to Port Huron, MI	Lakes Huron and Michigan	St. Mary's River	Lake Superior
Projected return on investment	0.4581	0.3486	0.0547	0.5806	0.2373	0.8501	0.2705
Target return on investment	0.0424	0.0424	0.0424	0.0424	0.0424	0.0424	0.0424
Difference in return on investment	0.4157	0.3062	0.0123	0.5382	0.1949	0.8077	0.2281

[1] Note: Decimalization and rounding of the target ROI affects the display in this table but does not affect our calculations, which are based on the actual figure.

Because Table 24 shows a significant difference between the projected and target ROIs, an adjustment to the base pilotage rates is necessary. Step 6 now requires us to determine the pilotage revenues that are needed to make the target return on investment equal to the projected return on investment. This calculation is shown in Table 25. It adjusts the investment base we used in Step 4, multiplying it by the target ROI from Step 5, and applies the result to the operating expenses and target pilot compensation determined in Steps 1 and 2.

TABLE 25—REVENUE NEEDED TO RECOVER TARGET ROI, BY AREA

Pilotage area	Operating expenses (Step 1)		Target pilot compensation (Step 2)		Investment base (Step 4) × 4.24% (Target ROI Step 5)		Federal tax allowance		Revenue needed
Area 1 (Designated waters)	$603,313	+	$1,393,964	+	$38,873	+	$0	=	$2,036,149
Area 2 (Undesignated waters)	458,153	+	845,981	+	34,169	+	0	=	1,338,302
Area 4 (Undesignated waters)	512,027	+	676,785	+	22,662	+	5,200	=	1,216,674
Area 5 (Designated waters)	768,048	+	1,393,964	+	33,993	+	7,800	=	2,203,805
Area 6 (Undesignated waters)	811,899	+	1,015,177	+	25,504	+	0	=	1,852,580
Area 7 (Designated waters)	347,957	+	929,309	+	10,930	+	0	=	1,288,197
Area 8 (Undesignated waters)	497,081	+	845,981	+	15,615	+	0	=	1,358,677
Total	3,998,479	+	7,101,160	+	181,747	+	13,000	=	11,294,385

The ''Revenue Needed'' column of Table 25 is less than the revenue we projected in Table 16.

Step 7: Adjustment of Pilotage Rates. Finally, we calculate rate adjustments by dividing the Step 6 revenue needed (Table 25) by the Step 3 revenue projection (Table 16), to give us a rate multiplier for each area. These rate adjustments are subject to negotiation with Canada or adjustment for other supportable circumstances. Tables 26 through 28 show these calculations.

TABLE 26—RATE MULTIPLIER, AREAS IN DISTRICT ONE

Ratemaking projections		Area 1		Area 2
		St. Lawrence River		Lake Ontario
Revenue Needed (from Step 6)		$2,036,149		$1,338,302
Revenue (from Step 3)	÷	$2,417,285	÷	$1,585,032
Rate Multiplier	=	0.8423	=	0.8443

TABLE 27—RATE MULTIPLIER, AREAS IN DISTRICT TWO

Ratemaking projections		Area 4		Area 5
		Lake Erie		Southeast Shoal to Port Huron, MI
Revenue Needed (from Step 6)		$1,216,674		$2,203,805
Revenue (from Step 3)	÷	$1,223,262	÷	$2,635,314
Rate Multiplier	=	0.9946	=	0.8363

TABLE 28—RATE MULTIPLIER, AREAS IN DISTRICT THREE

Ratemaking projections		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior
Revenue Needed (from Step 6)		$1,825,580		$1,288,197		$1,358,677
Revenue (from Step 3)	÷	$1,969,800	÷	$1,496,427	÷	$1,442,677
Rate Multiplier	=	0.9405	=	0.8608	=	0.9418

Note: Numbers may not total due to rounding.

We calculate a rate multiplier for adjusting the basic rates and charges described in 46 CFR 401.420 and 401.428, and it is applicable in all areas. We divide total revenue needed (Step 6, Table 25) by total projected revenue (Steps 3 and 3.A, Table 16). Table 29 shows this calculation.

TABLE 29—RATE MULTIPLIER FOR BASIC RATES AND CHARGES IN 46 CFR 401.420 AND 401.428

Ratemaking Projections:		
Total Revenue Needed (from Step 6) ...		$11,294,385
Total revenue (from Step 3)	÷	$12,769,797
Rate Multiplier	=	0.884

Using this table, we calculate rates for cancellation, delay, or interruption in rendering services (46 CFR 401.420) and basic rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point (46 CFR 401.428). The result is a decrease by 11.55 percent in all areas.

Without further action, the existing rates we established in our 2014 final rule would then be multiplied by the rate multipliers from Tables 29 through 31 to calculate the area by area rate changes for 2015. The resulting 2015 rates across the Great Lakes, on average, would then be decreased approximately 12 percent from the 2014 rates. This decrease is not due to increased efficiencies in pilotage services but rather a result of adjustments to AMOU contracts. We propose to decline to impose this decrease because it would have an adverse effect on providing safe, efficient, and reliable pilotage in the pilotage districts. Additionally, we propose to decline to impose this decrease because we are unable to independently verify the compensation data contained in the AMOU contracts. Our Memorandum of Arrangements (MOA) with Canada, as well as our recently signed Memorandum of Understanding (MOU),[4] which replaces the MOA, calls for comparable pilotage rates between the two countries and we have proposed matching our rate increase to the Canadian rate increase, which is 2.5 percent this year. Our discretionary authority under Step 7 must be ''based on requirements of the Memorandum of Arrangements between the United States and Canada, and other supportable circumstances that may be appropriate.'' The MOA calls for comparable United States and Canadian rates, and the rates would not be comparable if United States rates for 2015 decrease by approximately 12 percent, while Canadian rates for 2015 increase by 2.5 percent. Though rates are not equivalent, matching the Canadian rate increase prevents a move further away from established levels of comparability. ''Other supportable circumstances'' for exercising our discretion include:

- Executive Order (E.O.) 13609, ''Promoting International Regulatory Cooperation,'' which calls on Federal agencies to eliminate ''unnecessary differences'' between U.S. and foreign regulations (77 FR 26413; May 4, 2012; sec. 1); and
- The risk that a significant rate decrease would jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage service.

Therefore, we propose relying on the discretionary authority we have under Step 7 to further adjust rates so that they match those adopted by the Canadian Great Lakes Pilotage Authority for 2014. Table 30 compares the impact, area by area, that an average decrease of 12 percent would have, relative to the impact each area would experience if United States rates match those of the Canadian GLPA.

TABLE 30—IMPACT OF EXERCISING STEP 7 DISCRETION

Area	Percent change in rate without exercising Step 7 discretion	Percent change in rate with exercise of Step 7 discretion
Area 1 (Designated waters)	−15.77	2.50
Area 2 (Undesignated waters)	−15.57	2.50
Area 4 (Undesignated waters)	−0.54	2.50
Area 5 (Designated waters)	−16.37	2.50
Area 6 (Undesignated waters)	−5.95	2.50
Area 7 (Designated waters)	−13.92	2.50
Area 8 (Undesignated waters)	−5.82	2.50

The following tables reflect our proposed rate adjustments of 2.5 percent across all areas.

Tables 31 through 33 show these calculations.

[4] The Memorandum of Understanding between the GLPA and USCG was signed on September 19, 2013 and goes into effect on January 1, 2015. Copies of the MOA and MOU are available on our Web site: *http://www.uscg.mil/hq/cg5/cg552/pilotage.asp.*

TABLE 31—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT ONE

	2014 Rate		Rate multiplier		Adjusted rate for 2015
Area 1 St. Lawrence River					
Basic Pilotage	$19.22/km, 34.02/mi	×	1.025	=	$19.70/km, 34.87/mi
Each lock transited	426	×	1.025	=	437
Harbor movage	1,395	×	1.025	=	1,430
Minimum basic rate, St. Lawrence River	931	×	1.025	=	954
Maximum rate, through trip	4,084	×	1.025	=	4,186
Area 2 Lake Ontario					
6-hour period	872	×	1.025	=	894
Docking or undocking	832	×	1.025	=	853

Note: Numbers may not total due to rounding.

In addition to the proposed rate charges in Table 31, as we explain in the Summary section of Part V of this preamble, we propose authorizing District One to implement a temporary supplemental 5 percent charge on each source form (the ''bill'' for pilotage service) for the duration of the 2015 shipping season, which begins in March 2015. District One would be required to provide us with monthly status reports once this surcharge becomes effective for the duration of the 2015 shipping season. We would exclude these expenses from future rates and any surcharge surplus/deficit from the 2014 season would impact the final authorized surcharge for the 2015 season.

TABLE 32—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT TWO

	2014 Rate		Rate multiplier		Adjusted rate for 2015
Area 4 Lake Erie					
6-hour period	$849	×	1.025	=	$870
Docking or undocking	653	×	1.025	=	669
Any point on Niagara River below Black Rock Lock	1,667	×	1.025	=	1,709
Area 5 Southeast Shoal to Port Huron, MI between any point on or in					
Toledo or any point on Lake Erie W. of Southeast Shoal	1,417	×	1.025	=	1,452
Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal	2,397	×	1.025	=	2,457
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River	3,113	×	1.025	=	3,191
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat	2,397	×	1.025	=	2,457
Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,176	×	1.025	=	4,280
Port Huron Change Point & Toledo or any point on Lake Erie W. of Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,837	×	1.025	=	4,958
Port Huron Change Point & Detroit River	3,137	×	1.025	=	3,215
Port Huron Change Point & Detroit Pilot Boat	2,441	×	1.025	=	2,502
Port Huron Change Point & St. Clair River	1,735	×	1.025	=	1,778
St. Clair River	1,417	×	1.025	=	1,452
St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,176	×	1.025	=	4,280
St. Clair River & Detroit River/Detroit Pilot Boat	3,137	×	1.025	=	3,215
Detroit, Windsor, or Detroit River	1,417	×	1.025	=	1,452
Detroit, Windsor, or Detroit River & Southeast Shoal	2,397	×	1.025	=	2,457
Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal	3,113	×	1.025	=	3,191
Detroit, Windsor, or Detroit River & St. Clair River	3,137	×	1.025	=	3,215
Detroit Pilot Boat & Southeast Shoal	1,735	×	1.025	=	1,778
Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal	2,397	×	1.025	=	2,457
Detroit Pilot Boat & St. Clair River	3,137	×	1.025	=	3,215

Note: Numbers may not total due to rounding.

In addition to the proposed rate charges in Table 32, and for the reasons we discussed in the Summary section of Part V of this preamble, we propose authorizing District Two to implement a temporary supplemental 10 percent charge on each source form for the duration of the 2015 shipping season, which begins in March 2015. District Two would be required to provide us with monthly status reports once this surcharge becomes effective for the duration of the 2015 shipping season. We would exclude these expenses from future rates.

TABLE 33—PROPOSED ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT THREE

	2014 Rate		Rate multiplier		Adjusted rate for 2015
Area 6 Lakes Huron and Michigan					
6-hour Period	$708	×	1.025	=	$726
Docking or undocking	672	×	1.025	=	689
Area 7 St. Mary's River between any point on or in					
Gros Cap & De Tour	2,648	×	1.025	=	2,714
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	2,648	×	1.025	=	2,714
Algoma Steel Corp. Wharf, Sault. Ste. Marie, Ont. & Gros Cap	997	×	1.025	=	1,022
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour	2,219	×	1.025	=	2,274
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap	997	×	1.025	=	1,022
Sault Ste. Marie, MI & De Tour	2,219	×	1.025	=	2,274
Sault Ste. Marie, MI & Gros Cap	997	×	1.025	=	1,022
Harbor movage	997	×	1.025	=	1,022
Area 8 Lake Superior					
6-hour period	601	×	1.025	=	616
Docking or undocking	571	×	1.025	=	585

Note: Numbers may not total due to rounding.

In addition to the proposed rate charges in Table 33, and for the reasons we discussed in the Summary section of Part V of this preamble, we propose authorizing District Three to implement a temporary supplemental 1 percent charge on each source form for the duration of the 2015 shipping season, which begins in March 2015. District Three would be required to provide us with monthly status reports once this surcharge becomes effective for the duration of the 2015 shipping season. We would exclude these expenses from future rates.

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and 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.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Parts III and IV of this preamble for detailed discussions of the Coast Guard's legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this proposed rulemaking, we are adjusting the pilotage rates for the 2015 shipping season to generate sufficient revenue to cover allowable expenses, and to target pilot compensation and returns on pilot associations' investments. The rate adjustments in this proposed rule would, if codified, lead to an increase in the cost per unit of service to shippers in all three districts, and result in an estimated annual cost increase to shippers of approximately $319,245 across all three districts over 2014 rates—an increase of 2.5 percent.

In addition to the increase in payments that would be incurred by shippers in all three districts from the previous year as a result of the proposed discretionary rate adjustments, we propose authorizing temporary, supplemental surcharges to traffic across all three districts in order for the pilotage associations to recover training expenses and technology improvements that were incurred throughout the 2013 and 2014 shipping seasons. These temporary surcharges would be authorized for the duration of the 2015 shipping season, which begins in March. We estimate that these temporary surcharges would generate a combined $650,939 in revenue for the pilotage associations across all three districts. In District One, the proposed 5 percent surcharge would generate an additional $205,119 in revenue. In District Two, the proposed 10 percent surcharge is expected to generate $395,504 in additional revenue. In District Three, the proposed 1 percent surcharge would generate an additional $50,316 in revenue. At the end of the 2015 shipping season, we will account for the monies the surcharges generate and make adjustments (debits/credits) to the operating expenses for the following year.[5]

Therefore, after accounting for the implementation of the temporary surcharges on traffic across all three districts, the annual payments made by shippers are estimated to be approximately $970,184 more than the payments that were made in 2014.[6]

A regulatory assessment follows.

[5] Assuming our estimate is correct, we would credit District One shippers $27,090 at the end of the 2015 season in order to account for the difference between the total surcharges collected ($205,119) and the actual expenses incurred by the District One pilot association ($178,029 for training expenses), District Two shippers $69,674 (calculation: $395,504 (total surcharges collected) minus $300,000 to train two applicant pilots and $25,829.80 for technology improvements), and District Three shippers $23,366 (calculation: $50,316 (total surcharges collected) minus $26,950 (actual training expenses incurred)).

[6] Total payments across all three districts are equal to the increase in payments incurred by shippers as a result of the rate changes plus the temporary surcharges applied to traffic in Districts One, Two, and Three.

The proposed rule would apply the 46 CFR part 404, Appendix A, full ratemaking methodology, including the exercise of our discretion to increase Great Lakes pilotage rates, on average, approximately 2.5 percent overall from the current rates set in the 2014 final rule. The Appendix A methodology is discussed and applied in detail in Part V of this preamble. Among other factors described in Part V, it reflects audited 2012 financial data from the pilotage associations (the most recent year available for auditing), projected association expenses, and regional inflation or deflation. The last full Appendix A ratemaking was concluded in 2014 and used financial data from the 2011 base accounting year. The last annual rate review, conducted under 46 CFR part 404, Appendix C, was completed early in 2011.

The shippers affected by these rate adjustments are those owners and operators of domestic vessels operating on register (employed in foreign trade) and owners and operators of foreign vessels on a route within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The Coast Guard's interpretation is that the statute applies only to commercial vessels and not to recreational vessels.

Owners and operators of other vessels that are not affected by this proposed rule, such as recreational boats and vessels operating only within the Great Lakes system, may elect to purchase pilotage services. However, this election is voluntary and does not affect our calculation of the rate and is not a part of our estimated national cost to shippers.

We used 2011–2013 vessel arrival data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) system to estimate the average annual number of vessels affected by the rate adjustment. Using that period, we found that approximately 114 vessels journeyed into the Great Lakes system annually. These vessels entered the Great Lakes by transiting at least one of the three pilotage districts before leaving the Great Lakes system. These vessels often make more than one distinct stop, docking, loading, and unloading at facilities in Great Lakes ports. Of the total trips for the 114 vessels, there were approximately 353 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2011–2013 vessel data from MISLE.

The impact of the rate adjustment to shippers is estimated from the District pilotage revenues. These revenues represent the costs (''economic costs'') that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage for these services.

We estimate the additional impact (cost increases or cost decreases) of the rate adjustment in this proposed rule to be the difference between the total projected revenue needed to cover costs in 2014, based on the 2014 rate adjustment, and the total projected revenue needed to cover costs in 2015, as set forth in this proposed rule, plus any temporary surcharges authorized by the Coast Guard. Table 34 details projected revenue needed to cover costs in 2015 after making the discretionary adjustment to pilotage rates as discussed in Step 7 of Part VI of this preamble. Table 35 summarizes the derivation for calculating the revenue expected to be generated as a result of the temporary surcharges applied to traffic in all three districts as discussed in Step 7 of Part VI of this preamble. Table 36 details the additional cost increases to shippers by area and district as a result of the rate adjustments and temporary surcharges on traffic in Districts One, Two, and Three.

TABLE 34—RATE ADJUSTMENT BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	2014 pilotage rates [7]	Rate change [8]	2015 pilotage rates [9]	Projected 2015 bridge hours [10]	Projected revenue needed in 2015 [11]
Area 1	$472.50	1.0250	$484.31	5,116	$2,477,717
Area 2	291.96	1.0250	299.26	5,429	1,624,658
Total, District One					4,102,375
Area 4	210.40	1.0250	215.66	5,814	1,253,843
Area 5	521.64	1.0250	534.68	5,052	2,701,197
Total, District Two					3,955,040
Area 6	204.95	1.0250	210.08	9,611	2,019,045
Area 7	495.01	1.0250	507.39	3,023	1,533,838
Area 8	191.34	1.0250	196.12	7,540	1,478,744
Total, District Three					5,031,627

TABLE 35—DERIVATION OF TEMPORARY SURCHARGE

	Area 1	Area 2	Area 4	Area 5	Area 6	Area 7	Area 8
Projected Revenue Needed in 2015	$2,477,717	$1,624,658	$1,253,843	$2,701,197	$2,019,045	$1,533,838	$1,478,744
Surcharge Rate	5%	5%	10%	10%	1%	1%	1%
Surcharge Raised	$123,886	$81,233	$125,384	$270,120	$20,190	$15,338	$14,787
Total Surcharge	$205,119		$395,504		$50,316		

TABLE 36—IMPACT OF THE PROPOSED RULE BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	Projected revenue needed in 2014 [12]	Projected revenue needed in 2015 [13]	Temporary surcharge	Additional costs or savings of this proposed rule
Area 1	$2,417,285	$2,477,717	$123,886	$184,318
Area 2	1,585,032	1,624,658	81,233	120,859
Total, District One	4,002,318	4,102,375	205,119	305,177
Area 4	1,223,262	1,253,843	125,384	155,966
Area 5	2,635,314	2,701,197	270,120	336,003
Total, District Two	3,858,576	3,955,040	395,504	491,968
Area 6	1,969,800	2,019,045	20,190	69,435
Area 7	1,496,427	1,533,838	15,338	52,749
Area 8	1,442,677	1,478,744	14,787	50,854
Total, District Three	4,908,904	5,031,627	50,316	173,039

After applying the discretionary rate change in this NPRM, the resulting difference between the projected revenue in 2014 and the projected revenue in 2015 is the annual change in payments from shippers to pilots after accounting for market conditions (i.e., a decrease in demand for pilotage services) and the change to pilotage rates as a result of this proposed rule. This figure is equivalent to the total additional payments or reduction in payments from the previous year that shippers would incur for pilotage services from this proposed rule.

The impact of the discretionary rate adjustment in this proposed rule on shippers varies by area and district. The discretionary rate adjustments would lead to affected shippers operating in District One, District Two, and District Three experiencing an increase in payments of $100,058, $96,464, and $122,723, respectively, from the previous year.

In addition to the rate adjustments, temporary surcharges on traffic in District One, District Two, and District Three would be applied for the duration of the 2015 season in order for the pilotage associations to recover training expenses and technology investments incurred during the 2013 and 2014 shipping seasons. We estimate that these surcharges would generate an additional $205,119, $395,504, and $50,316 in revenue for the pilotage associations in District One, District Two, and District Three, respectively. At the end of the 2015 shipping season, we will account for the monies the surcharges generate and make adjustments (debits/credits) to the operating expenses for the following year.[14]

To calculate an exact cost or savings per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less, depending on the distance travelled and the number of port arrivals by their vessels. However, the increase in costs reported earlier in this NPRM does capture the adjustment in payments that shippers would experience from the previous year. The overall adjustment in payments, after taking into account the increase in pilotage rates and the addition of temporary surcharges would be an increase in payments by shippers of approximately $970,184 across all three districts.

This proposed rule would allow the Coast Guard to meet the requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes, thus ensuring proper pilot compensation.

Alternatively, if we imposed the new rates based on the new contract data from AMOU, instead of using the discretionary rate adjustment described in Step 7, there would be an approximately 12 percent decrease in rates across the system. Instead of shippers experiencing an increase in payments of approximately $319,245 from the previous year, as a result of the proposed rate adjustments, shippers would instead experience a reduction in payments of approximately $1,475,412.[15] Table 37 details projected revenue needed to cover costs in 2015 if the discretionary adjustment to pilotage rates as discussed in Step 7 of Part VI of this preamble is not made. Table 38 details the additional costs or savings by area and district as a result of this alternative proposal.

[7] 2014 Pilotage Rates are described in Table 16 of this NPRM.

[8] The estimated rate changes are described in Table 30 of this NPRM.

[9] 2015 Pilotage Rates—2014 Pilotage Rates × Rate Change.

[10] Projected 2015 Bridge Hours are described in Table 14 of this NPRM.

[11] Projected Revenue Needed in 2015—2015 Pilotage Rates × Projected 2015 Bridge Hours.

[12] Projected revenue needed in 2014 is described in Table 16 of this NPRM.

[13] Projected revenue needed in 2015 is described in Table 34 of this NPRM.

[14] Assuming our estimate is correct, we would credit District One shippers $27,090 at the end of the 2015 season in order to account for the difference between the total surcharges collected ($205,119) and the actual expenses incurred by the District One pilot association ($178,029 for training expenses), District Two shippers $69,674 (calculation: $395,504 (total surcharges collected) minus $300,000 to train two applicant pilots and $25,829.80 for technology improvements)), and District Three shippers $23,366 (calculation: $50,316 (total surcharges collected) minus $26,950 (actual training expenses incurred)).

[15] These figures do not include the additional payments incurred by shippers as a result of the temporary surcharges applied to traffic in all three districts.

[16] The estimated rate changes are described in Table 30 of this NPRM.

TABLE 37—ALTERNATIVE RATE ADJUSTMENT BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	2014 pilotage rates	Rate change [16]	2015 pilotage rates	Projected 2015 bridge hours	Projected revenue needed in 2015
Area 1	$472.50	0.8423	$398.00	5,116	$2,036,149
Area 2	291.96	0.8443	246.51	5,429	1,338,302
Total, District One	.....	.....	.....	.....	3,374,451
Area 4	210.40	0.9946	209.27	5,814	1,216,674
Area 5	521.64	0.8363	436.22	5,052	2,203,805
Total, District Two	.....	.....	.....	.....	3,420,480
Area 6	204.95	0.9405	192.76	9,611	1,852,580
Area 7	495.01	0.8608	426.13	3,023	1,288,197
Area 8	191.34	0.9418	180.20	7,540	1,358,677
Total, District Three	.....	.....	.....	.....	4,499,454

* Some values may not total due to rounding.

TABLE 38—ALTERNATIVE IMPACT OF THE RULE BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	Projected revenue needed in 2014	Projected revenue needed in 2015	Temporary surcharge	Additional costs or savings of this proposed rule
Area 1	$2,417,285	$2,036,149	$101,807	($279,329)
Area 2	1,585,032	1,338,302	66,915	(179,815)
Total, District One	4,002,318	3,374,451	168,723	(459,144)
Area 4	1,223,262	1,216,674	121,667	115,080
Area 5	2,635,314	2,203,805	220,381	(211,128)
Total, District Two	3,858,576	3,420,480	342,048	(96,048)
Area 6	1,969,800	1,852,580	18,526	(98,694)
Area 7	1,496,427	1,288,197	12,882	(195,348)
Area 8	1,442,677	1,358,677	13,587	(70,413)
Total, District Three	4,908,904	4,499,454	44,995	(364,455)

* Some values may not total due to rounding.

We reject this alternative, however, because a rate decrease would jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage service as well as violate the Memorandum of Arrangements, which calls for the United States's and Canada's pilotage rates to be comparable. See our discussion of Step 7 in Part VI of this preamble for further explanation.

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 people.

We expect that entities affected by the proposed rule would be classified under the North American Industry Classification System (NAICS) code subsector 483-Water Transportation, which includes the following 6-digit NAICS codes for freight transportation: 483111-Deep Sea Freight Transportation, 483113-Coastal and Great Lakes Freight Transportation, and 483211-Inland Water Freight Transportation. According to the Small Business Administration's definition, a U.S. company with these NAICS codes and employing less than 500 employees is considered a small entity.

For the proposed rule, we reviewed recent company size and ownership data for the period 2011 through 2013 in the Coast Guard's MISLE database, and we reviewed business revenue and size data provided by publicly available sources such as MANTA and Reference USA. We found that large, foreign-owned shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We assume that new industry entrants would be comparable in ownership and size to these shippers.

There are three U.S. entities affected by the proposed rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 total employees. We

expect no adverse impact to these entities from this proposed rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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, as well as how and to what degree this proposed rule would economically affect it.

C. 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1914. 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). This proposed rule would not change the burden in the collection currently approved by the OMB under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

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. Our analysis is explained below.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of state law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, E.O. 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under E.O. 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (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 expenditure, we discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

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

I. Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that E.O. because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272, note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the 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 is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(a) of the Instruction. Paragraph 34(a) pertains to minor regulatory changes that are editorial or procedural in nature. This proposed rule adjusts rates in accordance with applicable statutory and regulatory mandates. 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 46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 401 as follows:

Title 46—Shipping

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1; 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

■ 2. In § 401.405, revise paragraphs (a) and (b), including the footnote to paragraph (a), to read as follows:

§ 401.405 Basic rates and charges on the St. Lawrence River and Lake Ontario.

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$19.70 per kilometer or $34.87 per mile.[1]
Each Lock Transited	$437.[1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $954, and the maximum basic rate for a through trip is $4,186.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
6-Hour Period	$894
Docking or Undocking	853

■ 3. In § 401.407, revise paragraphs (a) and (b), including the footnote to paragraph (b), to read as follows:

§ 401.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
6-hour Period	$870	$870
Docking or Undocking	669	669
Any point on the Niagara River below the Black Rock Lock	N/A	1,709

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	2,457	1,452	3,191	2,457	N/A
Port Huron Change Point	[1] 4,280	[1] 4,958	3,215	2,502	1,778
St. Clair River	[1] 4,280	N/A	3,215	3,215	1,452
Detroit or Windsor or the Detroit River	2,457	3,191	1,452	N/A	3,215
Detroit Pilot Boat	1,778	2,457	N/A	N/A	3,215

[1] When pilots are not changed at the Detroit Pilot Boat.

■ 4. In § 401.410, revise paragraphs (a), (b), and (c) to read as follows:

§ 401.410 Basic rates and charges on Lakes Huron, Michigan, and Superior; and the St. Mary's River.

* * * * *

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
6-hour Period	$726
Docking or Undocking	689

(b) Area 7 (Designated Waters):

Area	De Tour	Gros Cap	Any harbor
Gros Cap	$2,714	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	2,714	$1,022	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	2,274	1,022	N/A
Sault Ste. Marie, MI	2,274	1,022	N/A
Harbor Movage	N/A	N/A	$1,022

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
6-hour Period	$616
Docking or Undocking	585

§ 401.420 [Amended]

■ 5. Amend § 401.420 as follows:

■ a. In paragraph (a), remove the text ''$129'' and add, in its place, the text ''$132''; and remove the text ''$2,021'' and add, in its place, the text ''$2,072'';

■ b. In paragraph (b), remove the text ''$129'' and add, in its place, the text ''$132''; and remove the text ''$2,021'' and add, in its place, the text ''$2,072''; and

■ c. In paragraph (c)(1), remove the text ''$763'' and add, in its place, the text ''$782''; and in paragraph (c)(3), remove the text ''$129'' and add, in its place, the text ''$132''; and remove the text ''$2,021'' and add, in its place, the text ''$2,072''.

§ 401.428 [Amended]

■ 6. In § 401.428, remove the text ''$763'' and add, in its place, the text ''$782''.

Dated: August 28, 2014.

Gary C. Rasicot,

Director of Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2014–21046 Filed 9–3–14; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 79, No. 171
Thursday, September 4, 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

Office of the Secretary

Determination of Total Amounts of Fiscal Year 2015 WTO Tariff-Rate Quotas for Raw Cane Sugar and Certain Sugars, Syrups and Molasses

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: The Office of the Secretary of the Department of Agriculture (the Secretary) announces the establishment of the Fiscal Year (FY) 2015 (October 1, 2014–September 30, 2015) in-quota aggregate quantity of raw cane sugar at 1,117,195 metric tons raw value (MTRV). The Secretary also announces the establishment of the FY 2015 in-quota aggregate quantity of certain sugars, syrups, and molasses (also referred to as refined sugar) at 127,000 MTRV.

DATES: *Effective Date:* September 4, 2014.

FOR FURTHER INFORMATION CONTACT: Souleymane Diaby, Import Policies and Export Reporting Division, Foreign Agricultural Service, Department of Agriculture, 1400 Independence Avenue SW., AgStop 1021, Washington, DC 20250–1021; by telephone (202) 720–2916; by fax (202) 720–0876; or by email *souleymane.diaby@fas.usda.gov.*

SUPPLEMENTARY INFORMATION: The provisions of paragraph (a)(i) of the Additional U.S. Note 5, Chapter 17 in the U.S. Harmonized Tariff Schedule (HTS) authorize the Secretary to establish the in-quota tariff-rate quota (TRQ) amounts (expressed in terms of raw value) for imports of raw cane sugar and certain sugars, syrups, and molasses that may be entered under the subheadings of the HTS subject to the lower tier of duties during each fiscal year. The Office of the U.S. Trade Representative (USTR) is responsible for the allocation of these quantities among supplying countries and areas.

Section 359(k) of the Agricultural Adjustment Act of 1938, as amended, requires that at the beginning of the quota year the Secretary of Agriculture establish the TRQs for raw cane sugar and refined sugars at the minimum levels necessary to comply with obligations under international trade agreements, with the exception of specialty sugar.

Notice is hereby given that I have determined, in accordance with paragraph (a)(i) of the Additional U.S. Note 5, Chapter 17 in the HTS and section 359(k) of the 1938 Act, that an aggregate quantity of up to 1,117,195 MTRV of raw cane sugar may be entered or withdrawn from warehouse for consumption during FY 2015. This is the minimum amount to which the United States is committed under the WTO Uruguay Round Agreements. I have further determined that an aggregate quantity of 127,000 MTRV of sugars, syrups, and molasses may be entered or withdrawn from warehouse for consumption during FY 2015. This quantity includes the minimum amount to which the United States is committed under the WTO Uruguay Round Agreements, 22,000 MTRV, of which 1,656 MTRV is reserved for specialty sugar. An additional amount of 105,000 MTRV is added to the specialty sugar TRQ for a total of 106,656 MTRV.

Because the specialty sugar TRQ is first-come, first-served, tranches are needed to allow for orderly marketing throughout the year. The FY 2015 specialty sugar TRQ will be opened in five tranches. The first tranche, totaling 1,656 MTRV, will open October 10, 2014. All specialty sugars are eligible for entry under this tranche. The second tranche will open on October 24, 2014, and be equal to 38,850 MTRV. The remaining tranches will each be equal to 22,050 MTRV, with the third opening on January 9, 2015; the fourth, on April 10, 2015; and the fifth, on July 10, 2015. The second, third, fourth, and fifth tranches will be reserved for organic sugar and other specialty sugars not currently produced commercially in the United States or reasonably available from domestic sources.

* Conversion factor: 1 metric ton = 1.10231125 short tons.

Dated: August 14, 2014.

Michael T. Scuse,

Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 2014–20974 Filed 9–3–14; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0066]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Control of Chronic Wasting Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the control of chronic wasting disease in farmed or captive cervid herds.

DATES: We will consider all comments that we receive on or before November 3, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0066.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0066, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0066* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the control of chronic wasting disease in farmed or captive cervid herds, contact Dr. Patrice Klein, Cervid Health Team Leader, Sheep, Goat, Cervid, and Equine Health, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 851–3435. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Control of Chronic Wasting Disease.

OMB Control Number: 0579–0189.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) is authorized, among other things, to protect the health of the United States' livestock and poultry populations by preventing the introduction and interstate spread of serious diseases and pests of livestock and for eradicating such diseases from the United States when feasible.

Chronic wasting disease (CWD) is a transmissible spongiform encephalopathy of cervids (elk, deer, and moose) typified by chronic weight loss leading to death. The presence of CWD in cervids causes significant economic and market losses to U.S. producers. In an effort to accelerate the control and limit the spread of this disease in the United States, APHIS created a cooperative, voluntary Federal-State-private sector CWD Herd Certification Program designed to identify farmed or captive herds infected with CWD and provided for the management of these herds in a way that reduces the risk of spreading CWD. APHIS' Veterinary Services (VS) manages the CWD Herd Certification Program.

Owners of farmed or captive elk, deer, and moose herds who choose to participate in the Herd Certification Program would need to follow program requirements for animal identification, testing, herd management, and movement of animals into and from herds. The regulations for this program are located in 9 CFR part 55. Part 55 also contains the regulations that authorize the payment of indemnity for the voluntary depopulation of CWD-positive, CWD-exposed, or CWD-suspect captive cervids. APHIS also established requirements in 9 CFR part 81 for the interstate movement of elk, deer, and moose to prevent movement that could pose a risk of spreading CWD.

The Herd Certification Program and the indemnity program entail the use of information collection activities, such as memoranda of understanding between APHIS and participating States; USDA–APHIS Veterinary Services, Application for Enrollment in the Federal Chronic Wasting Disease Voluntary Herd Certification Program for Farmed and Captive Cervids (VS Forms 11–1/11–1A); USDA–APHIS Veterinary Services, Application for Chronic Wasting Disease Herd Certification Program (CWD HCP) Approval, Renewal, or Reinstatement of a State (VS Form 11–2); farmed and captive cervid identification; farmed and captive cervid Interstate Certificates of Veterinary Inspection (ICVI); reports of cervid suspects, escapes, disappearances, and deaths; recordkeeping (herd records); certificates and/or animal identification documents to move wild cervids; surveillance data; a letter to appeal suspension, cancellation, or change in status; a herd or premises plan if CWD is discovered; annual reports; State reviews; epidemiological investigations and reporting of out-of-State traces to affected States; sample collections and laboratory submissions, testing, and reporting; and an APHIS–USDA Veterinary Services Appraisal and Indemnity Claim Form (VS Form 1–23).

In addition to including several additional information collection activities, this notice includes a description of the information collection activities currently approved by the Office of Management and Budget (OMB) for the CWD Herd Certification Program under number 0579–0237, and for payment of indemnity under voluntary depopulation for CWD under number 0579–0189. After OMB approves and combines the burden for both collections under one collection (number 0579–0189), the Department will retire number 0579–0237.

We are asking OMB to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 2.55 hours per response.

Respondents: Cervid herd owners, industry representatives, Federal- and State-approved appraisers, accredited veterinarians, certified sample collectors, and State animal health officials.

Estimated annual number of respondents: 5,735.

Estimated annual number of responses per respondent: 26.26.

Estimated annual number of responses: 150,580.

Estimated total annual burden on respondents: 383,383 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 28th day of August 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–21115 Filed 9–3–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AD20

Proposed Directive for Commercial Filming in Wilderness; Special Uses Administration

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed directive; request for public comment.

SUMMARY: The Forest Service proposes to incorporate interim directive (ID) 2709.11–2013.1 into Forest Service Handbook (FSH) 2709.11, chapter 40 to make permanent guidance for the evaluation of proposals for still photography and commercial filming on National Forest System Lands. The proposed amendment would address

the establishment of consistent national criteria to evaluate requests for special use permits on National Forest System (NFS) lands. Specifically, this policy provides the criteria used to evaluate request for special use permits related to still photography and commercial filming in congressionally designated wilderness areas. Public comment is invited and will be considered in the development of the final directive.

DATES: Comments must be received in writing on or before November 3, 2014 to be assured of consideration.

ADDRESSES: Submit comments electronically by following the instructions at the federal eRulemaking portal at *http://www.regulation.gov* or submit comments via fax to 703–605–5131 or 703–605–5106. Please identify faxed comments by including ''Commercial Filming in Wilderness'' on the cover sheet or first page. Comments may also be submitted via mail to Commercial Filming in Wilderness, USDA, Forest Service, Attn: Wilderness & Wild and Scenic Rivers (WWSR), 201 14th Street SW., Mailstop Code: 1124, Washington, DC 20250–1124. Email comments may be sent to: *reply_lands@fs.fed.us.* If comments are submitted electronically, duplicate comments should not be sent by mail. Hand-delivered comments will not be accepted and receipt of comments cannot be confirmed. Please restrict comments to issues pertinent to the proposed directive, explain the reasons for any recommended changes, and, where possible, reference the specific section and wording being addressed.

All comments, including names and addresses when provided, will be placed in the record and be made available for public inspection and copying. The public may inspect the comments received at the USDA Forest Service Headquarters, Sidney R. Yates Federal Building, 201 14th Street SW., Washington, DC, in the Office of the Director, WWSR, 5th Floor South, during normal business hours. Visitors are encouraged to call ahead to 202–644–4862 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Elwood York, WWSR, at 202–649–1727.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

1. Background and Need for the Proposed Directive

The proposed directive is necessary for the Forest Service to issue and administer special use authorizations that will allow the public to use and occupy National Forest System (NFS) lands for still photography and commercial filming in wilderness. The proposed directive FSH 2709.11, chapter 40, is currently issued as the third consecutive interim directive (ID) which is set to expire in October 2014. The previous directive addressed still photography in wilderness and did not provide adequate guidance to review commercial filming in wilderness permit proposals. The notice and comments are collected and used by Forest Service officials, unless otherwise noted, to ensure the use of NFS lands are authorized, in the public interest, and compatible with the Agency's mission and/or record authorization of use granted by appropriate Forest Service officials.

2. Overview of Proposed Directive, FSH 2709.11, Chapter 40

The Forest Service is requesting public input with respect to Agency policy. Our intent with the issuance of this notice of proposed directive is to consider such input and, as appropriate, incorporate it into future policy. Certain suggestions, whether due to legislative or other limitations, may not be implemented through Agency policy, and we wish for the public to understand that as well.

The current language has been in place for 48 months. This proposal would make permanent guidelines for the acceptance and denial for still photography and commercial filming permits in congressionally designated wilderness areas.

Section 45.1c—Evaluation of Proposals

This proposed section would include criteria in addition to that of still photography to incorporate commercial filming activities. Furthermore, the Agency is proposing to clarify when a special use permit may be issued to authorize the use of NFS lands if the proposed activity, other than noncommercial still photography would be in a congressionally designated wilderness area.

The proposed directive for FSH 2709.11, chapter 40, section 45.1c is as follows:

45.1c—Evaluation of Proposals

A special use permit may be issued (when required by sections 45.1a and 45.2a) to authorize the use of National Forest System lands for still photography or commercial filming when the proposed activity:

1. Meets the screening criteria in 36 CFR 251.54(e);

2. Would not cause unacceptable resource damage;

3. Would not unreasonably disrupt the public's use and enjoyment of the site where the activity would occur;

4. Would not pose a public health and safety risk; and

5. Meets the following additional criteria, if the proposed activity, other than noncommercial still photography (36 CFR 251.51), would be in a congressionally designated wilderness area:

a. Has a primary objective of dissemination of information about the use and enjoyment of wilderness or its ecological, geological, or other features of scientific, educational, scenic, or historical value (16 U.S.C. 1131(a) and (b));

b. Would preserve the wilderness character of the area proposed for use, for example, would leave it untrammeled, natural, and undeveloped and would preserve opportunities for solitude or a primitive and unconfined type of recreation (16 U.S.C. 1131(a));

c. Is wilderness-dependent, for example, a location within a wilderness area is identified for the proposed activity and there are no suitable locations outside of a wilderness area (16 U.S.C. 1133(d)(6));

d. Would not involve use of a motor vehicle, motorboat, or motorized equipment, including landing of aircraft, unless authorized by the enabling legislation for the wilderness area (36 CFR 261.18(a) and (c));

e. Would not involve the use of mechanical transport, such as a hang glider or bicycle, unless authorized by the enabling legislation for the wilderness area (36 CFR 261.18(b));

f. Would not violate any applicable order (36 CFR 261.57); and

g. Would not advertise any product or service (16 U.S.C. 1133(c)).

3. Regulatory Certifications

Environmental Impact

The proposed directive is incorporating Interim Directive FSH 2709.11, chapter 40, section 45.51b into its parent text at section 45.1c. It will provide guidelines for accepting and denying still photography and commercial filming applications in congressionally designated wilderness areas. Agency regulations at 35 CFR 220.6(d)(2) (73 FR 43093) exclude from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish

Service-wide administrative procedures, program processes, or instructions.'' The Agency has concluded that this directive falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environment assessment or environmental impact statement.

Regulatory Impact

The proposed directive has been reviewed under USDA procedures and Executive Order 12866 on regulatory planning and review. It has been determined that this is not an economically significant action. This action will not have an annual effect of $100 million or more on the economy, nor will it adversely affect productivity, competition, jobs, the environment, public health and safety, or State or local governments. This proposed directive will not interfere with an action taken or planned by another agency, nor will it raise new legal or policy issues. Finally the proposed directive will not alter the budgetary impact of entitlement, grant, user fee, or loan programs or the rights and obligations of beneficiaries of those programs.

The proposed directive has been considered in light of Executive Order 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A small entity flexibility assessment has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by SBREFA. This proposed directive focuses on National Forest System special use permits regarding still photography and commercial filming in congressionally designated wilderness areas.

Federalism

The Agency has considered this directive under the requirements of Executive Order 13132 on federalism and has determined that the proposed directive conforms with the federalism principles set out in this Executive Order; will not impose any compliance costs on the states; and will not have substantial direct effects on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary.

Consultation and Coordination With Indian Tribal Governments

In conjunction with Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' the Agency invited Tribes to consult on the proposed directive prior to review and comment by the general public starting November 29, 2013, and ending on April 30, 2014. The consultation process was initiated through written instructions from the Deputy Chief for the National Forest System to the Regional Foresters and subsequently to the Forest Supervisors.

Tribes were provided 120 days to discuss the proposed policy. During that time, Tribal Liaisons and Line Officers were available to review the proposed directive and answer Tribal concerns.

Through this Tribal consultation, the Agency has assessed the impact of this proposed directive on Indian Tribes and determined that it does not have substantial direct or unique effects on 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.

The Agency has also determined that the directive does not impose substantial direct compliance costs on Indian tribal governments or preempt tribal law.

No Taking Implications

The Agency has analyzed the proposed directive in accordance with the principles and criteria contained in Executive Order 12630. The Agency has determined that the proposed directive does not pose the risk of taking private property.

Civil Justice Reform

The directive has been reviewed under Executive Order 12988 of February 7th, 1996, ''Civil Justice Reform''. At the time of adoption of the directives, (1) all State and local laws and regulations that conflict with the directives or that impede full implementation of the directives were not preempted; (2) no retroactive effect was given to the directives; and (3) administrative proceedings are not required before parties can file suit in court to challenge its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandate Reform Act of 1995, (2 U.S.C. 1531–1538) the Agency has assessed the effects of the proposed directive on State, local and Tribal governments and the private sector. Therefore a statement under section 202 of the act is not required.

Energy Effects

The Agency has reviewed the proposed directive under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' The Agency has determined that the directive does not constitute a significant energy action as defined in the Executive Order.

Controlling Paperwork Burdens on the Public

The directive does not contain any additional record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use and, therefore, imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et al.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: August 27, 2014.

Mary Wagner,

Associate Chief, Forest Service.

[FR Doc. 2014–21093 Filed 9–3–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AC51

Extension of Comment Period on the Proposed Directive on Groundwater Resource Management, Forest Service Manual 2560

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed directive; extension of comment period.

SUMMARY: The Forest Service published a notice in the **Federal Register** on May 6, 2014, initiating a 90-day comment period on the Proposed Directive on Groundwater Resource Management, Forest Service Manual 2560. The closing date for that 90-day comment period was August 4, 2014. The agency extended the comment period and published a notice in the **Federal Register** on August 1, 2014, extending the comment period to September 3, 2015. The Agency is extending the comment period; therefore, the comment period has been extended to October 3, 2014.

DATES: Comments must be received by October 3, 2014.

ADDRESSES: Send comments electronically by following the

instructions at the Federal eRulemaking portal at *http://www.regulation.gov.* Comments may also be submitted by electronic mail to *fsm2500@fs.fed.us* or by mail to Groundwater Directive Comments, USDA Forest Service, Attn: Rob Harper—WFWARP, 201 14th Street SW., Washington, DC 20250. If comments are sent electronically, the public is requested not to send duplicate comments by mail. Please confine comments to issues pertinent to the proposed directive; explain the reasons for any recommended changes; and, where possible, refer to the specific wording being addressed. All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect the comments received on the proposed directive at the USDA Forest Service Headquarters, located in the Yates Federal Building at 201 14th Street SW., Washington, DC, on regular business days between 8:30 a.m. and 4:30 p.m. Those wishing to inspect the comments are encouraged to call ahead at (202) 205–0967 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Christopher Carlson, Watershed, Fish, Wildlife, Air and Rare Plants Staff and Minerals and Geology Management Staff, 202–205–1481. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service at 800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Forest Service proposes to amend its internal Agency directives for Watershed and Air Management to establish direction for management of groundwater resources on National Forest System (NFS) lands as an integral component of watershed management. Specifically, the proposed amendment would provide direction on the consideration of groundwater resources in agency activities, approvals, and authorizations; encourage source water protection and water conservation; establish procedures for reviewing new proposals for groundwater withdrawals on NFS lands; require the evaluation of potential impacts from groundwater withdrawals on NFS resources; and provide for measurement and reporting for some larger groundwater withdrawals. This proposed amendment would supplement existing special uses and minerals and geology directives to address issues of groundwater resource management and would help ensure consistent and adequate analyses for evaluating potential uses of NFS lands that could affect groundwater resources. Public comment is invited and will be considered in development of the final directive. The Forest Service wants to ensure that there is sufficient time for potentially affected parties, including States, to comment. Thus the Agency is providing an extended comment period for the proposed directive.

In addition, the Forest Service may host meetings and/or webinars as needed on the proposed directive to present information and answer questions on the proposed policy and the comment process during the comment period. Specific information regarding the dates and times of the webinar will be announced by news release and at the following Web site: *http://www.fs.fed.us/geology/groundwater.* A recording of the webinar may also be posted on the Web site.

Reviewers may obtain a copy of the proposed directive from the Forest Service Minerals and Geology Management Staff Web site, *http://www.fs.fed.us/geology/groundwater,* or from the Regulations.gov Web site, *http://www.regulations.gov.*

Dated: August 29, 2014.

Thomas L. Tidwell,

Chief, Forest Service.

[FR Doc. 2014–21092 Filed 9–3–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (Board) will meet in Rapid City, South Dakota. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. sec. 1600 et.seq.), the National Forest Management Act of 1976 (16 U.S.C. sec. 1612), and the Federal Public Lands Recreation Enhancement Act (Pub. L. 108–447). Additional information concerning the Board, including the meeting summary/minutes, can be found by visiting the Board's Web site at: *http://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Wednesday, September 17, 2014 at 1:00 p.m.

All meetings are subject to cancellation. For updated status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Mystic Ranger District, 8221 South Highway 16, Rapid City, South Dakota. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Black Hills National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Committee Coordinator, by phone at 605–673–9216, or by email at *sjjacobson@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide:

(1) Conduct elections for Chairman and Vice Chairman of the Black Hills National Forest Advisory Board;

(2) Briefing on grazing and range management on the Forest;

(3) Presentation on Forest Inventory and Analysis;

(4) Update on the Northern Long Eared Bat listing;

(5) Update from the Forest Health working group; and

(6) Update from the Recreational Facility working group.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by September 8, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Board may file written statements with the Board's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Scott Jacobson, Black Hills National Forest Supervisor's Office, 1019 North Fifth Street, Custer, South Dakota 57730; by email to *sjjacobson@fs.fed.us,* or via facsimile to 605–673–9208.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests

in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: August 28, 2014.

Rhonda O'Byrne,

Acting Deputy Forest Supervisor.

[FR Doc. 2014–21041 Filed 9–3–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–61–2014]

Foreign-Trade Zone (FTZ) 82—Mobile, Alabama; Notification of Proposed Production Activity; Airbus Americas, Inc., (Commercial Passenger Aircraft); Mobile, AL

The City of Mobile, grantee of FTZ 82, submitted a notification of proposed production activity to the FTZ Board on behalf of Airbus Americas, Inc. (Airbus), located in Mobile, Alabama. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 21, 2014.

The Airbus facility is located within Site 1 of FTZ 82. The facility is used for the manufacture of commercial passenger aircraft. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Airbus from customs duty payments on the foreign status components used in export production. On its domestic sales, Airbus would be able to choose the duty rates during customs entry procedures that apply to commercial passenger aircraft (duty rate 0%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: plastic handles and knobs; plastic washers; hex-head screws; lock washers; steel cotter pins; steel pins; aluminum rivets, pins, nuts and washers; plates, shims and other aircraft parts made of aluminum; metal mountings and brackets; check valves; safety valves; copper and steel thermostat valves; electric motors and generators; transformers; microphones; loudspeakers; electrical overload protectors; electrical switches; electrical connectors; wiring harnesses; wires with connectors; electrical cables; optical navigational equipment and autopilots; first aid kits; food and beverage preparation equipment; fire extinguishers; aircraft assemblies and parts; aircraft seats; and, trolleys (duty rate ranges from 0% to 8.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 14, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: August 28, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–21111 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 140808648–4648–01]

Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments.

SUMMARY: BIS is seeking public comments on the effect of existing foreign policy-based export controls in the Export Administration Regulations. BIS is requesting public comments to conduct consultations with U.S. industries. Section 6 of the Export Administration Act (EAA) requires BIS to consult with industry on the effect of such controls and to report the results of the consultations to Congress. Comments from all interested persons are welcome. All comments will be made available for public inspection and copying and included in a report to be submitted to Congress.

DATES: Comments must be received by October 6, 2014.

ADDRESSES: Comments on this rule may be submitted to the Federal e-Rulemaking portal (*www.regulations.gov*). The regulations.gov ID for this rule is: BIS–2014–0024. Comments may also be sent by email to *publiccomments@bis.doc.gov* or on paper to Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue NW., Room 2099B, Washington, DC 20230. Include the phrase ''FPBEC Comment'' in the subject line of the email message or on the envelope if submitting comments on paper. All comments must be in writing (either submitted to regulations.gov, by email or on paper). All comments, including Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter, will be a matter of public record and will be available for public inspection and copying. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Elan Mitchell, Foreign Policy Division, Office of Nonproliferation Controls and Treaty Compliance, Bureau of Industry and Security, telephone 202–482–4777. Copies of the current Annual Foreign Policy Report to the Congress are available at *http://www.bis.doc.gov/index.php/about-bis/newsroom/archives/27-about-bis/502-foreign-policy-reports* and copies may also be requested by calling the Office of Nonproliferation Controls and Treaty Compliance at the number listed above.

SUPPLEMENTARY INFORMATION: Foreign policy-based controls in the Export Administration Regulations (EAR) are implemented pursuant to section 6 of the Export Administration Act of 1979, as amended, (50 U.S.C. app. sections 2401–2420 (2000)) (EAA). The current foreign policy-based export controls maintained by the Bureau of Industry and Security (BIS) are set forth in the EAR (15 CFR parts 730–774), including in parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Other Special Controls). These controls apply to a range of countries, items, activities and persons, including:

- Entities acting contrary to the national security or foreign policy interests of the United States (§ 744.11);
- Certain general purpose microprocessors for ''military end-uses'' and ''military end-users'' (§ 744.17);
- Significant items (SI) (§ 742.14);

- Hot section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14);
- Encryption items (§ 742.15);
- Crime control and detection items (§ 742.7);
- Specially designed implements of torture (§ 742.11);
- Certain firearms and related items based on the Organization of American States Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Munitions included within the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (§ 742.17);
- Regional stability items (§ 742.6);
- Equipment and related technical data used in the design, development, production, or use of certain rocket systems and unmanned air vehicles (§§ 742.5 and 744.3);
- Chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§§ 742.2 and 744.4) and various chemicals included on the list of those chemicals controlled pursuant to the Chemical Weapons Convention (§ 742.18);
- Communication intercepting devices, software and technology (§ 742.13);
- Nuclear propulsion (§ 744.5);
- Aircraft and vessels (§ 744.7);
- Restrictions on exports and reexports to certain persons designated as proliferators of weapons of mass destruction (§ 744.8);
- Certain cameras to be used by military end-users or incorporated into a military commodity (§ 744.9);
- Countries designated as Supporters of Acts of International Terrorism (§§ 742.8, 742.9, 742.10, 742.19, 746.2, 746.4, 746.7, and 746.9);
- Certain entities in Russia (§ 744.10);
- Individual terrorists and terrorist organizations (§§ 744.12, 744.13 and 744.14);
- Certain persons designated by Executive Order 13315 (''Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members'') (§ 744.18);
- Certain sanctioned entities (§ 744.20);
- Embargoed countries (Part 746); and
- U.S. and U.N. arms embargoes (§ 746.1 and Country Group D:5 of Supplement No. 1 to Part 740).

In addition, the EAR impose foreign policy-based export controls on certain nuclear-related commodities, technology, end-uses and end-users (§§ 742.3 and 744.2), in part, implementing section 309(c) of the Nuclear Non Proliferation Act (42 U.S.C. 2139a).

Under the provisions of section 6 of the EAA, export controls maintained for foreign policy purposes require annual extension. Section 6 of the EAA requires a report to Congress when foreign policy-based export controls are extended. The EAA expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (Aug. 11, 2014)), continues the EAR and, to the extent permitted by law, the provisions of the EAA, in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)). The Department of Commerce, as appropriate, follows the provisions of section 6 of the EAA by reviewing its foreign policy-based export controls, conducting consultations with industry through public comments on such controls, and preparing a report to be submitted to Congress. In January 2014, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy-based export controls then in effect. BIS is now soliciting public comment on the effects of extending the existing foreign policy-based export controls from January 2015 to January 2016. Among the criteria considered in determining whether to extend U.S. foreign policy-based export controls are the following:

1. The likelihood that such controls will achieve their intended foreign policy purposes, in light of other factors, including the availability from other countries of the goods, software or technology proposed for such controls;

2. Whether the foreign policy objective of such controls can be achieved through negotiations or other alternative means;

3. The compatibility of the controls with the foreign policy objectives of the United States and with overall U.S. policy toward the country subject to the controls;

4. Whether the reaction of other countries to the extension of such controls is not likely to render the controls ineffective in achieving the intended foreign policy objective or be counterproductive to U.S. foreign policy interests;

5. The comparative benefits to U.S. foreign policy objectives versus the effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and

6. The ability of the United States to effectively enforce the controls.

BIS is particularly interested in receiving comments on the economic impact of proliferation controls. BIS is also interested in industry information relating to the following:

1. Information on the effect of foreign policy-based export controls on sales of U.S. products to third countries (*i.e.,* those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy-based export controls.

2. Information on controls maintained by U.S. trade partners. For example, to what extent do U.S. trade partners have similar controls on goods and technology on a worldwide basis or to specific destinations?

3. Information on licensing policies or practices by our foreign trade partners that are similar to U.S. foreign policy based export controls, including license review criteria, use of conditions, and requirements for pre- and post-shipment verifications (preferably supported by examples of approvals, denials and foreign regulations).

4. Suggestions for bringing foreign policy-based export controls more into line with multilateral practice.

5. Comments or suggestions to make multilateral controls more effective.

6. Information that illustrates the effect of foreign policy-based export controls on trade or acquisitions by intended targets of the controls.

7. Data or other information on the effect of foreign policy-based export controls on overall trade at the level of individual industrial sectors.

8. Suggestions for measuring the effect of foreign policy-based export controls on trade.

9. Information on the use of foreign policy-based export controls on targeted countries, entities, or individuals. BIS is also interested in comments relating generally to the extension or revision of existing foreign policy-based export controls.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BIS in reviewing the controls and in developing the report to Congress. All comments received in response to this notice will be displayed on BIS's Freedom of Information Act (FOIA) Web site at *http://efoia.bis.doc.gov/* and on

the Federal e-Rulemaking portal at *www.Regulations.gov.* All comments will also be included in a report to Congress, as required by section 6 of the EAA, which directs that BIS report to Congress the results of its consultations with industry on the effects of foreign policy-based controls.

Dated: August 28, 2014.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2014–21030 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD484

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a meeting of its Ecosystem Based Fisheries Management Working Group.

DATES: The meeting will convene from 9 a.m. (E.S.T.) until 5 p.m. on September 19, 2014.

ADDRESSES: The meeting will be held at the Gulf of Mexico Fishery Management Council's office, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Morgan Kilgour, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *morgan.kilgour@gulfcouncil.org*

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are as follows:

The working group is convening to address two charges from the Council. The first is to develop a set of suggested goals and objectives of an Ecosystem Based Management Plan that considers measurable targets. The second is to develop approaches for identifying and prioritizing ecosystem and socioeconomic information needs for the fisheries managed by the Council.

The Agenda is subject to change, and the latest version will be posted on the Council's file server, which can be accessed by going to the Council Web site at *http://www.gulfcouncil.org* and clicking on FTP Server under Quick Links. For meeting materials see folder ''Ecosystem Based Fishery Management Working Group meeting—2014—9'' on Gulf Council file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's Web site and click on the FTP link in the lower left of the Council Web site (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: August 29, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–21054 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD481

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Scientific and Statistical Committee (SSC) sub-Working Group to review and discuss the 2014 draft Stock Assessment Update for the Main Hawaiian Islands Deep-7 Bottomfish Complex through 2013 with Projected Annual Catch Limits (ACLs) through 2016. The sub-group would also review the comments of the Center for Independent Experts (CIE) on the Biomass-Augmented Catch-Maximum Sustainable Yield (BAC–MSY) model used for developing reference points for ACL specification.

DATES: The SSC sub-Working Group meeting will be held on September 17, 2014 at 1 p.m. See **SUPPLEMENTARY INFORMATION** for agenda.

ADDRESSES: The SSC sub-Working Group meeting will be held at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment opportunity will be provided. The order in which agenda items are addressed may change. The meeting will run as late as necessary to complete scheduled business.

Schedule and Agenda for the SSC Sub-Working Group Meeting

1 p.m., Wednesday, September 17, 2014

1. Welcome and Introductions
2. Approval of the Agenda
3. Review of SSC Comments on Draft 2014 Stock Assessment Update and Projected ACLs
4. Pacific Islands Fisheries Science Center Response to SSC Comments
5. Review of CIE Comment on Biomass Augmented Catch MSY model
6. Public Comments
7. Discussion and Recommendations

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: August 29, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–21017 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD237

Marine Mammals; File No. 18438

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Alaska SeaLife Center (ASLC; Responsible Party, Tara Jones, Ph.D.) 301 Railway Avenue, P.O. Box 1329, Seward, AK 99664, to conduct research on Steller sea lions (*Eumetopias jubatus*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Courtney Smith, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On April 17, 2014, notice was published in the **Federal Register** (79 FR 21735) that a request for a permit to conduct research on the species identified above had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 18438–00 authorizes the ASLC to conduct population monitoring and health, nutrition, and foraging studies on Steller sea lions in the western Distinct Population Segment in the Gulf of Alaska and Aleutian Islands. The ASLC is permitted to take Steller sea lions by disturbance associated with observations, sampling, and captures; remote biopsy; and capture, restraint, and sampling. Captured sea lions will undergo morphometric measurements, blood and tissue collection, digital imaging, hot-branding, body condition measurement, whisker, hair, and milk sampling, temporary marking, and ultrasound exams. Up to four unintentional mortalities are authorized per year. Marine mammals authorized to be incidentally disturbed include harbor seals (*Phoca vitulina*) and California sea lions (*Zalophus californianus*). The permit expires on August 31, 2019.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), NMFS has determined that the activities proposed are consistent with the Preferred Alternative in the Final Programmatic Environmental Impact Statement for Steller Sea Lion and Northern Fur Seal Research (NMFS 2007), and that issuance of the permit would not have a significant adverse impact on the human environment.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 28, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–21016 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority Board Meetings

AGENCY: National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

ACTION: Notice of open public meetings.

SUMMARY: The Board of the First Responder Network Authority (FirstNet) will convene an open public meeting of the Board on September 17, 2014, preceded by meetings of the Board Committees on September 16, 2014.

DATES: On September 16, 2014 between 2:00 p.m. and 6:30 p.m. Eastern Daylight Time there will be sequential meetings of FirstNet's four Board Committees: (1) Governance and Personnel; (2) Technology; (3) Outreach; and (4) Finance. The full FirstNet Board will hold a meeting on September 17, 2014, between 9:00 a.m. and 11:30 a.m. Eastern Daylight Time.

ADDRESSES: The meetings on September 16 and 17, 2014 will be held at FirstNet's headquarters located in the United States Geological Survey Building—12201 Sunrise Valley Drive, Reston, VA 20192. The meetings will be held in the Dallas L. Peck Auditorium.

FOR FURTHER INFORMATION CONTACT: Uzoma Onyeije, Secretary, FirstNet, 12201 Sunrise Valley Drive, M/S 243, Reston, VA 20192: telephone (703) 648–4165; email *uzoma@firstnet.gov.* Please direct media inquiries to Corey Ray at (703) 648–4109.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Board of FirstNet will convene an open public meeting of the Board on September 17, 2014, preceded by meetings of the Board Committees on September 16, 2014.

Background: The Middle Class Tax Relief and Job Creation Act of 2012 (Act), Public Law 112–96, 126 Stat. 156 (2012), established FirstNet as an independent authority within NTIA that is headed by a Board. The Act directs FirstNet to ensure the building, deployment, and operation of a nationwide, interoperable public safety broadband network. The FirstNet Board is responsible for making strategic decisions regarding FirstNet's operations. The FirstNet Board held its first public meeting on September 25, 2012.

Matters to be Considered: FirstNet will post detailed agendas of each meeting on its Web site, *http://www.firstnet.gov,* prior to the meetings. The agenda topics are subject to change. Please note that the subjects that will be discussed by the Committees and the Board may involve commercial or financial information that is privileged or confidential, personnel matters, or other legal matters affecting FirstNet. As such, the Committee chairs and Board Chair may call for a vote to close the meetings only for the time necessary to preserve the confidentiality of such information pursuant to 47 U.S.C. 1424(e)(2).

Times and Dates of September 2014 Meetings: On September 16, 2014, between 2:00 p.m. and 6:30 p.m. Eastern Daylight Time there will be sequential meetings of FirstNet's four committees. The full FirstNet Board meeting will be held on September 17, 2014, between 9:00 a.m. and 11:30 a.m. Eastern Daylight Time.

Place: The meetings on September 16 and 17, 2014 will be held at FirstNet's headquarters located in the United States Geological Survey Building—12201 Sunrise Valley Drive, Reston, VA 20192. The meetings will be held in the auditorium.

Other Information: These meetings are open to the public and press on a first-come, first-served basis. Space is limited. In order to get an accurate headcount, all expected attendees are

asked to provide notice of intent to attend by sending an email to *BoardRSVP@firstnet.gov.* If the number of RSVPs indicates that expected attendance has reached auditorium capacity, FirstNet will respond to all subsequent notices indicating that auditorium capacity has been reached and that in person viewing may no longer be available and that the meeting may still be viewed by webcast as detailed below. For access to the meetings, valid, government issued photo identification may be requested for security reasons.

The meetings are accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Uzoma Onyeije, Secretary, FirstNet, at (703) 648–4165 or *Uzoma.onyeije@firstnet.gov* at least five (5) business days before the meeting.

The meetings will also be webcast. Please refer to FirstNet's Web site at *www.firstnet.gov* for webcast instructions and other information. If you have technical questions regarding the webcast, please contact Ruben Vasquez at (703) 648–4195 or by email at *ruben.vasquez@firstnet.gov.*

Records: NTIA maintains records of all Board proceedings. Board minutes will be available at *http://www.ntia.doc.gov/category/firstnet.*

Dated: August 29, 2014.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2014–21065 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 3, 2014.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0035 comment'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email to *Raul.Tamayo@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection includes the information necessary to submit a request to grant or revoke power of attorney for an application, patent, or reexamination proceeding, and for a registered practitioner to withdraw as attorney or agent of record. This collection also includes the information necessary to change the correspondence address for an application, patent, or reexamination proceeding, to request a Customer Number and manage the correspondence address and list of practitioners associated with a Customer Number, and to designate or change the correspondence address or fee address for one or more patents or applications by using a Customer Number.

Under 35 U.S.C. 2 and 37 CFR 1.31–1.36, the applicant for patent or the assignee of the entire interest of the applicant (for an application filed before September 16, 2012, or for a patent which issued from an application filed before September 16, 2012), or the applicant for patent or the patent owner (for an application filed on or after September 16, 2012, or for a patent which issued from an application filed on or after September 16, 2012), may grant power of attorney to one or more joint inventors or a person who is registered to practice before the USPTO to act for them in an application or a patent. A power of attorney may also be revoked, and a registered practitioner may also withdraw as attorney or agent of record under 37 CFR 1.36. The rules of practice (37 CFR 1.33) also provide for a practitioner of record (a practitioner not of record may do so if named in the transmittal papers accompanying the original application and if an oath or declaration by any of the inventors has yet to be filed), all of the applicants, or an assignee (for an application filed before September 16, 2012), or a practitioner of record (a practitioner not of record who acts in a representative capacity may do so if named in the application transmittal papers and if any power of attorney has yet to be appointed) or the applicant (for an application filed on or after September 16, 2012), to supply a correspondence address and daytime telephone number for receiving notices, official letters, and other communications from the USPTO. The USPTO's Customer Number practice permits applicants, patent owners, assignees, and practitioners of record to change the correspondence address of a patent application or patent, or the representatives of record for a number of patents or applications with one change request instead of filing separate requests for each patent or application. Customers may request a Customer Number from the USPTO and associate this Customer Number with a correspondence address or a list of registered practitioners. Any changes to the address or practitioner information associated with a Customer Number will be applied to all patents and applications associated with said Customer Number.

The Customer Number practice is optional, in that changes of correspondence address or power of attorney may be filed separately for each patent or application without using a Customer Number. However, a Customer Number associated with the correspondence address for a patent application is required in order to access private information about the application using the Patent Application Information Retrieval (PAIR) system, which is available through the USPTO Web site. The PAIR system gives authorized individuals secure online access to application status information, but only for patent applications that are linked to a Customer Number. Customer Numbers may be associated with U.S. patent applications as well as international Patent Cooperation Treaty (PCT) applications. The use of a Customer Number is also required in order to grant power of attorney to more than ten practitioners or to establish a separate ''fee address'' for maintenance fee purposes that is different from the correspondence address for a patent or application.

Customers may use a Customer Number Upload Spreadsheet to designate or change the correspondence address or fee address for a list of patents or applications by associating them with a Customer Number. The

Customer Number Upload Spreadsheet may not be used to change the power of attorney for patents or applications. Customers may download a Microsoft Excel template with instructions from the USPTO Web site to assist them in preparing the spreadsheet in the proper format.

II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651–0035.

Form Number(s): PTO/AIA/80/81/81B/82A/82B/122/123, PTO/SB/80/81/81A/81B/81C/83/84/124/125, and PTO–2248.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 560,595 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 3 minutes (0.05 hours) to 1.5 hours to submit the information in this collection, including the time to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 31,509 hours.

Estimated Total Annual Respondent Cost Burden: $3,986,114.75. The USPTO expects that *Requests for Withdrawal as Attorney or Agent* and the two petitions in this collection will be prepared by attorneys, while the other items in this collection will be prepared by paraprofessionals. Using the professional rate of $389 per hour for attorneys in private firms, the USPTO estimates that the respondent cost burden for submitting the withdrawal requests and the petitions will be $70,020 per year. Using the paraprofessional rate of $125 per hour, the USPTO estimates that the respondent cost burden for submitting the other items in this collection will be $3,916,094 per year.

Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
1. Power of Attorney to Prosecute Applications Before the USPTO (PTO/AIA/80 and PTO/SB/80)	3	4,000	200
2. Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/AIA/81/82A/82B and PTO/SB/81)	3	400,000	20,000
3. Patent—Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/SB/81A)	3	1,000	50
4. Reexamination—Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/AIA/81B and PTO/SB/81B)	3	300	15
5. Reexamination—Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/SB/81C)	3	75	3.75
6. Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (PTO/SB/83)	12	800	160
7. Authorization to Act in a Representative Capacity (PTO/SB/84)	3	1,000	50
8. Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants	60	10	10
9. Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	60	10	10
10. Change of Correspondence Address for Application or Patent (PTO/AIA/122/123 and PTO/SB/122/123)	3	140,000	7,000
11. Patent Owner Change of Correspondence Address—Reexamination Proceeding (PTO/SB/123A)	3	100	5
12. Third Party Requester Change of Correspondence Address—Reexamination Proceeding (PTO/SB/123B)	3	100	5
13. Request for Customer Number Data Change (PTO/SB/124)	12	2,000	400
14. Request for Customer Number (PTO/SB/125)	12	9,000	1,800
15. Customer Number Upload Spreadsheet	90	1,000	1,500
16. Request to Update a PCT Application with a Customer Number (PTO–2248)	15	1,200	300
Totals	.....	560,595	31,509

Estimated Total Annual Non-hour Respondent Cost Burden: $26,094.04. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) cost burden in the form of filing fees (for the two petitions in the collection) and postage costs.

Specifically, the only items in this collection with associated filing fees are the following two petitions:

- Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants.
- Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants.

37 CFR 1.17(f) proscribes the filing fees for these items as $400 for large entity, $200 for small entity, and $100 for micro entity. The USPTO estimates that 25% of all fees are paid by small entities and that 25% of all small entities are micro entities. As the USPTO estimates 10 responses for the *Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants* the overall yearly cost is calculated at $3,437.50. Additionally, the USPTO estimates 10 responses for the *Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants (37 CFR 1.17(f),* a yearly cost calculated at $3,437.50. The USPTO estimates that the total filing fees for this collection will be $6,875 per year.

The public may incur postage costs when submitting the information in this

collection to the USPTO by mail. The USPTO estimates that approximately 3% (16,818 items) of the 560,615 items will be submitted to the USPTO by mail. Due to the unique materials, including a diskette or CD and cover letter, required for Customer Number Upload Spreadsheet submissions, the USPTO estimates that the average first-class postage cost for the 1,000 spreadsheet submissions will be $2.73; at a total cost of $2,730. The reminder of the mailed items (15,818) will be sent by first-class postage at a rate of $1.42 with an estimated cost of $22,461. Therefore, the total estimated postage cost for this collection is approximately $25,191 per year.

The total (non-hour) respondent cost burden for this collection in the form of filing fees and postage costs is estimated to be $32,066 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 27, 2014.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer, United States Patent and Trademark Office.

[FR Doc. 2014–21039 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Patent Examiner Employment Application.

Agency Approval Number: 0651–0042.

Type of Request: Revision of a currently approved collection.

Burden: 8,051.5 hours annually.

Number of Respondents: 16,103 responses per year.

Avg. Hours per Response: The USPTO estimates that it will take the public approximately 30 minutes (0.5 hours) to complete the employment application, depending upon the applicant's situation.

Needs and Uses: The Monster Hiring Management (MHM) online application system creates an electronic real-time candidate inventory that allows the USPTO to review applications from potential applicants almost instantaneously. Given the immediate hiring need of the Patent Examining Corps, time consumed in the mail distribution system or paper review of applications delays the decision-making process by several weeks. The MHM system results in increased speed and accuracy in the employment process, in in addition to streamlining labor and reducing costs.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at *www.reginfo.gov.*

Paper copies can be obtained by:

• *Email: InformationCollection@uspto.gov.* Include ''0651–0042 copy request'' in the subject line of the message.

• *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before October 6, 2014 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: August 27, 2014.

Marcie Lovett,

Records Management Division Director, USPTO Office of the Chief Information Officer.

[FR Doc. 2014–21044 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 3, 2014.

ADDRESSES: You may submit comments by any of the following methods:

• *Email: InformationCollection@uspto.gov.* Include ''0651–New comment'' in the subject line of the message.

• *Mail:* Marcie Lovett, Records Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

• *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Michael Easdale, Office of Patent Quality Assurance, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–3533; or by email to *Michael.Easdale@uspto.gov* with ''Paperwork'' in the subject line.

SUPPLEMENTARY INFORMATION

I. Abstract

The United States Patent and Trademark Office (USPTO) designed and developed the Patents Ombudsman Program in response to customer feedback that the prosecution of patent applications does not always proceed in accordance with established procedures. In some situations, the patent applicants, attorneys, and agents have felt that examination has stalled and their efforts to move their applications forward through the normal channels have not been effective. The objectives

of the Patents Ombudsman Program are: (1) To facilitate complaint-handling for pro se applicants and applicant's representatives whose applications have stalled in the examination process; (2) to track complaints to ensure each is handled within ten business days; (3) to provide feedback and early warning alerts to USPTO management regarding training needs based on complaint trends; and (4) to build a database of frequently asked questions accessible to the public that give commonly seen problems and effective resolutions.

The USPTO Ombudsman survey is a key component of the process evaluation, providing a program monitoring system and identifying potential opportunities for program enhancement. This survey is being conducted by the USPTO's Ombudsman Program and will be developed, administered, and summarized by USPTO personnel. A survey is the only way the USPTO can gain consistent, reliable, and representative information from the customers choosing to use the Ombudsman Program.

There are no statutes or regulations requiring the USPTO to conduct this usage and satisfaction measurement. The USPTO will use the survey instrument to implement Executive Order 12862 of September 11, 1993, Setting Customer Service Standards, published in the **Federal Register** on September 14, 1993 (Vol. 58, No. 176).

II. Method of Collection

Electronic email submission to the USPTO.

III. Data

OMB Number: 0651—New.
Form Number(s): No form numbers.
Type of Review: New collection.
Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.
Estimated Number of Respondents: 1,100 responses per year. A final respondent pool from approximately 3,000 inquiries would likely be around 1,800 unique customers. Assuming a 60% response rate, 1,100 of the 1,800 unique users will respond which should ensure adequate representation across all Technology Centers.
Estimated Time per Response: The USPTO estimates that it will take the public approximately 5 minutes (.083 hours) to submit the information in this collection, including the time to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 91.67 hours.

Estimated Total Annual Respondent Cost Burden: $29,608.33. The USPTO believes that both professionals and para-professionals will complete these surveys, at a rate of 75% of the current professional rate of $389 per hour and 25% of the para-professional rate of $125 per hour. The professional hourly rate used for the calculation is the median rate for attorneys in private firms as published in the 2013 AIPLA Economic Survey. This report summarized the results of a survey with data on hourly billing rates. The para-professional hourly rate comes from 2013 report published by the National Association of Legal Assistants.

The hourly rate for professionals, calculating 75% of $389, totals $291.75, while the hourly rate for the para-professionals, calculating 25% of $125, totals $31.25, for a combined hourly rate of $323. The USPTO estimates that the respondent cost burden for this collection will be $29,608.33 per year (1,100 responses * .083 hours * $323).

Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
Ombudsman Survey	5	1,100	91.67
Totals		1,100	91.67

Estimated Total Annual Non-Hour Respondent Cost Burden: $0. There are no capital start-up, maintenance, postage, or recordkeeping costs associated with this information collection.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 27, 2014.

Marcie Lovett,

Records Officer, USPTO, Office of the Chief Information Officer, United States Patent and Trademark Office.

[FR Doc. 2014–21048 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).
Title: Substantive Submissions Made During the Prosecution of the Trademark Application.
Form Number(s): PTO–1553, 1581, 2194, 2195, 2200, 2202.
Agency Approval Number: 0651–0054.
Type of Request: Revision of a currently approved collection.
Burden: 63,981 hours annually.
Number of Respondents: 292,706 responses per year.
Avg. Hours per Response: The USPTO expects that it will take the public approximately 5 to 30 minutes (0.08 to 0.50 hours) to gather the necessary information, create the document, and submit the completed request, depending upon the type of request and the method of submission (electronic or paper).
Needs and Uses: This collection of information is required by the Trademark Act, 15 U.S.C. 1051 *et seq.*, which provides for the Federal registration of trademarks, service

marks, collective trademarks and servicemarks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO. Such individuals and businesses may also submit various communications to the USPTO, including providing additional information needed to process a request to delete a particular filing basis from an application or to divide an application identifying multiple goods and/or services into two or more separate applications. Applicants may seek a six-month extension of time to file a statement that the mark is in use in commerce or submit a petition to revive an application that abandoned for failure to submit a timely response to an office action or a timely statement of use or extension request. In some circumstances, an applicant may expressly abandon an application by filing a written request for withdrawal of the application. The rules implementing the Trademark Act are set forth in 37 CFR Part 2.

The forms in this collection are available in electronic format through the Trademark Electronic Application System (TEAS).

The information in this collection is a matter of public record and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is available at USPTO facilities and can also be accessed at the USPTO Web site.

Affected Public: Businesses or other for-profits.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at *www.reginfo.gov.*

Paper copies can be obtained by:

• *Email: InformationCollection@uspto.gov.* Include ''0651–0054 copy request'' in the subject line of the message.

• *Mail:* Marcie Lovett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before October 6, 2014 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: August 27, 2014.

Marcie Lovett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2014–21047 Filed 9–3–14; 8:45 am]

BILLING CODE 3510–16–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2014–0021]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB) is proposing a new information collection titled, ''Financial Coaching Program for Veterans and Low-income Consumers''.

DATES: Written comments are encouraged and must be received on or before November 3, 2014 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

• *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.

• *Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1275 First Street NE., Washington, DC 20002.

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. In general, all comments received will be posted without change to regulations.gov, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this mailbox.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Financial Coaching Program for Veterans and Low-income Consumers.

OMB Control Number: 3170–XXXX.

Type of Review: New collection (Request for a new OMB control number).

Affected Public: Individuals.

Estimated Number of Respondents: 10,000.

Estimated Total Annual Burden Hours: 3,792.

Abstract: Beginning in late 2014, CFPB will launch a Financial Coaching project to provide direct financial coaching services to transitioning veterans and economically vulnerable consumers nationwide. Over three years, it is estimated that tens of thousands of consumers will be served. In order for CFPB to understand whether the program is effective and for the financial coaches to be able to deliver efficient services and track clients over time, CFPB will need to take steps to evaluate the program. This will include a process evaluation to examine program implementation and an outcomes evaluation to examine program effects on clients. The process and outcome evaluations will involve three key data collection efforts: Administrative data collected about clients by financial coaches for programmatic purposes; interview data collected by evaluators from key informants such as coaching clients, financial coaches and program administrators; and self-reported survey data from coaches and coaching clients. The information to be collected from clients will likely include a combination of personal information (basic contact and demographic information), performance metrics (outputs), client-level outcomes (progress towards financial goals or other relevant outcomes) and programmatic and organizational outcomes.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the 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. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Dated: August 19, 2014.

Ashwin Vasan,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2014–21112 Filed 9–3–14; 8:45 am]

BILLING CODE 4810–AM–P

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Senior Executive Service Performance Review Board Membership

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Notice.

SUMMARY: This notice sets forth the names and titles of the current membership of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Performance Review Board as of October 1, 2014.

DATES: *Effective Date:* October 1, 2014.

FOR FURTHER INFORMATION CONTACT: Individual Offices of Inspectors General at the telephone numbers listed below.

SUPPLEMENTARY INFORMATION:

I. Background

The Inspector General Act of 1978, as amended, created the Offices of Inspectors General as independent and objective units to conduct and supervise audits and investigations relating to Federal programs and operations. The Inspector General Reform Act of 2008, established the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Offices of inspectors General. The CIGIE is an interagency council whose executive chair is the Deputy Director for Management, Office of Management and Budget, and is comprised principally of the 72 Inspectors General (IGs).

II. CIGIE Performance Review Board

Under 5 U.S. C. 4314(c)(l)–(5), and in accordance with regulations prescribed by the Office of Personnel Management, each agency is required to establish one or more Senior Executive Service (SES) performance review boards. The purpose of these boards is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. The current members of the Council of the Inspectors General on Integrity and Efficiency Performance Review Board, as of October I, 2014, are as follows:

Agency for International Development

Phone Number: (202) 712–1150

CIGIE Liaison—Marcelle Davis (202) 712–1150

Michael G. Carroll—Acting Inspector General.

Lisa Risley—Assistant Inspector General for Investigations.

Melinda Dempsey—Deputy Assistant Inspector General for Audit.

Lisa McClennon—Deputy Assistant Inspector General for Investigations.

Alvin A. Brown—Deputy Assistant Inspector General for Audit.

Lisa Goldfluss—Legal Counsel to the Inspector General.

Robert Ross—Assistant Inspector General for Management.

Department of Agriculture

Phone Number: (202) 720–8001

CIGIE Liaison—Dina J. Barbour (202) 720–8001

David R. Gray—Deputy Inspector General.

Christy A. Slamowitz—Counsel to the Inspector General.

Gilroy Harden—Assistant Inspector General for Audit.

Rodney G. DeSmet—Deputy Assistant Inspector General for Audit.

Steven H. Rickrode, Jr.—Deputy Assistant Inspector General for Audit.

Karen L. Ellis—Assistant Inspector General for Investigations.

Ann M. Coffey—Deputy Assistant Inspector General for Investigations.

Lane M. Timm—Assistant Inspector General for Management.

Department of Commerce

Phone Number: (202) 482–4661

CIGIE Liaison—Clark Reid (202) 482–4661

Morgan Kim—Deputy Inspector General and Assistant Inspector General for Investigations.

Andrew Katsaros—Principle Assistant Inspector General for Audit and Evaluation—Acting.

Ann Eilers—Assistant Inspector General for Administration—Acting.

Department of Defense

Phone Number: (703) 604–8324

CIGIE Liaison—David Gross (703) 604–8324

Daniel R. Blair—Deputy Inspector General for Auditing.

James B. Burch—Deputy Inspector General for Investigations.

Carol N. Gorman—Assistant Inspector General for Readiness and Cyber Operations.

Carolyn R. Davis—Assistant Inspector General for Audit Policy and Oversight.

Amy J. Frontz—Principal Assistant Inspector General for Auditing.

Marguerite C. Garrison—Deputy Inspector General for Administrative Investigations.

Lynne M. Halbrooks—Principal Deputy Inspector General.

James R. Ives—Assistant Inspector General for Investigations, Investigative Operations.

Kenneth P. Moorefield—Deputy Inspector General for Special Plans and Operations.

Henry C. Shelley Jr.—General Counsel.

Randolph R. Stone—Deputy Inspector General for Policy and Oversight.

Anthony C. Thomas—Deputy Inspector General for Intelligence and Special Program Assessments.

Ross W. Weiland—Assistant Inspector General for Investigations, Internal Operations.

Jacqueline L. Wicecarver—Assistant Inspector General for Acquisition, Parts, and Inventory.

Department of Education

Phone Number: (202)245–6900

CIGIE Liaison—Janet Harmon (202) 245–6076

Wanda Scott—Assistant Inspector General for Management Services.

Patrick Howard—Assistant Inspector General for Audit.

Bryon Gordon—Deputy Assistant Inspector General for Audit.

Charles Coe—Assistant Inspector General for Information Technology Audits and Computer Crime Investigations.

Marta Erceg—Counsel to the Inspector General.

Department of Energy

Phone Number: (202) 586–4393

CIGIE Liaison—Juston Fontaine (202) 586–1959

John Hartman—Deputy Inspector General for Investigations.

Rickey Hass—Deputy Inspector General for Audits and Inspections.

George Collard—Assistant Inspector General for Audits.

Daniel Weeber—Assistant Inspector General for Audits and Administration.

Sandra Bruce—Assistant Inspector General for Inspections.

Michael Milner—Assistant Inspector General for Investigations.
Tara Porter—Assistant Inspector General for Management and Administration.
Virginia Grebasch—Counsel to the Inspector General.

Environmental Protection Agency

Phone Number: (202) 566–0847
CIGIE Liaison—Jennifer Kaplan (202) 566–0918
Charles Sheehan—Deputy Inspector General.
Aracely Nunez-Mattocks—Chief of Staff to the Inspector General.
Patrick Sullivan—Assistant Inspector General for Investigations.
Patricia Hill—Assistant Inspector General for Mission Systems.
Carolyn Copper—Assistant Inspector General for Program Evaluation.
Alan Larsen—Counsel to the Inspector General and Assistant Inspector General for Congressional and Public Affairs.

Federal Maritime Commission

Phone Number: (202) 523–5863
CIGIE Liaison—Jon Hatfield (202) 523–5863
Jon Hatfield—Inspector General.

General Services Administration

Phone Number: (202) 501–0450
CIGIE Liaison—Sarah S. Breen (202) 219–1351
Robert C. Erickson—Deputy Inspector General.
Richard P. Levi—Counsel to the Inspector General.
Theodore R. Stehney—Assistant Inspector General for Auditing.
Nick Goco, Deputy Assistant Inspector General for Real Property Audits.
James P. Hayes, Deputy Assistant Inspector General for Acquisition Programs Audits.
Geoffrey Cherrington—Assistant Inspector General for Investigations.
Lee Quintyne—Deputy Assistant Inspector General for Investigations.
Stephanie E. Burgoyne—Assistant Inspector General for Administration.
Larry L. Gregg—Associate Inspector General.

Department of Health and Human Services

Phone Number: (202) 619–3148
CIGIE Liaison—Elise Stein (202) 619–2686
Joanne Chiedi—Principal Deputy Inspector General.
Paul Johnson Deputy Inspector General for Management and Policy.
Robert Owens, Jr.—Assistant Inspector General for Information Technology (Chief Information Officer).
Gary Cantrell—Deputy Inspector General for Investigations.
Tyler Smith—Assistant Inspector General for Investigations.
Les Mollie—Assistant Inspector General for Investigations.
Suzanne Martin—Deputy Inspector General for Evaluation and Inspections.
Greg Demske—Chief Counsel to the Inspector General.
Robert DeConti—Assistant Inspector General for Legal Affairs.
Gloria Jarmon—Deputy Inspector General for Audit Services.
Kay Daly—Assistant Inspector General for Audit Services.
Brian Ritchie—Assistant Inspector General for Audit Services.
Thomas Salmon—Assistant Inspector General for Audit Services.

Department of Homeland Security

Phone Number: (202) 254–4100
CIGIE Liaison—Erica Paulson (202) 254–0938
John Roth—Inspector General.
Russell Barbee—Assistant Inspector General for Management.
John Dupuy—Assistant Inspector General for Investigations.
D. Michael Beard—Assistant Inspector General for Integrity and Quality Oversight.
John Kelly—Assistant Inspector General for Emergency Management Oversight.
Anne L. Richards—Assistant Inspector General for Audits.
Wayne II. Salzgaber—Assistant Inspector General for Inspections.
Mark Bell—Deputy Assistant Inspector General for Audits.
John E. McCoy II—Deputy Assistant Inspector General for Audits.
Louise M. McGlathery—Deputy Assistant Inspector General for Management.
James P. Gaughran—Deputy Assistant Inspector General for Emergency Management Oversight.

Department of Housing and Urban Development

Phone Number: (202) 708–0430
CIGIE Liaison—Holley Miller (202) 402–2741
Joe Clarke—Assistant Inspector General for Investigations.
Lester Davis—Deputy Assistant Inspector General for Investigations.
Randy McGinnis—Assistant Inspector General for Audit.
Frank Rokosz—Deputy Assistant Inspector General for Audit.
John Buck—Deputy Assistant Inspector General for Audit.
Eddie Saffarinia—Assistant Inspector General for Management and Technology.

Department of the Interior

Phone Number: (202) 208–5745
CIGIE Liaison—Joann Gauzza (202) 208–5745
Mary L. Kendall—Deputy Inspector General.
Stephen Hardgrove—Chief of Staff.
Bernie Mazer—Senior Advisor.
Dave Brown—Associate Inspector General for Communication.
Kimberly Elmore Assistant Inspector General for Audits, Inspections and Evaluations.
Robert Knox—Assistant Inspector General for Investigations.
Bruce Delaplaine—General Counsel.
Roderick Anderson—Assistant Inspector General for Management.

Department of Justice

Phone Number: (202) 514–3435
CICIE Liaison—Jay Lerner (202) 514–3435
Cynthia Schnedar—Deputy Inspector General.
William M. Blier—General Counsel.
Raymond J. Beaudet—Assistant Inspector General for Audit.
Carol F. Ochoa—Assistant Inspector General for Oversight and Review.
Gregory T. Peters—Assistant Inspector General for Management and Planning.
George L. Dorsett—Assistant Inspector General for Investigations.
Nina Pelletier—Assistant Inspector General for Evaluation and Inspections.
Eric Johnson—Deputy Assistant Inspector General for Investigations.

Department of Labor

Phone Number: (202) 693–5100
CIGIE Liaison—Luiz Santos (202) 693–7062
Howard Shapiro—Counsel to the Inspector General.
Elliot P. Lewis—Assistant Inspector General for Audit.
Debra D. Pettitt—Deputy Assistant Inspector General for Audit.
Lester Fernandez—Assistant Inspector General for Labor Racketeering and Fraud Investigations.
Richard S. Clark II—Deputy Assistant Inspector General for Labor Racketeering and Fraud Investigations.

National Aeronautics and Space Administration

Phone Number: (202) 358–1220
CIGIE Liaison—Renee Juhans (202) 358–1712
Gail Robinson—Deputy Inspector General.
Frank LaRocca—Counsel to the Inspector General.
Kevin Winters—Assistant Inspector General for Investigations.
James Morrison—Assistant Inspector General for Audits.

Hugh Hurwitz—Assistant Inspector General for Management and Planning.

National Endowment for the Arts

Phone Number: (202) 682–5774
CIGIE Liaison—Tonie Jones (202) 682–5402
Tonie Jones—Inspector General.

National Science Foundation

Phone Number: (703) 292–7100
CIGIE Liaison—Susan Carnohan (703) 292–5011 and Maury Pully (703) 292–5059
Brett M. Baker—Assistant Inspector General for Audit.
Alan Boehm—Assistant Inspector General for Investigations.
Kenneth Chason—Counsel to the Inspector General.

Nuclear Regulatory Commission

Phone Number: (301) 415–5930
CIGIE Liaison—Deborah S. Huber (301) 415–5930
David C. Lee—Deputy Inspector General.
Stephen D. Dingbaum—Assistant Inspector General for Audits.
Joseph A. McMillan—Assistant Inspector General for Investigations.

Office of Personnel Management

Phone Number: (202) 606–1200
CIGIE Liaison—Joyce D. Price (202) 606–2156
Norbert E. Vint—Deputy Inspector General.
Terri Fazio—Assistant Inspector General for Management.
Michael R. Esser—Assistant Inspector General for Audits.
Michelle B. Schmitz—Assistant Inspector General for Investigations.
Kimberly A. Howell—Deputy Assistant Inspector General for Investigations.
Melissa D. Brown—Deputy Assistant Inspector General for Audits.
Lewis F. Parker—Deputy Assistant Inspector General for Audits.
Jeffrey E. Cole—Senior Advisor to the Assistant Inspector General for Audits.

Peace Corps

Phone Number: (202) 692–2900
CIGIE Liaison—Joaquin Ferrao (202) 692–2921
Kathy Buller—Inspector General (Foreign Service).

United States Postal Service

Phone Number: (703) 248–2100
CIG1E Liaison—Agapi Doulaveris (703) 248–2286
Elizabeth Martin—General Counsel.
Gladis Griffith—Deputy General Counsel.
Mark Duda—Assistant Inspector General for Audits.
Larry Koskinen—Chief Technology Officer.
Thomas Frost—Deputy Assistant Inspector General for Investigations.

Railroad Retirement Board

Phone Number: (312) 751–4690
CIGIE Liaison—Jill Roellig (312) 751–4993
Patricia A. Marshall—Counsel to the Inspector General.
Louis Rossignuolo—Assistant Inspector General for Investigations.

Small Business Administration

Phone Number: (202) 205–6586
CIGIE Liaison—Robert F. Fisher (202) 205–6583 and Sheldon R. Shoemaker (202) 205–0080
Robert A. Westbrooks—Deputy Inspector General.
Glenn P. Harris—Counsel to the Inspector General.
Daniel J. O'Rourke—Assistant Inspector General for Investigations.
Robert F. Fisher—Assistant Inspector General for Management and Policy.

Social Security Administration

Phone Number: (410) 966–4385
CIGIE Liaison—Kristin Klima (202) 358–6319
Rona Lawson—Deputy Assistant Inspector General for Audit.
B. Chad Bungard—Counsel to the Inspector General.
Michael Robinson—Assistant Inspector General for Investigations.
Kelly Bloyer—Assistant Inspector General for Technology and Resource Management.

Special Inspector General for Troubled Asset Relief Program

Phone Number: (202) 622–1419
CIGIE Liaison—(202) 622–2658
Peggy Ellen—Deputy Special Inspector General.
Scott Rebein—Deputy Special Inspector General, Investigations.
Roderick Fillinger—General Counsel.
Cathy Alix—Deputy Special Inspector General, Operations.
Bruce Gimbel—Deputy Special Inspector General, Audit and Evaluations.

Department of State and the Broadcasting Board of Governors

Phone Number: (703) 284–2619
CIGIE Liaison—Cynthia Saboe (202) 663–0378
Emilia DiSanto—Deputy Inspector General.
Erich O. Hart—General Counsel.
Norman P. Brown—Assistant Inspector General for Audits.
Karen J. Ouzts—Assistant Inspector General for Management.
Robert B. Peterson—Assistant Inspector General for Inspections.

Department of Transportation

Phone Number: (202) 366–1959
CIGIE Liaison—Nathan P. Richmond: (202) 493–0422
Calvin L. Scovel III—Inspector General.
Ann M. Calvaresi Barr—Deputy Inspector General.
Brian A. Dettelbach—Assistant Inspector General for Legal, Legislative, and External Affairs.
Timothy M. Barry—Principal Assistant Inspector General for Investigations.
William Owens—Deputy Assistant Inspector General for Investigations.
Lou E. Dixon—Principal Assistant Inspector General for Auditing and Evaluation.
Joseph W. Comé—Deputy Principal Assistant Inspector General for Auditing and Evaluation.
Matthew E. Hampton—Assistant Inspector for Aviation Audits.
Louis King—Assistant Inspector General for Information Technology and Financial Management Audits.
Mitchell L. Behm—Assistant Inspector General for Surface Transportation Audits.
Thomas Yatsco—Assistant Inspector General for Surface Transportation Audits.
Mary Kay Langan-Feirson—Assistant Inspector General for Acquisition and Procurement Audits.

Department of the Treasury

Phone Number: (202) 622–1090
CIGIE Liaison—Susan G. Marshall (202) 927–9842
Richard K. Delmar—Counsel to the Inspector General.
Tricia L. Hollis—Assistant Inspector General for Management.
Marla A. Freedman—Assistant Inspector General for Audit.
Robert A. Taylor—Deputy Assistant Inspector General for Audit (Program Audits).
John L. Phillips—Assistant Inspector General for Investigations.
Donna F. Joseph—Assistant Inspector General for Financial Management, Information Technology, and Financial Assistance Audit.

Treasury Inspector General for Tax Administration/Department of the Treasury

Phone Number: (202) 622–6500
CIGIE Liaison—Michael Raschiatore (202) 927–0172
Michael A Phillips—Acting Principal Deputy Inspector General.
Timothy Camus—Deputy Inspector General for Investigations.

David Holmgren—Deputy Inspector General for Inspections and Evaluations.

Michael McKenney—Deputy Inspector General for Audit.

Michael Delgado—Assistant Inspector General for Investigations.

Greg Kutz—Assistant Inspector General for Audit (Management Services & Exempt Organizations).

James Jackson—Deputy Assistant Inspector General for Investigations.

Randy Silvis—Deputy Assistant Inspector General for Investigations.

Gladys Hernandez—Chief Counsel.

George Jakabcin—Chief Information Officer.

Department of Veterans Affairs

Phone Number: (202) 461–4720

CIGIE Liaison—Joanne Moffett (202) 461–4720

Maureen T. Regan—Counselor to the Inspector General.

James O'Neill—Assistant Inspector General for Investigations.

Quentin G. Aucoin—Deputy Assistant Inspector General for Investigations (Field Operations).

Linda A. Halliday—Assistant Inspector General for Audits and Evaluations.

Sondra F. McCauley—Deputy Assistant Inspector General for Audits and Evaluations (FIQs Management and Inspections).

Gary K. Abe—Deputy Assistant Inspector General for Audits and Evaluations (Field Operations).

Dana Moore—Assistant Inspector General for Management and Administration.

Jason R. Woodward—Deputy Assistant Inspector General for Management and Administration.

John D. Daigh—Assistant Inspector General for Healthcare Inspections.

Dated: August 22, 2014.

Mark D. Jones,

Executive Director.

[FR Doc. 2014–20597 Filed 9–3–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (Judicial Proceedings Panel); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Judicial Proceedings since Fiscal Year 2012 Amendments Panel (''the Judicial Proceedings Panel'' or ''the Panel''). The meeting is open to the public.

DATES: A meeting of the Judicial Proceedings Panel will be held on Friday, September 19, 2014. The Public Session will begin at 8:45 a.m. and end at 5:00 p.m.

ADDRESSES: The Holiday Inn, Glebe and Fairfax Ballrooms, 4610 N. Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Carson, Judicial Proceedings Panel, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, VA 22203. Email: *julie.k.carson.civ@mail.mil.* Phone: (703) 693–3849. Web site: *http://jpp.whs.mil.*

SUPPLEMENTARY INFORMATION: This public meeting is being held 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.

Purpose of the Meeting: At this meeting, the Judicial Proceedings Panel will deliberate on the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), Section 576(a)(2) requirement to conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice involving adult sexual assault and related offenses since the amendments made to the Uniform Code of Military Justice by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81; 125 Stat. 1404), for the purpose of developing recommendations for improvements to such proceedings. The Panel is interested in written and oral comments from the public, including non-governmental organizations, relevant to this tasking.

Agenda:

- 8:30 a.m.–8:45 a.m. Administrative Session (41 CFR § 160(b), closed to the public)
- 8:45 a.m.–10:00 a.m. Assessing Article 120 of the UCMJ—*Speakers: Military and Civilian experts*
- 10:00 a.m.–12:00 p.m. Prosecution and Defense of Article 120 Offenses—*Speakers: Military Special Victim Prosecutors, Military Trial Counsel, and Military Senior Defense Counsel*
- 12:00 p.m.–12:30 p.m. Lunch
- 12:30 p.m.–1:30 p.m. Congressional and Victim Input Regarding Potential Changes to Article 120 of the UCMJ—*Speakers: Member(s) of Congress and victim(s)*
- 1:30 p.m.–3:30 p.m. Prosecuting Abuse of Power Offenses under the UCMJ—*Speakers: Staff Judge Advocates and/or Chiefs of Military Justice and other military personnel from Training Installations*
- 3:30 p.m.–4:45 p.m. Service Perspectives on Prosecution of Article 120 Offenses—*Speakers: Military Service Chiefs of Criminal Law*
- 4:45 p.m.–5:00 p.m. Public Comment

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the September 19, 2014 meeting, as well as other materials presented in the meeting, may be obtained at the meeting or from the Panel's Web site at *http://jpp.whs.mil.*

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Julie Carson at *julie.k.carson.civ@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by Ms. Julie Carson at least five (5) business days prior to the meeting date so that they may be made available to the Judicial Proceedings Panel for their consideration prior to the meeting. Written comments should be submitted via email to Ms. Carson at *julie.k.carson.civ@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Judicial Proceedings Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted along with a request to provide an oral statement. Oral presentations by members of the public will be permitted between 4:45 p.m. and 5:00 p.m. on September 19, 2014, in front of the Panel. The number of oral presentations to be made will depend on the number of requests

received from members of the public on a first-come basis. After reviewing the requests for oral presentation, the Chairperson and the Designated Federal Officer will, having determined the statement to be relevant to the Panel's mission, allot five minutes to persons desiring to make an oral presentation.

Committee's Designated Federal Officer: The Board's Designated Federal Officer is Ms. Maria Fried, Judicial Proceedings Panel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Dated: August 29, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–21040 Filed 9–3–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Uniform Formulary Beneficiary Advisory Panel; Notice of Federal Advisory Committee Meeting

AGENCY: Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce a Federal Advisory Committee meeting of the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as the Panel).

DATES: Thursday, September 25, 2014, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Col J. Michael Spilker, DFO, Uniform Formulary Beneficiary Advisory Panel, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101. Telephone: (703) 681–2890. Fax: (703) 681–1940. Email Address: *Baprequests@dha.mil.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (Title 5, United States Code (U.S.C.), Appendix, as amended) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended).

Purpose of Meeting: The Panel will review and comment on recommendations made to the Director of Defense Health Agency, by the Pharmacy and Therapeutics Committee, regarding the Uniform Formulary.

Meeting Agenda

1. Sign-In
2. Welcome and Opening Remarks
3. Public Citizen Comments
4. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item)
   a. Targeted Immunomodulatory Biologics
5. Designated Newly Approved Drugs in Already-Reviewed Classes
6. Pertinent Utilization Management Issues
7. Panel Discussions and Vote

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 Code of Federal Regulations (CFR) 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing-in. All persons must sign-in legibly.

Administrative Work Meeting: Prior to the public meeting, the Panel will conduct an Administrative Work Meeting from 8:00 a.m. to 9:00 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue NW., Washington, DC 20004. Pursuant to 41 CFR 102–3.160, the Administrative Work Meeting will be closed to the public.

Written Statements: Pursuant to 41 CFR 102–3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer (DFO). The DFO's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database at *http://facadatabase.gov/.* Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than 5 business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Public Comments: In addition to written statements, the Panel will set aside 1 hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice; but if they still want to address the Panel, then they will be afforded the opportunity to register to address the Panel. The Panel's DFO will have a ''Sign-Up Roster'' available at the Panel meeting for registration on a first-come, first-serve basis. Those wishing to address the Panel will be given no more than 5 minutes to present their comments, and at the end of the 1 hour time period, no further public comments will be accepted. Anyone who signs-up to address the Panel, but is unable to do so due to the time limitation, may submit their comments in writing; however, they must understand that their written comments may not be reviewed prior to the Panel's deliberation.

To ensure timeliness of comments for the official record, the Panel encourages that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: August 28, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–20978 Filed 9–3–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Visitors of Marine Corps University

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: The Board of Visitors of the Marine Corps University will meet to review, develop and provide recommendations on all aspects of the academic and administrative policies of the University; examine all aspects of professional military education operations; and provide such oversight and advice, as is necessary, to facilitate high educational standards and cost effective operations. The Board will be focusing primarily on the internal procedures of Marine Corps University. All sessions of the meeting will be open to the public.

DATES: The meeting will be held on Thursday, October 2, 2014 from 1:00 p.m. until 4:30 p.m. and Friday, October 3, 2014 from 8:00 a.m. until 1:00 p.m.

ADDRESSES: The meeting will be held at the Marine Corps University in Quantico, Virginia. The address is: 2076 South Street, Marine Corps University, Quantico, Virginia 22134–5068.

FOR FURTHER INFORMATION CONTACT: Dr. Kimberly Florich, Faculty Development and Outreach Coordinator, Marine

Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, telephone number 703–432–4682.

Dated: August 26, 2014.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–21031 Filed 9–3–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0128]

Agency Information Collection Activities; Comment Request; Federal Family Educational Loan Program (FFEL) Administrative Requirements for States, Not-For-Profit Lenders, and Eligible Lender Trustees

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 to the current information collection.

DATES: Interested persons are invited to submit comments on or before November 3, 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–0128 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 Beth Grebeldinger, 202–377–4018.

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: Federal Family Educational Loan Program (FFEL)—Administrative Requirements for States, Not-For-Profit Lenders, and Eligible Lender Trustees.

OMB Control Number: 1845–0085.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private sector, State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 69.

Total Estimated Number of Annual Burden Hours: 69.

Abstract: This request is for an extension of the current paperwork collection OMB #1845–0085 for the reporting requirement contained in the regulations for States, not-for-profit lenders and eligible lender trustees under 34 CFR 682.302 for the Federal Family Education Loan (FFEL) Program. The regulations in 34 CFR 682.302(f) assure the Secretary that the integrity of the program is protected from fraud and misuse of the program funds. These regulations require a State, non-profit entity, or eligible lender trustee to provide to the Secretary a certification on the State or non-profit entity's letterhead signed by the State or non-profit's Chief Executive Officer which states the basis upon which the entity meets the requirements. The submission must include the name and lender identification number(s) for which the eligible not-for profit designation is being certified. Once an entity is approved it must provide an annual recertification notice identifying the name and lender identification number(s) for which designation is being requested.

Dated: August 28, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–20942 Filed 9–3–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–1202–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Compliance filing per 154.203: Tariff Waiver—ROFR Posting to be effective N/A.

Filed Date: 8/26/14.

Accession Number: 20140826–5055.

Comments Due: 5 p.m. ET 9/8/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 27, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–20969 Filed 9–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–129–000.
Applicants: Lexington Power and Light, LLC.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Lexington Power and Light, LLC.
Filed Date: 8/26/14.
Accession Number: 20140826–5090.
Comments Due: 5 p.m. ET 9/16/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1969–002.
Applicants: Public Service Company of Colorado.
Description: Tariff Amendment per 35.17(b): 2014–8–26 Wind Integration Amnd Filing to be effective 1/1/2015.
Filed Date: 8/26/14.
Accession Number: 20140826–5087.
Comments Due: 5 p.m. ET 9/16/14.
Docket Numbers: ER14–2700–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): WMPA No. 3916, Queue No. Z2–020, Between PJM, Limelakes Energy, and ATSI to be effective 7/29/2014.
Filed Date: 8/25/14.
Accession Number: 20140825–5144.
Comments Due: 5 p.m. ET 9/15/14.
Docket Numbers: ER14–2701–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–8–26 Solar Star E&P–382–0.0.0 to be effective 8/18/2014.
Filed Date: 8/26/14.
Accession Number: 20140826–5000.
Comments Due: 5 p.m. ET 9/16/14.
Docket Numbers: ER14–2702–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amended CLGIA & Distribution Service Agreement for Portal Ridge Solar Project to be effective 10/26/2014.
Filed Date: 8/26/14.
Accession Number: 20140826–5001.
Comments Due: 5 p.m. ET 9/16/14.
Docket Numbers: ER14–2703–000.
Applicants: EDP Renewables North America LLC.
Description: Petition for Limited Waiver of Tariff Provision and Request for Expedited Action of EDP Renewables North America LLC.
Filed Date: 8/25/14.
Accession Number: 20140825–5180.
Comments Due: 5 p.m. ET 9/15/14.
Docket Numbers: ER14–2704–000.
Applicants: Louisville Gas and Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2nd Amd and Rstd Reliability Coordination Agmt to be effective 9/1/2014.
Filed Date: 8/26/14.
Accession Number: 20140826–5021.
Comments Due: 5 p.m. ET 9/16/14.
Docket Numbers: ER14–2706–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–08–26 SA 2689 NIPSCO-ComEd Facilities Upgrade Agreement to be effective 8/27/2014.
Filed Date: 8/26/14.
Accession Number: 20140826–5086.
Comments Due: 5 p.m. ET 9/16/14.
Docket Numbers: ER14–2707–000.
Applicants: Mammoth Plains Wind Project, LLC.
Description: Baseline eTariff Filing per 35.1: Mammoth Plains Wind Project, LLC MBR Application to be effective 9/19/2014.
Filed Date: 8/26/14.
Accession Number: 20140826–5094.
Comments Due: 5 p.m. ET 9/16/14.
Docket Numbers: ER14–2708–000.
Applicants: Seiling Wind, LLC.
Description: Baseline eTariff Filing per 35.1: Seiling Wind, LLC MBR Application to be effective 10/1/2014.
Filed Date: 8/26/14.
Accession Number: 20140826–5095.
Comments Due: 5 p.m. ET 9/16/14.
Docket Numbers: ER14–2709–000.
Applicants: Seiling Wind II, LLC.
Description: Baseline eTariff Filing per 35.1: Seiling Wind II, LLC MBR Application to be effective 10/1/2014.
Filed Date: 8/26/14.
Accession Number: 20140826–5096.
Comments Due: 5 p.m. ET 9/16/14.
Docket Numbers: ER14–2710–000.
Applicants: Palo Duro Wind Energy, LLC.
Description: Baseline eTariff Filing per 35.1: Palo Duro Wind Energy, LLC MBR Application to be effective 10/7/2014.
Filed Date: 8/26/14.
Accession Number: 20140826–5097.
Comments Due: 5 p.m. ET 9/16/14.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD14–4–000.
Applicants: North American Electric Reliability Corp.
Description: Petition of the North American Electric Reliability Corporation for Approval of Errata to Interchange Scheduling and Coordination Reliability Standards.
Filed Date: 8/22/14.
Accession Number: 20140822–5192.
Comments Due: 5 p.m. ET 9/25/14.
Docket Numbers: RD14–12–000.
Applicants: North American Electric Reliability Corp.
Description: Petition of the North American Electric Reliability Corporation for Approval of Proposed Reliability Standards for Facility Connection Requirements FAC–001–2 and FAC–002–2.
Filed Date: 8/22/14.
Accession Number: 20140822–5193.
Comments Due: 5 p.m. ET 9/25/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 26, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–20968 Filed 9–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–97–000]

Public Service Company of Colorado; Notice of Petition for Declaratory Order

Take notice that on August 26, 2014, pursuant to Rule 207(a) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2), Public Service Company of Colorado filed a petition for an order declaring: (i) The attempt of the City of Boulder, Colorado

to condemn (PSCo's) transmission facilities and associated substations requires prior approval by the Commission under Federal Power Act section 203, 16 U.S.C. 824b; (ii) the Commission, when exercising its section 203 jurisdiction, will apply its longstanding criteria that consider, *inter alia,* the effect of the proposed transfer on rates, regulation and other relevant factors; and (iii) the Commission's exercise of its section 203 jurisdiction does not diminish the authority of the Colorado Public Utilities Commission with respect to the condemnation.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC.

There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 25, 2014.

Dated: August 27, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–20971 Filed 9–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–94–000]

PJM Interconnection, L.L.C.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On August 25, 2014, the Commission issued an order in Docket No. EL14–94–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the provisions for calculating Projected PJM Market Revenues in the determination of Market Seller Offer Caps within PJM Interconnection, L.L.C.'s Open Access Transmission Tariff has become unjustness and unreasonable. *PJM Interconnection, L.L.C.,* 148 *FERC* ¶ 61,140 (2014).

The refund effective date in Docket No. EL14–94–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register.**

Dated: August 27, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–20970 Filed 9–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Robert D. Willis Power Rate

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has prepared Current and Revised 2014 Power Repayment Studies for the Robert D. Willis project which show the need for an increase in annual revenues to meet cost recovery criteria. Such increased revenues are needed primarily to cover the costs associated with increased investments and replacements in the hydroelectric generating facilities and increased operations and maintenance costs. The Administrator of Southwestern has developed a proposed Robert D. Willis Rate Schedule, which is supported by power repayment studies, to recover the required revenues. The Revised 2014 Power Repayment Study indicates that the proposed Rate Schedule would increase annual revenues approximately 10.2 percent from $1,072,332 to $1,181,496 effective January 1, 2015 through September 30, 2018.[1]

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end on October 20, 2014. If requested, a combined Public Information and Comment Forum (Forum) will be held in Tulsa, Oklahoma at 9:00 a.m. on October 8, 2014. Persons desiring the Forum to be held must send a written request for such Forum to the Acting Vice President, Chief Operating Officer (see **FOR FURTHER INFORMATION CONTACT**) by September 11, 2014. If no request is received, the Forum will not be held.

ADDRESSES: If requested, the Forum will be held in Southwestern's offices, Room 1460, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Tracey Stewart, Acting Vice President, Chief Operating Officer, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6677, *tracey.stewart@swpa.gov.*

SUPPLEMENTARY INFORMATION: Originally established by Secretarial Order No. 1865 dated August 31, 1943, Southwestern is an agency within the U.S. Department of Energy (DOE) created by the Department of Energy Organization Act, Public Law 95–91, dated August 4, 1977.

Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers (Corps). These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana. The costs associated with the hydropower facilities of 22 of the 24 projects are repaid via revenues received under the Integrated System rates, as are those of Southwestern's transmission facilities, which consist of 1,380 miles of high-voltage transmission lines, 25 substations, and 46 microwave and VHF radio sites. Costs associated with the Sam Rayburn and Robert D. Willis Dams, two Corps projects that are isolated hydraulically, electrically, and financially from the Integrated System, are repaid by separate rate schedules.

Following DOE guidelines, Southwestern prepared a 2014 Current

[1] FERC on April 29, 2013 confirmed and approved the existing Robert D. Willis rate for the period October 1, 2012 through September 30, 2016. See 143 FERC ¶ 62,067.

Power Repayment Study using the existing Robert D. Willis Rate Schedule.[2] Guidelines for preparation of power repayment studies are included in DOE Order No. RA 6120.2 entitled Power Marketing Administration Financial Reporting. This study indicates that Southwestern's legal requirement to repay the investment in the power generating facility for power and energy marketed by Southwestern will not be met without an increase in revenues. The need for increased revenues is primarily due to increased investments and replacements in Corps hydroelectric generating facilities and a slight increase in the costs associated with operations and maintenance. The 2014 Revised Power Repayment Study shows that additional annual revenues of $109,164 (a 10.2 percent increase) are needed to satisfy repayment criteria.

Because of concerns expressed by Southwestern's customers during the development of the 2014 Power Repayment Studies regarding the magnitude of the proposed increase, Southwestern is proposing to increase revenue in two steps over a two-year period. Because Southwestern's current rates are sufficient to recover all average operation and maintenance expenses during the next two years, the ability to meet both annual and long-term repayment criteria is satisfied by increasing revenues in two steps over the period.

The first step of the rate increase, beginning January 1, 2015, would incorporate one half of the required revenue or 5.1 percent ($54,582). The second step of the rate increase, beginning October 1, 2015, and ending on September 30, 2018, would incorporate the remaining one half of the revenue requirement ($54,582 or 5.1 percent). Southwestern will continue to perform its Power Repayment Studies annually, and if the 2015 results should indicate the need for additional revenues, another rate filing will be conducted and updated revenue requirements implemented for FY 2016 and thereafter.

Procedures for public participation in power and transmission rate adjustments of the Power Marketing Administrations are found at title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR part 903). Southwestern's customers and other interested parties may request copies of the 2014 Robert D. Willis Power Repayment Studies and the proposed Rate Schedule. Submit requests to the Director, Division of Resources and Rates, Office of Corporate Operations, Southwestern Power Administration, One West Third, Tulsa, OK 74103, (918) 595–6684 or via email to *swparates@swpa.gov.*

If requested a Public Information and Comment Forum (Forum) will be held on October 8, 2014, to explain to customers and interested parties the proposed Rate Schedule and supporting 2014 Power Repayment Studies, and to allow for comment. A chairman, who will be responsible for orderly procedure, will conduct the Forum if requested. Questions concerning the rates, studies, and information presented at the Forum will be answered, to the extent possible, at the Forum. Questions not answered at the Forum will be answered in writing. Questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices.

Persons requesting that a Forum be held should indicate in writing to the Acting Vice President and Chief Operating Officer (see **FOR FURTHER INFORMATION CONTACT**) by letter, email, or facsimile transmission (918–595–6687) by September 11, 2014, their request for such a Forum. If no request is received, no such Forum will be held. Persons interested in speaking at the Forum, if held, should submit a request to the Acting Vice President and Chief Operating Officer, Southwestern, at least seven (7) calendar days prior to the Forum so that a list of forum participants can be developed. The chairman may allow others to speak if time permits.

A transcript of the Forum, if held, will be made. Copies of the transcript and all documents introduced will be available for review at Southwestern's offices (see **ADDRESSES**) during normal business hours. Copies of the transcript and all documents introduced may also be obtained, for a fee, from the transcribing service. A copy of all written comments or an electronic copy in MS Word on the proposed Robert D. Willis Rate Schedule is due on or before October 20, 2014. Comments should be submitted to the Acting Vice President and Chief Operating Officer, Southwestern, (see **FOR FURTHER INFORMATION CONTACT**).

Procedures for the confirmation and approval of rates for the Federal Power Marketing Administrations are found at title 18, part 300, subpart L of the Code of Federal Regulations (18 CFR part 300). The Administrator will review and consider oral and written comments and the information gathered in the course of the proceeding when submitting the finalized Robert D. Willis Power Repayment Studies and Rate Schedule Proposal in support of the proposed rate to the Deputy Secretary of Energy for confirmation and approval on an interim basis, and subsequently to the Federal Energy Regulatory Commission for confirmation and approval on a final basis. Once submitted for final confirmation and approval, the Commission will allow the public an opportunity to provide written comments on the proposed rate increase before making a final decision.

Dated: August 27, 2014.

Christopher M. Turner,

Administrator.

[FR Doc. 2014–21107 Filed 9–3–14; 8:45 am]

BILLING CODE 6450–01–P

[2] FERC, on April 29, 2013, confirmed and approved the existing Robert D. Willis rate schedule for the period October 1, 2012 through September 30, 2016. See 143 FERC ¶ 62,067.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0878.1; FRL–9916–15–OW]

Notice of Public Meeting and Webinar: Distribution System Storage Facility Inspection and Cleaning

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Office of Ground Water and Drinking Water announces a public meeting and webinar on Distribution System Storage Facility Inspection and Cleaning. The purpose of the meeting and webinar is to gather input and information from the public and stakeholders on distribution system water storage facility inspection and cleaning and other risk management approaches to help maintain facility integrity and finished water quality. The presenters and panelists will provide background information concerning storage facility inspection and cleaning, existing state programs and available guidance documents. Opportunity for public comment will be provided as described in the **SUPPLEMENTARY INFORMATION** section.

DATES: The public meeting and webinar will be held on Wednesday, October 15, 2014, from 12 p.m. to 5 p.m., Eastern Time. Persons wishing to attend the meeting in-person or online via webinar must register by October 8, 2014, as described in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: The public meeting will be held at The Cadmus Group, Inc., third floor conference room located at 1555 Wilson Blvd., Suite 300, Arlington, VA

22209. All attendees must show government-issued photo identification (e.g., a driver's license) when signing in. This meeting will also be simultaneously broadcast as a webinar, available on the Internet.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to receive further information about the meeting and webinar or have questions about this notice should contact Sean Conley, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC 4607M), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–1781; email address: *conley.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How may I participate in this meeting/webinar?

Persons wishing to attend the meeting in person or online via the webinar must register in advance no later than 5 p.m., Eastern Time on October 8, 2014, by sending an email to: *SFIWebinar@cadmusgroup.com.* The agenda for the public meeting and webinar will include time for public involvement. To ensure adequate time for public involvement, individuals or organizations interested in making a statement should mention their interest when they register. All presentation materials should be emailed to *SFIWebinar@cadmusgroup.com* by October 8, 2014, so that the information can be incorporated into the webinar. We ask that only one person present the statement on behalf of a group or organization, and that the statement be limited to five minutes. Any additional comments or written statements from attendees will be taken if time permits or can be sent to *SFIWebinar@cadmusgroup.com* after the public meeting and webinar. The number of seats and webinar connections available for the meeting is limited and will be available on a first-come, first-served basis.

B. How can I get a copy of the meeting/webinar materials?

The meeting materials will be sent by email to the registered attendees prior to the public meeting and webinar; copies will also be provided for attendees at the meeting. Meeting materials and information about registration and participation in the meeting and webinar can be found on the EPA's Distribution Systems Web page: *http://water.epa.gov/lawsregs/rulesregs/sdwa/tcr/distributionsystems.cfm.*

Special Accommodations: Individuals with disabilities who wish to attend the meeting in person can request special accommodations by contacting *SFIWebinar@cadmusgroup.com* no later than October 3, 2014, to give the EPA as much time as possible to process the request.

II. Background

In the **Federal Register** notice for the proposed Revisions to the Total Coliform Rule (75 FR 40926, July 14, 2010), the EPA requested comment on the value and cost of periodic distribution system storage tank inspection and cleaning. The EPA received comments regarding unsanitary conditions and contamination that can be found in storage facilities, which are not routinely inspected and cleaned, including breaches and accumulation of sediment, animals, insects and other contaminants. Some commenters suggested the need for a Federal regulation requiring systematic inspection and cleaning because the existing practices are not successful in all cases. Others suggested that regular sanitary surveys conducted by States and the adherence to existing industry guidance could resolve such issues. The comments can be reviewed in the docket for the rule at *http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OW-2008-0878-0283.* This meeting and webinar and the subsequent opportunity to submit comments are intended to collect more data and information about the frequency of distribution system water storage facility inspection and cleaning and the need for more or better risk management approaches.

Dated: August 25, 2014.

Eric Burneson,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 2014–21073 Filed 9–3–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections 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 November 3, 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: 3060–0310.

Title: Community Cable Registration, FCC Form 322.

Form Number: FCC Form 322.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 601 respondents and 601 responses.

Estimated Time per Response: 30 minutes.

Frequency of Response: One time and on occasion reporting requirements.

Total Annual Burden: 301 hours.

Total Annual Cost: $36,060.

Obligation To Respond: Required to obtain or retain benefits. The statutory

authority for this collection of information is contained in Sections 154(i), 303, 308, 309 and 621 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impacts.

Needs and Uses: Cable operators are required to file FCC Form 322 with the Commission prior to commencing operation of a community unit. FCC Form 322 identifies biographical information about the operator and system as well as a list of broadcast channels carried on the system. This form replaces the requirement that cable operators send a letter containing the same information.

OMB Control Number: 3060–0607.

Title: Section 76.922, Rates for Basic Service Tiers and Cable Programming Services Tiers.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and State, Local or Tribal Government.

Number of Respondents and Responses: 25 respondents; 25 respondents.

Estimated Time per Response: 12 hours.

Total Annual Burden: 300 hours.

Total Annual Cost: None.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need to confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 76.922(b)(5)(C) provides that an eligible small system that elects to use the streamlined rate reduction process must implement the required rate reductions and provide written notice of such reductions to local subscribers, the local franchising authority (''LFA''), and the Commission.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–20951 Filed 9–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission

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 November 3, 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: 3060–0161.

Title: Section 73.61, AM Directional Antenna Field Strength Measurements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 2,268 respondents and 2,268 responses.

Estimated Time per Response: 4–50 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 36,020 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.61 requires that each AM station using directional antennas to make field strength measurement as often as necessary to ensure proper directional antenna system operation. Stations not having approved sampling systems make field strength measurements every three months. Stations with approved sampling systems must take field strength measurements as often as necessary. Also, all AM stations using directional signals must take partial proofs of performance as often as necessary. The FCC staff used the data in field inspections/investigations. AM licensees with directional antennas use the data to ensure that adequate interference protection is maintained between stations and to ensure proper operation of antennas.

OMB Control Number: 3060–0703.

Title: Determining Costs of Regulated Cable Equipment and Installation, FCC Form 1205.

Form Number: FCC Form 1205.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,000 respondents; 6,000 responses.

Estimated Time per Response: 4–12 hours.

Frequency of Response: Recordkeeping requirement, Annual 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 Section 301(j) of the Telecommunications Act of

1996 and 623(a)(7) of the Communications Act of 1934, as amended.

Total Annual Burden: 52,000 hours.

Total Annual Cost: $1,800,000.

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: Information derived from FCC Form 1205 filings is used to facilitate the review of equipment and installation rates. This information is then reviewed by each cable system's respective local franchising authority. Section 76.923 records are kept by cable operators in order to demonstrate that charges for the sale and lease of equipment for installation have been developed in accordance with the Commission's rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–20950 Filed 9–3–14; 8:45 am]

BILLING CODE 6712–01–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 Communications 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 October 6, 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: 3060–0484.

Title: Section 4.9, Part 4 of the Commission's Rules Concerning Disruptions to Communications.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, not-for profit institutions.

Number of Respondents: Approximately 1,100 respondents; 15,444 responses per year.

Estimated Time per Response: No more than 2.5 hours per occurrence.

Frequency of Response: On occasion and annual reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 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 Burden: 29,870 hours.

Total Annual Cost: $0.

Privacy Impact Assessment: No impacts.

Nature and Extent of Confidentiality: Network Outage Reporting System (NORS) outage reports filed with the Commission pursuant to Part 4 of its rules are presumed confidential. The information in those filings may be shared with the Department of Homeland Security only under appropriate confidential disclosure provisions. Other persons seeking disclosure must follow the procedures delineated in 47 CFR 0.457 and 0.459 of the Commission's rules for requests for and disclosure of information. The revisions to this information collection require information to be transmitted to third parties, not to the FCC. Accordingly, the Commission cannot, and does not, guarantee confidentiality of information provided directly to public safety answering points (PSAPs). The revisions do not affect the confidential treatment of information provided directly to the FCC through NORS.

Needs and Uses: The Commission is seeking OMB approval for a revision of this information collection in order to obtain the full three year approval from OMB. The Commission is reporting a 223-hour increase in its previous annual burden estimates. The increase is due to adoption of FCC 13–158, a Report and Order establishing more specific outage notification obligations for Covered 911 Service Providers, which are the respondents subject to the revised requirements of this information collection.

Previous FCC rules required certain communications providers to notify PSAPs of 911 outages ''as soon as possible'' with ''all available information that may be useful.'' The revisions to this information collection respond to the derecho storm that struck the Midwest and Mid-Atlantic United States in June 2012, causing significant disruptions in 911 service. Through its inquiry into these 911 outages, the Commission learned that many PSAPs' efforts to restore service were complicated by inadequate information and ineffective communication by 911 service providers. Consequently, the Commission amended section 4.9 of its

rules to require more specific 911 outage notifications to PSAPs within specified time periods.

Under the new rule, Covered 911 Service Providers must notify PSAPs of outages that potentially affect 911 service within 30 minutes of discovering the outage and provide contact information such as a name, telephone number, and email for follow-up. Whenever additional material information becomes available, but no later than two hours after the initial contact, the Covered 911 Service Provider must communicate additional detail to the PSAP, including the nature of the outage, its best-known cause, the geographic scope of the outage, and the estimated time for repairs. Notifications must be transmitted by telephone and in writing via electronic means, unless the PSAP and service provider have agreed in advance to an alternative method. The new requirements apply only to entities defined as Covered 911 Service Providers under 47 CFR 12.4(a)(4), and outage reporting obligations for other entities remain unchanged.

The above revisions do not require information to be submitted to the FCC, but rather to third parties (i.e., PSAPs and other ''911 special facilities'') that experience 911 outages. While the amended rule will not result in new or different information submitted to the Commission, it will require Covered 911 Service Providers to transmit more specific information to PSAPs to improve their situational awareness and ability to respond to 911 outages. Such notifications are necessary because PSAP personnel depend on reliable 911 service to answer emergency calls and dispatch help when needed. When 911 service is compromised, PSAPs require prompt notification and useful information about the outage so that they may make alternate plans to reroute calls until service is restored. Many Covered 911 Service Providers indicate that they already collect the required outage information for internal use, and for submission to the FCC through required NORS reports. Therefore, the obligation to provide more specific outage notifications to PSAPs will not generally require collection of new or different information, only a more consistent effort to ensure that transmission of such information is timely and complete. These revisions do not affect the obligation to submit NORS outage reports to the FCC or the information that must be provided in NORS reports; these portions of the information collection have already been approved by OMB and have not changed since that approval.

OMB Control Number: 3060–0185.

Title: Section 73.3613, Filing of Contracts.

Form Number: N/A.

Type of Review: Revision of a currently collection.

Respondents: Business or other for profit entities; not-for-profit institutions.

Number of Respondents and Responses: 2,400 respondents and 2,400 responses.

Estimated Time per Response: 0.25 to 0.5 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Total Annual Burden: 975 hours.

Total Annual Costs: $135,000.

Privacy Act Impact Assessment: No impact(s).

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collections is contained in Section 154(i) and 303 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On April 15, 2014, the Commission released a Report and Order (79 FR 29009, May 20, 2014, FCC 14–28, rel. April 15, 2014) that adopted changes to 47 CFR 73.3613 and the FCC's attribution rules. Specifically, certain television joint sales agreements (''JSAs'') are now attributable under the Commission's attribution rules. As a result, television stations will now be required to file JSAs that result in attribution under the Commission's multiple ownership rules.

The revised Section 73.3613(d)(2) is as follows:

(2) Joint sales agreements: Joint sales agreements involving radio stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in 73.3555(a), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that licensee; joint sales agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local television multiple ownership rule contained in 73.3555(b), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that license. Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

The following information collection requirements will remain a part of this collection and they have not changed since last approved by the Office of Management and Budget (OMB):

47 CFR 73.3613 currently requires each licensee or permittee of a commercial or noncommercial AM, FM, TV or International broadcast station shall file with the FCC copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations (with the substance of oral contracts reported in writing), within 30 days of execution thereof:

(a) Network service: Network affiliation contracts between stations and networks will be reduced to writing and filed as follows:

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation.

(2) Each such filing on or after May 1, 1969, initially shall consist of a written instrument containing all of the terms and conditions of such contract, agreement or understanding without reference to any other paper or document by incorporation or otherwise. Subsequent filings may simply set forth renewal, amendment or change, as the case may be, of a particular contract previously filed in accordance herewith.

(3) The FCC shall also be notified of the cancellation or termination of network affiliations, contracts for which are required to be filed by this section.

(b) Ownership or control: Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control shall include but are not limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document or instrument providing for the assignment

of a license or permit, or affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or nonvoting), such as:

(i) Agreements for transfer of stock;

(ii) Instruments for the issuance of new stock; or

(iii) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Pledges, trust agreements, options to purchase stock and other executory agreements are required to be filed. However, trust agreements or abstracts thereof are not required to be filed, unless requested specifically by the FCC. Should the FCC request an abstract of the trust agreement in lieu of the trust agreement, the licensee or permittee will submit the following information concerning the trust:

(A) Name of trust;

(B) Duration of trust;

(C) Number of shares of stock owned;

(D) Name of beneficial owner of stock;

(E) Name of record owner of stock;

(F) Name of the party or parties who have the power to vote or control the vote of the shares; and

(G) Any conditions on the powers of voting the stock or any unusual characteristics of the trust.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of 1 year, and all proxies, whether or not running for a period of 1 year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted. However, when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1% or more of the corporation's voting stock. When the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are not officers or directors or do not hold 1% or more of the corporation's stock, the only information required to be filed is the name of any person voting 1% or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, or the maintenance of current assets.

(6) Any agreement reflecting a change in the officers, directors or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by § 73.3615.

(7) Agreements providing for the assignment of a license or permit or agreements for the transfer of stock filed in accordance with FCC application Forms 314, 315, 316 need not be resubmitted pursuant to the terms of this rule provision.

(c) Personnel: (1) Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee; station management contracts with any persons, whether or not officers, directors, or regular employees, which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: Agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d)(1) Time brokerage agreements (also known as local marketing agreements): Time brokerage agreements involving radio stations where the licensee (including all parties under common ownership) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in § 73.3555(a), and more than 15 percent of the time of the brokered station, on a weekly basis is brokered by that licensee; time brokerage agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both licensed to the same market as defined in the local television multiple ownership rule contained in § 73.3555(b), and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee; time brokerage agreements involving radio or television stations that would be attributable to the licensee under § 73.3555 Note 2, paragraph (i). Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

(e) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the television vertical blanking interval and in the visual signal; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–20952 Filed 9–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 07–260; DA 14–1202]

Media Bureau Grants Extension of Time To File Application for Review

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that the Media Bureau of the Federal Communications Commission granted the Motion for Extension of Time to File Application for Review filed by the Office of Communication of the United Church of Christ, et al. (Movants) in MB Docket 07–260.

DATES: Applications for Review are due October 8, 2014. Oppositions are due October 23, 2014. Replies are due November 3, 2014.

FOR FURTHER INFORMATION CONTACT: David Roberts, Video Division, Media Bureau, Federal Communications Commission, *David.Roberts@fcc.gov,* (202) 418–1618.

SUPPLEMENTARY INFORMATION: Movants filed a Motion for Extension of Time seeking an additional 30 days to file Applications for Review in WWOR–TV, et al., Memorandum Opinion and Order, MB Docket No. 07–260 (Aug. 8, 2014). For good cause shown, the Media Bureau, pursuant to delegated authority, granted the request. Applications for Review were originally due on September 8, 2014. Grant of the request makes them due on October 8, 2014. This proceeding is treated as ''permit but disclose'' for purposes of the Commission's ex parte rules. See generally 47 CFR 1.1200–1.1216. As a result of the permit-but-disclose status of this proceeding, ex parte presentations will be governed by the procedures set forth in § 1.1206 of the Commission's rules applicable to non-restricted proceedings.

All filings must reference MB Docket No. 07–260. In order to be considered part of the official record, filings must be made using: (1) The Commission's Electronic Comment Filing System (ECFS), or (2) by filing paper copies. Filings sent via email to the Commission that do not use the ECFS form described below will be considered informal and will not be part of the official record.

- *Electronic Filers:* Filings may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/*. Filers should follow the instructions provided on the Web site.
- For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: MB Docket No. 07–260. Parties may also submit an electronic filing by Internet email. To get filing instructions, filers should send an email to *ecfs@fcc.gov,* and include the following words in the body of the message: ''get form''. A sample form and instructions will be sent in response.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies 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 (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, 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. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.
- 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 mail, Express Mail, and Priority Mail must be addressed to 445 12th Street SW., Washington, DC 20554.

One copy of each filing must be sent to David Roberts, Media Bureau, Video Division, Room 2–A728, 445 12th Street SW., Washington, DC 20554 or *David.Roberts@fcc.gov.*

Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via email to *fcc@bcpiweb.com.*

Filings are available through ECFS and are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW., Room CY–A257, Washington, DC 20554, telephone (202) 418–0270. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th St. SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, or via email at *fcc@bcpiweb.com.* Alternate formats of this Public Notice (computer diskette, large print, audio recording, or Braille) are available to persons with disabilities by contacting the Consumer and Governmental Affairs Bureau at (202) 418–0530 or (202) 418–0432 (TTY).

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2014–20938 Filed 9–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 12–268; DA 14–759]

Wireless Telecommunications Bureau Provides Details About Partial Economic Areas

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Wireless Telecommunications Bureau provides details about Partial Economic Areas, which the Commission adopted as the service area for 600 MHz Band licenses. This document provides a list of the 416 Partial Economic Areas with their corresponding Economic Area and a list of counties with the corresponding Partial Economic Area.

FOR FURTHER INFORMATION CONTACT: Paul Malmud, Broadband Division, Wireless Telecommunications Bureau, at (202) 418–0006 or by email at *Paul.Malmud@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Wireless Telecommunications Bureau's public notice released on June 2, 2014, DA 14–759. Copies of the public notice and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via email at *fcc@bcpiweb.com.* The public notice and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text is also available on the Commission's Web site at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-14-759A1.docx.* 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).

Synopsis

1. In the *Incentive Auction Report and Order* (*See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,* GN Docket No. 12–268, Report and Order, FCC 14–50 (rel. June 2, 2014)), the Commission adopted Partial Economic Areas (PEAs) as the service area for 600 MHz Band licenses, with boundaries proposed by a coalition of wireless service providers (*See* Letters from C. Sean Spivey, Assistant General Counsel for CCA, Jill Canfield, Assistant General Counsel for NTCA, Caressa Bennet, General Counsel for RWA, and John A. Prendergast, Counsel to Blooston Rural Carriers (PEA Coalition), to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12–268 (filed Mar. 11, 2014 and Mar. 20, 2014)).

2. As directed by the Commission in the *Incentive Auction Report and Order,* this public notice provides a list of the

416 PEAs with their corresponding Economic Area and a list of counties showing the corresponding PEA. These lists are also available on the FCC's Web site: *http://www.fcc.gov/oet/info/maps/areas/.* The lists contained in the appendices retain the boundaries proposed by the PEA Coalition, but renumber the 416 PEAs to reflect rankings by population in the U.S., followed by the U.S. Territories and the Gulf of Mexico. The PEAs are named according to the largest city within each PEA.

Federal Communications Commission.

Roger Sherman,

Chief, Wireless Telecommunications Bureau.

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Appendix A

List of Partial Economic Areas with Corresponding Economic Areas

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
1	New York, NY	25,237,061	10
2	Los Angeles, CA	19,410,169	160
3	Chicago, IL	9,366,713	64
4	San Francisco, CA	9,027,937	163
5	Baltimore, MD-Washington, DC	7,842,134	13
6	Philadelphia, PA	7,587,252	12
7	Boston, MA	6,776,035	3
8	Dallas, TX	6,452,472	127
9	Miami, FL	6,291,880	31
10	Houston, TX	5,891,999	131
11	Atlanta, GA	5,435,312	40
12	Detroit, MI	5,137,479	57
13	Orlando, FL	4,562,642	30
14	Cleveland, OH	4,096,678	55
15	Phoenix, AZ	3,817,117	158
16	Seattle, WA	3,792,218	170
17	Minneapolis-St. Paul, MN	3,390,091	107
18	San Diego, CA	3,095,313	161
19	Portland, OR	3,022,643	167
20	Denver, CO	2,789,669	141
21	Tampa, FL	2,783,243	34
22	Sacramento, CA	2,722,415	164
23	Pittsburgh, PA	2,399,667	53
24	Saint Louis, MO	2,396,938	96
25	Cincinnati, OH	2,196,428	49
26	Las Vegas, NV	2,151,455	153
27	Salt Lake City, UT	2,142,152	152
28	San Antonio, TX	1,999,689	134
29	Jacksonville, FL	1,918,264	29
30	Kansas City, MO	1,810,075	99
31	Indianapolis, IN	1,769,011	67
32	Nashville, TN	1,748,445	71
33	Virginia Beach, VA	1,698,835	20
34	Fresno, CA	1,676,476	162
35	Austin, TX	1,628,809	130
36	New Orleans, LA	1,622,143	83
37	Columbus, OH	1,582,917	51
38	Milwaukee, WI	1,555,908	63
39	Oklahoma City, OK	1,446,527	125
40	Birmingham, AL	1,399,686	78
41	Syracuse, NY	1,371,959	6
42	Honolulu, HI	1,360,301	172
43	Charlotte, NC	1,327,006	23

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
44	Rochester, NY	1,316,146	7
45	Raleigh, NC	1,302,381	19
46	Little Rock, AR	1,275,690	90
47	Brownsville, TX	1,264,091	133
48	Harrisburg, PA	1,244,058	11
49	Albany, NY	1,222,542	5
50	Greenville, SC	1,220,968	41
51	Louisville, KY	1,194,260	70
52	Charleston, WV	1,191,822	48
53	Tucson, AZ	1,159,029	159
54	Buffalo, NY	1,135,509	8
55	Huntsville, AL	1,105,409	74
56	Kalamazoo, MI	1,095,827	62
57	Richmond, VA	1,080,661	15
58	Bloomington, IN	1,069,729	67
59	Memphis, TN	1,039,627	73
60	Manchester, NH	1,025,620	3
61	Toledo, OH	1,023,081	56
62	Dayton, OH	1,019,932	50
63	Tulsa, OK	969,078	124
64	South Bend, IN	954,029	65
65	Cape Coral, FL	940,274	32
66	Lansing, MI	922,885	57
67	Sarasota, FL	897,121	33
68	Grand Rapids, MI	866,423	62
69	Springfield, MA	861,286	10
70	Eugene, OR	859,318	166
71	Knoxville, TN	837,142	44
72	Tallahassee, FL	801,642	35
73	El Paso, TX	800,647	157
74	Chattanooga, TN	797,154	43
75	Albuquerque, NM	794,125	156
76	Reno, NV	786,501	151
77	Portland, ME	784,594	2
78	Greensboro, NC	781,289	18
79	Hattiesburg, MS	780,833	77
80	Omaha, NE	769,108	118
81	Saginaw, MI	767,362	57
82	Baton Rouge, LA	756,008	84
83	Fort Wayne, IN	748,680	66
84	Mobile, AL	724,956	80
85	Charleston, SC	703,499	26
86	Frankfort, KY	685,317	47
87	Pensacola, FL	684,856	81
88	Frederick, MD	678,674	13
89	Columbia, SC	646,895	24
90	Jackson, MS	646,279	77
91	Colorado Springs, CO	645,613	141
92	Decatur, IL	644,865	68

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
93	Lafayette, LA	638,768	85
94	Waco, TX	638,395	127
95	Bluefield, WV	631,120	47
96	Richmond, KY	620,049	47
97	Mankato, MN	617,663	107
98	Johnson City, TN	609,299	45
99	Tupelo, MS	599,462	75
100	Greenville, NC	571,905	21
101	Wichita, KS	564,245	122
102	Grand Junction, CO	562,340	141
103	Winchester, VA	556,408	13
104	Fort Collins, CO	552,455	141
105	Augusta, GA	552,150	27
106	Zanesville, OH	548,017	51
107	Bangor, ME	543,767	1
108	Des Moines, IA	543,000	100
109	Rocky Mount, NC	536,809	19
110	Jackson, TN	533,539	73
111	Fayetteville, AR	527,374	92
112	Bowling Green, KY	526,621	71
113	Erie, PA	513,834	54
114	Morgantown, WV	512,830	53
115	Asheville, NC	512,200	42
116	Rockford, IL	509,762	64
117	La Grange, GA	501,771	40
118	Richmond, IN	496,850	67
119	Yakima, WA	496,571	169
120	Shreveport, LA	492,213	88
121	Altoona, PA	490,867	9
122	Madison, WI	488,073	104
123	Mansfield, OH	486,730	55
124	Olympia, WA	482,135	170
125	Alton, IL	476,174	96
126	Casa Grande, AZ	475,024	158
127	Evansville, IN	474,251	69
128	Macon, GA	472,241	38
129	Springfield, IL	471,823	97
130	Spokane, WA	471,221	147
131	Sanford, NC	468,358	19
132	Corpus Christi, TX	467,429	132
133	Nacogdoches, TX	464,704	131
134	Newark, OH	463,800	51
135	Beaumont, TX	460,666	87
136	Williamsport, PA	454,792	10
137	Eau Claire, WI	452,434	107
138	Burlington, VT	452,191	4
139	Hot Springs, AR	443,880	90
140	Fredericksburg, VA	438,705	13
141	Brainerd, MN	435,203	107

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
142	Merced, CA	430,256	163
143	Keene, NH	427,275	3
144	Paris, TX	423,195	127
145	Columbia, TN	422,947	71
146	Wilmington, NC	420,413	25
147	Salisbury, MD	419,355	14
148	Bellingham, WA	412,316	170
149	Biloxi, MS	411,066	82
150	Rolla, MO	405,037	94
151	Winston-Salem, NC	398,071	18
152	Tyler, TX	397,075	127
153	Fond du Lac, WI	395,357	63
154	Myrtle Beach, SC	394,573	25
155	Appleton, WI	392,660	60
156	Boise City, ID	392,365	150
157	Yuma, AZ	390,768	160
158	Helena, MT	378,009	146
159	Valdosta, GA	373,343	37
160	Victoria, TX	371,551	131
161	Carbondale, IL	368,043	96
162	Elizabethtown, KY	364,517	70
163	Davenport, IA	363,256	102
164	Montgomery, AL	363,237	79
165	Rome, GA	362,053	40
166	Redding, CA	361,652	165
167	Harrisonburg, VA	360,886	16
168	Peoria, IL	360,552	101
169	Goldsboro, NC	358,900	21
170	Dothan, AL	358,396	36
171	Fort Smith, AR	356,101	91
172	Duluth, MN	354,182	109
173	Blacksburg, VA	352,838	17
174	Springfield, MO	352,596	94
175	Southaven, MS	349,748	73
176	Ames, IA	348,248	100
177	Savannah, GA	347,611	28
178	Sedalia, MO	346,580	99
179	Burlington, IA	346,354	100
180	Flagstaff, AZ	345,454	154
181	Texarkana, TX	343,206	127
182	Cedar Rapids, IA	342,108	103
183	Columbia, MO	340,194	98
184	Ruston, LA	338,416	89
185	Marquette, MI	335,871	59
186	Rock Hill, SC	335,865	23
187	Pocatello, ID	328,567	148
188	Jamestown, NY	325,075	8
189	Alexandria, LA	324,637	86
190	Bozeman, MT	324,077	144

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
191	Petersburg, VA	321,175	15
192	Fayetteville, NC	319,431	22
193	Saint Joseph, MO	318,414	99
194	State College, PA	317,863	9
195	Lewiston, ID	317,751	147
196	Cape Girardeau, MO	315,713	96
197	Wheeling, WV	312,837	52
198	Jonesboro, AR	311,312	95
199	Dalton, GA	310,645	40
200	Danville, VA	310,385	18
201	Eagle Pass, TX	304,111	134
202	Columbus, GA	303,722	39
203	Traverse City, MI	303,041	61
204	Owensboro, KY	301,206	69
205	Douglas City, CA	300,915	163
206	Wenatchee, WA	300,767	169
207	Brunswick, GA	298,749	29
208	Salisbury, NC	297,865	23
209	Green Bay, WI	296,366	59
210	Binghamton, NY	295,081	6
211	Ardmore, OK	291,829	125
212	Anchorage, AK	291,826	171
213	Bend, OR	289,034	167
214	Lincoln, NE	285,407	119
215	Hickory, NC	282,468	46
216	Joplin, MO	280,505	93
217	Lubbock, TX	278,831	137
218	Wausau, WI	278,831	108
219	Mason City, IA	277,029	100
220	Odessa, TX	274,002	135
221	Laredo, TX	269,622	134
222	Morristown, TN	268,978	44
223	Dubuque, IA	264,752	104
224	De Kalb, IL	257,786	64
225	La Crosse, WI	257,376	105
226	Lima, OH	256,337	56
227	Watertown, NY	255,260	6
228	Roanoke, VA	252,548	17
229	Saint George, UT	252,481	153
230	Lumberton, NC	252,467	22
231	Fremont, NE	249,287	118
232	Topeka, KS	245,402	123
233	Shelby, NC	244,153	23
234	Lexington, NC	242,524	18
235	Amarillo, TX	241,798	138
236	Grand Island, NE	240,913	120
237	Hinesville, GA	240,344	28
238	Florence, SC	239,989	25
239	Kannapolis, NC	238,596	23

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
240	Charlottesville, VA	234,712	15
241	Dublin, GA	233,302	38
242	Lake Charles, LA	231,201	86
243	Paducah, KY	230,924	72
244	Manhattan, KS	230,920	123
245	West Plains, MO	229,798	94
246	Auburn, AL	228,786	39
247	Nampa, ID	227,487	150
248	Sumter, SC	223,344	24
249	Bryan, TX	221,455	131
250	Las Cruces, NM	221,221	157
251	Salina, KS	219,945	122
252	Sioux City, IA	218,063	117
253	Baraboo, WI	216,417	104
254	Merrill, WI	216,161	108
255	Greenville, MS	214,872	76
256	Lynchburg, VA	213,977	17
257	Cheyenne, WY	213,445	143
258	Cullman, AL	210,229	78
259	Roswell, NM	209,606	136
260	Alpena, MI	208,861	58
261	Fargo, ND	208,777	113
262	Hilton Head Island, SC	208,100	28
263	Santa Fe, NM	201,081	139
264	Kodiak, AK	200,813	171
265	Winona, MN	197,462	106
266	Lenoir, NC	197,430	46
267	Sheboygan, WI	196,949	63
268	Clinton, IA	196,679	102
269	Racine, WI	195,408	63
270	Ottawa, IL	193,858	64
271	Elmira, NY	193,433	7
272	Brownwood, TX	192,692	127
273	Bloomington, IL	186,133	64
274	Twin Falls, ID	185,790	149
275	Corsicana, TX	184,725	127
276	Rapid City, SD	183,639	115
277	Hutchinson, KS	183,101	122
278	Bartlesville, OK	179,889	124
279	Logan, UT	179,703	152
280	Garden City, KS	177,150	122
281	Muskogee, OK	177,148	124
282	Galesburg, IL	173,607	101
283	Plattsburgh, NY	173,097	4
284	Greenwood, SC	171,848	41
285	Gallup, NM	170,223	156
286	Sioux Falls, SD	169,468	116
287	Kenosha, WI	166,426	64
288	Abilene, TX	165,252	128

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
289	Price, UT	164,900	152
290	Watertown, SD	163,741	116
291	Rockingham, NC	162,684	18
292	Pueblo, CO	159,063	140
293	Lawrenceburg, TN	158,283	71
294	Waterloo, IA	155,366	100
295	Stillwater, OK	152,050	124
296	Pottsville, PA	148,289	12
297	Pendleton, OR	146,709	168
298	Fairbanks, AK	145,928	171
299	Kirksville, MO	144,847	99
300	Selma, AL	144,376	79
301	Rochester, MN	144,248	106
302	Enid, OK	143,731	125
303	Great Falls, MT	143,015	145
304	Mount Airy, NC	143,013	18
305	Altus, OK	142,644	126
306	Wichita Falls, TX	142,252	127
307	Yankton, SD	141,973	116
308	Americus, GA	138,886	38
309	Elizabeth City, NC	137,035	20
310	Farmington, MO	133,395	96
311	Trinidad, CO	132,721	140
312	Farmington, NM	130,044	155
313	Lockhart, TX	128,849	130
314	Jacksonville, TX	127,971	127
315	Sheridan, WY	127,963	144
316	Rock Springs, WY	125,434	143
317	Beatrice, NE	124,932	119
318	Thief River Falls, MN	124,110	110
319	Albany, GA	122,863	37
320	San Angelo, TX	119,412	129
321	Batesville, IN	118,693	49
322	Minot, ND	116,439	111
323	Socorro, NM	114,543	156
324	Honesdale, PA	110,191	10
325	Bismarck, ND	108,779	112
326	Fergus Falls, MN	108,648	113
327	Orangeburg, SC	107,676	24
328	Winslow, AZ	107,449	154
329	Kingsville, TX	104,558	132
330	Olney, IL	102,976	69
331	Plainview, TX	102,732	137
332	Bennettsville, SC	102,615	23
333	Sidney, OH	102,382	50
334	Pampa, TX	100,685	138
335	Natchitoches, LA	99,546	88
336	Grand Forks, ND	98,461	110
337	Mineral Wells, TX	95,311	127

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
338	Durango, CO	91,716	155
339	Scottsbluff, NE	91,571	142
340	Clovis, NM	84,529	138
341	Alamogordo, NM	84,294	157
342	Mitchell, SD	83,465	116
343	Pecos, TX	82,332	135
344	Clanton, AL	82,318	78
345	Newberry, SC	81,339	24
346	Franklin, NC	80,814	40
347	New Roads, LA	79,775	84
348	Aberdeen, SD	79,541	114
349	Marion, NC	78,393	46
350	Forrest City, AR	78,309	73
351	Dickinson, ND	78,183	112
352	Gonzales, TX	77,549	134
353	Watseka, IL	77,440	64
354	New London, WI	76,906	60
355	Casper, WY	75,450	143
356	Colville, WA	74,653	147
357	Espanola, NM	73,183	139
358	Marble Falls, TX	72,548	130
359	Sterling, CO	72,175	141
360	Juneau, AK	71,664	171
361	Richfield, UT	71,373	152
362	Payette, ID	70,406	150
363	Big Spring, TX	70,297	135
364	Butte, MT	69,762	146
365	Vernon, TX	69,603	127
366	Pullman, WA	68,665	147
367	Moberly, MO	66,156	98
368	Concordia, KS	65,577	122
369	Red Oak, IA	65,203	118
370	Washington, IA	64,135	103
371	Wytheville, VA	62,965	17
372	Colby, KS	62,951	141
373	Walla Walla, WA	62,859	168
374	North Platte, NE	61,592	121
375	Deming, NM	59,503	158
376	Hereford, TX	59,127	138
377	Demopolis, AL	57,694	77
378	Waynesboro, GA	57,502	27
379	Sault Ste. Marie, MI	56,264	58
380	Escanaba, MI	55,155	59
381	Del Rio, TX	54,479	129
382	Riverton, WY	53,468	143
383	Creston, IA	50,709	100
384	Manchester, IA	50,223	104
385	Hannibal, MO	49,159	97
386	Barnwell, SC	49,027	27

PEA Number	PEA Name	2010 Population (Decennial U.S. Census Data)	EA Number
387	Wahpeton, ND	48,521	113
388	Atlantic, IA	47,170	118
389	McCook, NE	47,014	120
390	Snyder, TX	45,514	128
391	Ontario, OR	38,735	150
392	Maryville, MO	37,191	99
393	Macon, MO	36,158	99
394	Martin, SD	34,651	115
395	Jamestown, ND	34,328	113
396	Winterset, IA	34,315	100
397	Aliceville, AL	34,310	75
398	South Sioux City, NE	33,946	117
399	Lampasas, TX	25,808	127
400	Muleshoe, TX	25,496	138
401	Floydada, TX	25,065	137
402	Brady, TX	23,231	129
403	Lewistown, MT	21,970	145
404	Kanab, UT	21,871	154
405	Jackson, WY	21,294	148
406	Anamosa, IA	20,638	103
407	Salmon, ID	15,195	148
408	Ballinger, TX	14,964	129
409	Haskell, TX	14,772	128
410	Valentine, NE	11,796	115
411	Van Horn, TX	5,874	157
412	Puerto Rico	3,725,789	174
413	Guam-Northern Mariana Islands	213,241	173
414	US Virgin Islands	106,405	174
415	American Samoa	55,519	175
416	Gulf of Mexico	-	176

Appendix B

List of Counties with Corresponding Partial Economic Area

PEA Number	FIPS Number	County Name	State
1	09001	Fairfield	CT
1	09003	Hartford	CT
1	09005	Litchfield	CT
1	09007	Middlesex	CT
1	09009	New Haven	CT
1	09011	New London	CT
1	09013	Tolland	CT
1	09015	Windham	CT
1	34003	Bergen	NJ
1	34013	Essex	NJ
1	34017	Hudson	NJ
1	34019	Hunterdon	NJ
1	34021	Mercer	NJ
1	34023	Middlesex	NJ
1	34025	Monmouth	NJ
1	34027	Morris	NJ
1	34029	Ocean	NJ
1	34031	Passaic	NJ
1	34035	Somerset	NJ
1	34037	Sussex	NJ
1	34039	Union	NJ
1	34041	Warren	NJ
1	36005	Bronx	NY
1	36027	Dutchess	NY
1	36047	Kings	NY
1	36059	Nassau	NY
1	36061	New York	NY
1	36071	Orange	NY
1	36079	Putnam	NY
1	36081	Queens	NY
1	36085	Richmond	NY
1	36087	Rockland	NY
1	36103	Suffolk	NY
1	36105	Sullivan	NY
1	36111	Ulster	NY
1	36119	Westchester	NY
1	42025	Carbon	PA
1	42069	Lackawanna	PA
1	42077	Lehigh	PA
1	42079	Luzerne	PA
1	42089	Monroe	PA
1	42095	Northampton	PA
2	06029	Kern	CA

PEA Number	FIPS Number	County Name	State
2	06037	Los Angeles	CA
2	06059	Orange	CA
2	06065	Riverside	CA
2	06071	San Bernardino	CA
2	06079	San Luis Obispo	CA
2	06083	Santa Barbara	CA
2	06111	Ventura	CA
3	17031	Cook	IL
3	17043	DuPage	IL
3	17063	Grundy	IL
3	17089	Kane	IL
3	17091	Kankakee	IL
3	17093	Kendall	IL
3	17097	Lake	IL
3	17111	McHenry	IL
3	17197	Will	IL
3	18091	La Porte	IN
3	18089	Lake	IN
3	18127	Porter	IN
4	06001	Alameda	CA
4	06013	Contra Costa	CA
4	06041	Marin	CA
4	06053	Monterey	CA
4	06055	Napa	CA
4	06075	San Francisco	CA
4	06077	San Joaquin	CA
4	06081	San Mateo	CA
4	06085	Santa Clara	CA
4	06087	Santa Cruz	CA
4	06095	Solano	CA
4	06097	Sonoma	CA
4	06099	Stanislaus	CA
5	11001	District of Columbia	DC
5	24003	Anne Arundel	MD
5	24005	Baltimore	MD
5	24510	Baltimore City	MD
5	24009	Calvert	MD
5	24011	Caroline	MD
5	24013	Carroll	MD
5	24017	Charles	MD
5	24019	Dorchester	MD
5	24025	Harford	MD
5	24027	Howard	MD
5	24029	Kent	MD
5	24031	Montgomery	MD
5	24033	Prince George's	MD
5	24035	Queen Anne's	MD
5	24037	St. Mary's	MD

PEA Number	FIPS Number	County Name	State
5	24041	Talbot	MD
5	51510	Alexandria City	VA
5	51013	Arlington	VA
5	51059	Fairfax	VA
5	51600	Fairfax City	VA
5	51610	Falls Church City	VA
5	51107	Loudoun	VA
5	51683	Manassas City	VA
5	51685	Manassas Park City	VA
5	51153	Prince William	VA
6	10001	Kent	DE
6	10003	New Castle	DE
6	24015	Cecil	MD
6	34001	Atlantic	NJ
6	34005	Burlington	NJ
6	34007	Camden	NJ
6	34009	Cape May	NJ
6	34011	Cumberland	NJ
6	34015	Gloucester	NJ
6	34033	Salem	NJ
6	42011	Berks	PA
6	42017	Bucks	PA
6	42029	Chester	PA
6	42045	Delaware	PA
6	42071	Lancaster	PA
6	42091	Montgomery	PA
6	42101	Philadelphia	PA
7	25001	Barnstable	MA
7	25005	Bristol	MA
7	25007	Dukes	MA
7	25009	Essex	MA
7	25017	Middlesex	MA
7	25019	Nantucket	MA
7	25021	Norfolk	MA
7	25023	Plymouth	MA
7	25025	Suffolk	MA
7	25027	Worcester	MA
7	44001	Bristol	RI
7	44003	Kent	RI
7	44005	Newport	RI
7	44007	Providence	RI
7	44009	Washington	RI
8	48085	Collin	TX
8	48113	Dallas	TX
8	48121	Denton	TX
8	48139	Ellis	TX
8	48181	Grayson	TX
8	48221	Hood	TX

PEA Number	FIPS Number	County Name	State
8	48251	Johnson	TX
8	48257	Kaufman	TX
8	48367	Parker	TX
8	48397	Rockwall	TX
8	48439	Tarrant	TX
8	48497	Wise	TX
9	12011	Broward	FL
9	12043	Glades	FL
9	12051	Hendry	FL
9	12061	Indian River	FL
9	12085	Martin	FL
9	12086	Miami-Dade	FL
9	12087	Monroe	FL
9	12093	Okeechobee	FL
9	12099	Palm Beach	FL
9	12111	St. Lucie	FL
10	48039	Brazoria	TX
10	48071	Chambers	TX
10	48157	Fort Bend	TX
10	48167	Galveston	TX
10	48201	Harris	TX
10	48291	Liberty	TX
10	48339	Montgomery	TX
10	48473	Waller	TX
11	13011	Banks	GA
11	13013	Barrow	GA
11	13035	Butts	GA
11	13057	Cherokee	GA
11	13059	Clarke	GA
11	13063	Clayton	GA
11	13067	Cobb	GA
11	13085	Dawson	GA
11	13089	DeKalb	GA
11	13097	Douglas	GA
11	13105	Elbert	GA
11	13113	Fayette	GA
11	13117	Forsyth	GA
11	13119	Franklin	GA
11	13121	Fulton	GA
11	13133	Greene	GA
11	13135	Gwinnett	GA
11	13137	Habersham	GA
11	13139	Hall	GA
11	13147	Hart	GA
11	13151	Henry	GA
11	13157	Jackson	GA
11	13159	Jasper	GA
11	13187	Lumpkin	GA

PEA Number	FIPS Number	County Name	State
11	13195	Madison	GA
11	13211	Morgan	GA
11	13217	Newton	GA
11	13219	Oconee	GA
11	13221	Oglethorpe	GA
11	13223	Paulding	GA
11	13241	Rabun	GA
11	13247	Rockdale	GA
11	13257	Stephens	GA
11	13265	Taliaferro	GA
11	13297	Walton	GA
11	13311	White	GA
12	26049	Genesee	MI
12	26087	Lapeer	MI
12	26093	Livingston	MI
12	26099	Macomb	MI
12	26125	Oakland	MI
12	26155	Shiawassee	MI
12	26147	St. Clair	MI
12	26161	Washtenaw	MI
12	26163	Wayne	MI
13	12009	Brevard	FL
13	12017	Citrus	FL
13	12035	Flagler	FL
13	12049	Hardee	FL
13	12055	Highlands	FL
13	12069	Lake	FL
13	12083	Marion	FL
13	12095	Orange	FL
13	12097	Osceola	FL
13	12105	Polk	FL
13	12117	Seminole	FL
13	12119	Sumter	FL
13	12127	Volusia	FL
14	39007	Ashtabula	OH
14	39019	Carroll	OH
14	39029	Columbiana	OH
14	39035	Cuyahoga	OH
14	39043	Erie	OH
14	39055	Geauga	OH
14	39077	Huron	OH
14	39085	Lake	OH
14	39093	Lorain	OH
14	39099	Mahoning	OH
14	39103	Medina	OH
14	39133	Portage	OH
14	39151	Stark	OH
14	39153	Summit	OH

PEA Number	FIPS Number	County Name	State
14	39155	Trumbull	OH
14	42085	Mercer	PA
15	04013	Maricopa	AZ
16	53009	Clallam	WA
16	53031	Jefferson	WA
16	53033	King	WA
16	53035	Kitsap	WA
16	53053	Pierce	WA
16	53061	Snohomish	WA
17	27003	Anoka	MN
17	27009	Benton	MN
17	27019	Carver	MN
17	27025	Chisago	MN
17	27037	Dakota	MN
17	27053	Hennepin	MN
17	27123	Ramsey	MN
17	27139	Scott	MN
17	27141	Sherburne	MN
17	27145	Stearns	MN
17	27163	Washington	MN
17	27171	Wright	MN
17	55109	St. Croix	WI
18	06073	San Diego	CA
19	41003	Benton	OR
19	41005	Clackamas	OR
19	41007	Clatsop	OR
19	41009	Columbia	OR
19	41041	Lincoln	OR
19	41043	Linn	OR
19	41047	Marion	OR
19	41051	Multnomah	OR
19	41053	Polk	OR
19	41057	Tillamook	OR
19	41067	Washington	OR
19	41071	Yamhill	OR
19	53011	Clark	WA
19	53015	Cowlitz	WA
19	53069	Wahkiakum	WA
20	08001	Adams	CO
20	08005	Arapahoe	CO
20	08013	Boulder	CO
20	08014	Broomfield	CO
20	08031	Denver	CO
20	08035	Douglas	CO
20	08047	Gilpin	CO
20	08059	Jefferson	CO
21	12053	Hernando	FL
21	12057	Hillsborough	FL

PEA Number	FIPS Number	County Name	State
21	12101	Pasco	FL
21	12103	Pinellas	FL
22	06005	Amador	CA
22	06007	Butte	CA
22	06011	Colusa	CA
22	06017	El Dorado	CA
22	06021	Glenn	CA
22	06057	Nevada	CA
22	06061	Placer	CA
22	06067	Sacramento	CA
22	06101	Sutter	CA
22	06113	Yolo	CA
22	06115	Yuba	CA
23	42003	Allegheny	PA
23	42005	Armstrong	PA
23	42007	Beaver	PA
23	42019	Butler	PA
23	42063	Indiana	PA
23	42073	Lawrence	PA
23	42125	Washington	PA
23	42129	Westmoreland	PA
24	17005	Bond	IL
24	17027	Clinton	IL
24	17121	Marion	IL
24	17133	Monroe	IL
24	17163	St. Clair	IL
24	29071	Franklin	MO
24	29099	Jefferson	MO
24	29183	St. Charles	MO
24	29189	St. Louis	MO
24	29510	St. Louis City	MO
25	21015	Boone	KY
25	21023	Bracken	KY
25	21037	Campbell	KY
25	21077	Gallatin	KY
25	21081	Grant	KY
25	21117	Kenton	KY
25	21135	Lewis	KY
25	21161	Mason	KY
25	21191	Pendleton	KY
25	39001	Adams	OH
25	39015	Brown	OH
25	39017	Butler	OH
25	39025	Clermont	OH
25	39027	Clinton	OH
25	39061	Hamilton	OH
25	39071	Highland	OH
25	39165	Warren	OH

PEA Number	FIPS Number	County Name	State
26	04015	Mohave	AZ
26	32003	Clark	NV
27	49011	Davis	UT
27	49035	Salt Lake	UT
27	49045	Tooele	UT
27	49049	Utah	UT
27	49057	Weber	UT
28	48013	Atascosa	TX
28	48029	Bexar	TX
28	48091	Comal	TX
28	48187	Guadalupe	TX
29	12001	Alachua	FL
29	12003	Baker	FL
29	12007	Bradford	FL
29	12019	Clay	FL
29	12023	Columbia	FL
29	12029	Dixie	FL
29	12031	Duval	FL
29	12041	Gilchrist	FL
29	12047	Hamilton	FL
29	12067	Lafayette	FL
29	12075	Levy	FL
29	12089	Nassau	FL
29	12107	Putnam	FL
29	12109	St. Johns	FL
29	12121	Suwannee	FL
29	12125	Union	FL
30	20091	Johnson	KS
30	20209	Wyandotte	KS
30	29037	Cass	MO
30	29047	Clay	MO
30	29095	Jackson	MO
30	29165	Platte	MO
30	29177	Ray	MO
31	18011	Boone	IN
31	18035	Delaware	IN
31	18057	Hamilton	IN
31	18063	Hendricks	IN
31	18081	Johnson	IN
31	18095	Madison	IN
31	18097	Marion	IN
32	21047	Christian	KY
32	47021	Cheatham	TN
32	47037	Davidson	TN
32	47043	Dickson	TN
32	47125	Montgomery	TN
32	47147	Robertson	TN
32	47149	Rutherford	TN

PEA Number	FIPS Number	County Name	State
32	47165	Sumner	TN
32	47187	Williamson	TN
32	47189	Wilson	TN
33	37053	Currituck	NC
33	51550	Chesapeake City	VA
33	51620	Franklin City	VA
33	51073	Gloucester	VA
33	51650	Hampton City	VA
33	51093	Isle of Wight	VA
33	51095	James City	VA
33	51115	Mathews	VA
33	51700	Newport News City	VA
33	51710	Norfolk City	VA
33	51735	Poquoson City	VA
33	51740	Portsmouth City	VA
33	51175	Southampton	VA
33	51800	Suffolk City	VA
33	51181	Surry	VA
33	51810	Virginia Beach City	VA
33	51830	Williamsburg City	VA
33	51199	York	VA
34	06019	Fresno	CA
34	06031	Kings	CA
34	06039	Madera	CA
34	06107	Tulare	CA
35	48209	Hays	TX
35	48331	Milam	TX
35	48453	Travis	TX
35	48491	Williamson	TX
36	22051	Jefferson Parish	LA
36	22057	Lafourche Parish	LA
36	22071	Orleans Parish	LA
36	22075	Plaquemines Parish	LA
36	22087	St. Bernard Parish	LA
36	22089	St. Charles Parish	LA
36	22093	St. James Parish	LA
36	22095	St. John the Baptist Parish	LA
36	22103	St. Tammany Parish	LA
36	22105	Tangipahoa Parish	LA
36	22109	Terrebonne Parish	LA
36	22117	Washington Parish	LA
36	28109	Pearl River	MS
37	39041	Delaware	OH
37	39045	Fairfield	OH
37	39049	Franklin	OH
37	39097	Madison	OH
37	39129	Pickaway	OH
38	55079	Milwaukee	WI

PEA Number	FIPS Number	County Name	State
38	55089	Ozaukee	WI
38	55131	Washington	WI
38	55133	Waukesha	WI
39	40017	Canadian	OK
39	40027	Cleveland	OK
39	40031	Comanche	OK
39	40051	Grady	OK
39	40081	Lincoln	OK
39	40083	Logan	OK
39	40087	McClain	OK
39	40109	Oklahoma	OK
39	40125	Pottawatomie	OK
40	01015	Calhoun	AL
40	01073	Jefferson	AL
40	01117	Shelby	AL
40	01115	St. Clair	AL
40	01121	Talladega	AL
40	01125	Tuscaloosa	AL
40	01127	Walker	AL
41	36011	Cayuga	NY
41	36017	Chenango	NY
41	36023	Cortland	NY
41	36025	Delaware	NY
41	36043	Herkimer	NY
41	36053	Madison	NY
41	36065	Oneida	NY
41	36067	Onondaga	NY
41	36075	Oswego	NY
41	36077	Otsego	NY
41	36097	Schuyler	NY
41	36109	Tompkins	NY
42	15001	Hawaii	HI
42	15003	Honolulu	HI
42	15005	Kalawao	HI
42	15007	Kauai	HI
42	15009	Maui	HI
43	37071	Gaston	NC
43	37119	Mecklenburg	NC
43	37179	Union	NC
44	36037	Genesee	NY
44	36051	Livingston	NY
44	36055	Monroe	NY
44	36069	Ontario	NY
44	36073	Orleans	NY
44	36099	Seneca	NY
44	36101	Steuben	NY
44	36117	Wayne	NY
44	36121	Wyoming	NY

PEA Number	FIPS Number	County Name	State
44	36123	Yates	NY
45	37063	Durham	NC
45	37135	Orange	NC
45	37183	Wake	NC
46	05005	Baxter	AR
46	05009	Boone	AR
46	05015	Carroll	AR
46	05023	Cleburne	AR
46	05029	Conway	AR
46	05045	Faulkner	AR
46	05049	Fulton	AR
46	05063	Independence	AR
46	05065	Izard	AR
46	05067	Jackson	AR
46	05069	Jefferson	AR
46	05071	Johnson	AR
46	05085	Lonoke	AR
46	05089	Marion	AR
46	05101	Newton	AR
46	05105	Perry	AR
46	05115	Pope	AR
46	05117	Prairie	AR
46	05119	Pulaski	AR
46	05125	Saline	AR
46	05129	Searcy	AR
46	05135	Sharp	AR
46	05137	Stone	AR
46	05141	Van Buren	AR
46	05145	White	AR
46	05147	Woodruff	AR
46	05149	Yell	AR
47	48061	Cameron	TX
47	48215	Hidalgo	TX
47	48427	Starr	TX
47	48489	Willacy	TX
48	42001	Adams	PA
48	42041	Cumberland	PA
48	42043	Dauphin	PA
48	42067	Juniata	PA
48	42075	Lebanon	PA
48	42099	Perry	PA
48	42133	York	PA
49	36001	Albany	NY
49	36021	Columbia	NY
49	36035	Fulton	NY
49	36039	Greene	NY
49	36041	Hamilton	NY
49	36057	Montgomery	NY

PEA Number	FIPS Number	County Name	State
49	36083	Rensselaer	NY
49	36091	Saratoga	NY
49	36093	Schenectady	NY
49	36095	Schoharie	NY
49	36113	Warren	NY
49	36115	Washington	NY
50	37149	Polk	NC
50	45007	Anderson	SC
50	45021	Cherokee	SC
50	45045	Greenville	SC
50	45073	Oconee	SC
50	45077	Pickens	SC
50	45083	Spartanburg	SC
50	45087	Union	SC
51	18019	Clark	IN
51	18043	Floyd	IN
51	18077	Jefferson	IN
51	18143	Scott	IN
51	21029	Bullitt	KY
51	21041	Carroll	KY
51	21103	Henry	KY
51	21111	Jefferson	KY
51	21185	Oldham	KY
51	21211	Shelby	KY
51	21223	Trimble	KY
52	21019	Boyd	KY
52	21043	Carter	KY
52	21063	Elliott	KY
52	21089	Greenup	KY
52	39053	Gallia	OH
52	39087	Lawrence	OH
52	39105	Meigs	OH
52	39167	Washington	OH
52	54005	Boone	WV
52	54007	Braxton	WV
52	54011	Cabell	WV
52	54013	Calhoun	WV
52	54015	Clay	WV
52	54019	Fayette	WV
52	54021	Gilmer	WV
52	54035	Jackson	WV
52	54039	Kanawha	WV
52	54043	Lincoln	WV
52	54045	Logan	WV
52	54053	Mason	WV
52	54067	Nicholas	WV
52	54073	Pleasants	WV
52	54079	Putnam	WV

PEA Number	FIPS Number	County Name	State
52	54081	Raleigh	WV
52	54085	Ritchie	WV
52	54087	Roane	WV
52	54089	Summers	WV
52	54099	Wayne	WV
52	54101	Webster	WV
52	54105	Wirt	WV
52	54107	Wood	WV
52	54109	Wyoming	WV
53	04003	Cochise	AZ
53	04019	Pima	AZ
53	04023	Santa Cruz	AZ
54	36029	Erie	NY
54	36063	Niagara	NY
55	01033	Colbert	AL
55	01049	DeKalb	AL
55	01055	Etowah	AL
55	01059	Franklin	AL
55	01071	Jackson	AL
55	01077	Lauderdale	AL
55	01079	Lawrence	AL
55	01083	Limestone	AL
55	01089	Madison	AL
55	01095	Marshall	AL
55	01103	Morgan	AL
55	47103	Lincoln	TN
56	26005	Allegan	MI
56	26015	Barry	MI
56	26023	Branch	MI
56	26025	Calhoun	MI
56	26067	Ionia	MI
56	26077	Kalamazoo	MI
56	26107	Mecosta	MI
56	26117	Montcalm	MI
56	26121	Muskegon	MI
56	26123	Newaygo	MI
56	26127	Oceana	MI
56	26159	Van Buren	MI
57	51036	Charles City	VA
57	51041	Chesterfield	VA
57	51057	Essex	VA
57	51075	Goochland	VA
57	51085	Hanover	VA
57	51087	Henrico	VA
57	51097	King and Queen	VA
57	51101	King William	VA
57	51103	Lancaster	VA
57	51119	Middlesex	VA

PEA Number	FIPS Number	County Name	State
57	51127	New Kent	VA
57	51133	Northumberland	VA
57	51145	Powhatan	VA
57	51159	Richmond	VA
57	51760	Richmond City	VA
58	17023	Clark	IL
58	18007	Benton	IN
58	18015	Carroll	IN
58	18017	Cass	IN
58	18021	Clay	IN
58	18023	Clinton	IN
58	18045	Fountain	IN
58	18055	Greene	IN
58	18067	Howard	IN
58	18093	Lawrence	IN
58	18103	Miami	IN
58	18105	Monroe	IN
58	18107	Montgomery	IN
58	18109	Morgan	IN
58	18117	Orange	IN
58	18119	Owen	IN
58	18121	Parke	IN
58	18133	Putnam	IN
58	18153	Sullivan	IN
58	18157	Tippecanoe	IN
58	18159	Tipton	IN
58	18165	Vermillion	IN
58	18167	Vigo	IN
58	18171	Warren	IN
58	18181	White	IN
59	05035	Crittenden	AR
59	47157	Shelby	TN
59	47167	Tipton	TN
60	33001	Belknap	NH
60	33011	Hillsborough	NH
60	33013	Merrimack	NH
60	33015	Rockingham	NH
60	33017	Strafford	NH
61	39039	Defiance	OH
61	39051	Fulton	OH
61	39063	Hancock	OH
61	39065	Hardin	OH
61	39069	Henry	OH
61	39095	Lucas	OH
61	39123	Ottawa	OH
61	39125	Paulding	OH
61	39143	Sandusky	OH
61	39147	Seneca	OH

PEA Number	FIPS Number	County Name	State
61	39171	Williams	OH
61	39173	Wood	OH
61	39175	Wyandot	OH
62	39021	Champaign	OH
62	39023	Clark	OH
62	39057	Greene	OH
62	39109	Miami	OH
62	39113	Montgomery	OH
62	39135	Preble	OH
63	40021	Cherokee	OK
63	40037	Creek	OK
63	40097	Mayes	OK
63	40113	Osage	OK
63	40131	Rogers	OK
63	40143	Tulsa	OK
63	40145	Wagoner	OK
64	18039	Elkhart	IN
64	18049	Fulton	IN
64	18085	Kosciusko	IN
64	18087	Lagrange	IN
64	18099	Marshall	IN
64	18131	Pulaski	IN
64	18141	St. Joseph	IN
64	18149	Starke	IN
64	26021	Berrien	MI
64	26027	Cass	MI
64	26149	St. Joseph	MI
65	12021	Collier	FL
65	12071	Lee	FL
66	26037	Clinton	MI
66	26045	Eaton	MI
66	26059	Hillsdale	MI
66	26065	Ingham	MI
66	26075	Jackson	MI
66	26091	Lenawee	MI
66	26115	Monroe	MI
67	12015	Charlotte	FL
67	12027	DeSoto	FL
67	12081	Manatee	FL
67	12115	Sarasota	FL
68	26081	Kent	MI
68	26139	Ottawa	MI
69	25003	Berkshire	MA
69	25011	Franklin	MA
69	25013	Hampden	MA
69	25015	Hampshire	MA
69	50003	Bennington	VT
70	06015	Del Norte	CA

PEA Number	FIPS Number	County Name	State
70	41011	Coos	OR
70	41015	Curry	OR
70	41019	Douglas	OR
70	41029	Jackson	OR
70	41033	Josephine	OR
70	41039	Lane	OR
71	47001	Anderson	TN
71	47009	Blount	TN
71	47013	Campbell	TN
71	47093	Knox	TN
71	47105	Loudon	TN
71	47129	Morgan	TN
71	47145	Roane	TN
71	47151	Scott	TN
71	47173	Union	TN
72	12005	Bay	FL
72	12013	Calhoun	FL
72	12037	Franklin	FL
72	12039	Gadsden	FL
72	12045	Gulf	FL
72	12063	Jackson	FL
72	12065	Jefferson	FL
72	12073	Leon	FL
72	12077	Liberty	FL
72	12079	Madison	FL
72	12123	Taylor	FL
72	12129	Wakulla	FL
72	13087	Decatur	GA
72	13099	Early	GA
72	13131	Grady	GA
72	13201	Miller	GA
72	13253	Seminole	GA
72	13275	Thomas	GA
73	48141	El Paso	TX
74	13047	Catoosa	GA
74	13083	Dade	GA
74	13295	Walker	GA
74	47007	Bledsoe	TN
74	47011	Bradley	TN
74	47065	Hamilton	TN
74	47115	Marion	TN
74	47107	McMinn	TN
74	47121	Meigs	TN
74	47123	Monroe	TN
74	47139	Polk	TN
74	47143	Rhea	TN
74	47153	Sequatchie	TN
75	35001	Bernalillo	NM

PEA Number	FIPS Number	County Name	State
75	35043	Sandoval	NM
76	06003	Alpine	CA
76	06027	Inyo	CA
76	06035	Lassen	CA
76	06051	Mono	CA
76	06063	Plumas	CA
76	06091	Sierra	CA
76	32510	Carson City	NV
76	32001	Churchill	NV
76	32005	Douglas	NV
76	32007	Elko	NV
76	32011	Eureka	NV
76	32013	Humboldt	NV
76	32015	Lander	NV
76	32019	Lyon	NV
76	32027	Pershing	NV
76	32029	Storey	NV
76	32031	Washoe	NV
76	32033	White Pine	NV
77	23001	Androscoggin	ME
77	23005	Cumberland	ME
77	23007	Franklin	ME
77	23013	Knox	ME
77	23015	Lincoln	ME
77	23017	Oxford	ME
77	23023	Sagadahoc	ME
77	23031	York	ME
78	37001	Alamance	NC
78	37081	Guilford	NC
78	37151	Randolph	NC
79	28001	Adams	MS
79	28005	Amite	MS
79	28021	Claiborne	MS
79	28023	Clarke	MS
79	28029	Copiah	MS
79	28031	Covington	MS
79	28035	Forrest	MS
79	28037	Franklin	MS
79	28041	Greene	MS
79	28061	Jasper	MS
79	28063	Jefferson	MS
79	28065	Jefferson Davis	MS
79	28067	Jones	MS
79	28069	Kemper	MS
79	28073	Lamar	MS
79	28075	Lauderdale	MS
79	28077	Lawrence	MS
79	28079	Leake	MS

PEA Number	FIPS Number	County Name	State
79	28085	Lincoln	MS
79	28091	Marion	MS
79	28099	Neshoba	MS
79	28101	Newton	MS
79	28111	Perry	MS
79	28113	Pike	MS
79	28123	Scott	MS
79	28127	Simpson	MS
79	28129	Smith	MS
79	28147	Walthall	MS
79	28153	Wayne	MS
80	19155	Pottawattamie	IA
80	31055	Douglas	NE
80	31153	Sarpy	NE
81	26001	Alcona	MI
81	26011	Arenac	MI
81	26017	Bay	MI
81	26035	Clare	MI
81	26051	Gladwin	MI
81	26057	Gratiot	MI
81	26063	Huron	MI
81	26069	Iosco	MI
81	26073	Isabella	MI
81	26111	Midland	MI
81	26129	Ogemaw	MI
81	26145	Saginaw	MI
81	26151	Sanilac	MI
81	26157	Tuscola	MI
82	22005	Ascension Parish	LA
82	22007	Assumption Parish	LA
82	22033	East Baton Rouge Parish	LA
82	22047	Iberville Parish	LA
82	22063	Livingston Parish	LA
82	22121	West Baton Rouge Parish	LA
83	18001	Adams	IN
83	18003	Allen	IN
83	18009	Blackford	IN
83	18033	De Kalb	IN
83	18053	Grant	IN
83	18069	Huntington	IN
83	18075	Jay	IN
83	18113	Noble	IN
83	18151	Steuben	IN
83	18169	Wabash	IN
83	18179	Wells	IN
83	18183	Whitley	IN
84	01003	Baldwin	AL
84	01025	Clarke	AL

PEA Number	FIPS Number	County Name	State
84	01035	Conecuh	AL
84	01053	Escambia	AL
84	01097	Mobile	AL
84	01099	Monroe	AL
84	01129	Washington	AL
84	01131	Wilcox	AL
85	45015	Berkeley	SC
85	45019	Charleston	SC
85	45029	Colleton	SC
85	45035	Dorchester	SC
86	21005	Anderson	KY
86	21011	Bath	KY
86	21017	Bourbon	KY
86	21049	Clark	KY
86	21067	Fayette	KY
86	21069	Fleming	KY
86	21073	Franklin	KY
86	21097	Harrison	KY
86	21113	Jessamine	KY
86	21165	Menifee	KY
86	21167	Mercer	KY
86	21173	Montgomery	KY
86	21181	Nicholas	KY
86	21187	Owen	KY
86	21201	Robertson	KY
86	21205	Rowan	KY
86	21209	Scott	KY
86	21239	Woodford	KY
87	12033	Escambia	FL
87	12091	Okaloosa	FL
87	12113	Santa Rosa	FL
87	12131	Walton	FL
88	24001	Allegany	MD
88	24021	Frederick	MD
88	24023	Garrett	MD
88	24043	Washington	MD
88	42055	Franklin	PA
88	42057	Fulton	PA
88	54057	Mineral	WV
89	45063	Lexington	SC
89	45079	Richland	SC
90	22025	Catahoula Parish	LA
90	22029	Concordia Parish	LA
90	22065	Madison Parish	LA
90	22107	Tensas Parish	LA
90	28007	Attala	MS
90	28049	Hinds	MS
90	28051	Holmes	MS

PEA Number	FIPS Number	County Name	State
90	28089	Madison	MS
90	28121	Rankin	MS
90	28149	Warren	MS
90	28163	Yazoo	MS
91	08041	El Paso	CO
91	08119	Teller	CO
92	17019	Champaign	IL
92	17025	Clay	IL
92	17029	Coles	IL
92	17035	Cumberland	IL
92	17041	Douglas	IL
92	17045	Edgar	IL
92	17049	Effingham	IL
92	17051	Fayette	IL
92	17053	Ford	IL
92	17079	Jasper	IL
92	17115	Macon	IL
92	17139	Moultrie	IL
92	17147	Piatt	IL
92	17173	Shelby	IL
92	17183	Vermilion	IL
93	22001	Acadia Parish	LA
93	22039	Evangeline Parish	LA
93	22045	Iberia Parish	LA
93	22055	Lafayette Parish	LA
93	22097	St. Landry Parish	LA
93	22099	St. Martin Parish	LA
93	22101	St. Mary Parish	LA
93	22113	Vermilion Parish	LA
94	48027	Bell	TX
94	48099	Coryell	TX
94	48145	Falls	TX
94	48309	McLennan	TX
95	21025	Breathitt	KY
95	21065	Estill	KY
95	21071	Floyd	KY
95	21109	Jackson	KY
95	21115	Johnson	KY
95	21119	Knott	KY
95	21127	Lawrence	KY
95	21129	Lee	KY
95	21133	Letcher	KY
95	21153	Magoffin	KY
95	21159	Martin	KY
95	21175	Morgan	KY
95	21189	Owsley	KY
95	21193	Perry	KY
95	21195	Pike	KY

PEA Number	FIPS Number	County Name	State
95	21197	Powell	KY
95	21237	Wolfe	KY
95	51021	Bland	VA
95	51027	Buchanan	VA
95	51051	Dickenson	VA
95	51105	Lee	VA
95	51720	Norton City	VA
95	51167	Russell	VA
95	51185	Tazewell	VA
95	51195	Wise	VA
95	54047	McDowell	WV
95	54055	Mercer	WV
95	54059	Mingo	WV
96	21001	Adair	KY
96	21013	Bell	KY
96	21021	Boyle	KY
96	21045	Casey	KY
96	21051	Clay	KY
96	21053	Clinton	KY
96	21079	Garrard	KY
96	21087	Green	KY
96	21095	Harlan	KY
96	21121	Knox	KY
96	21125	Laurel	KY
96	21131	Leslie	KY
96	21137	Lincoln	KY
96	21151	Madison	KY
96	21147	McCreary	KY
96	21199	Pulaski	KY
96	21203	Rockcastle	KY
96	21207	Russell	KY
96	21217	Taylor	KY
96	21231	Wayne	KY
96	21235	Whitley	KY
96	47025	Claiborne	TN
97	19143	Osceola	IA
97	27013	Blue Earth	MN
97	27015	Brown	MN
97	27023	Chippewa	MN
97	27033	Cottonwood	MN
97	27043	Faribault	MN
97	27047	Freeborn	MN
97	27063	Jackson	MN
97	27067	Kandiyohi	MN
97	27073	Lac qui Parle	MN
97	27079	Le Sueur	MN
97	27081	Lincoln	MN
97	27083	Lyon	MN

PEA Number	FIPS Number	County Name	State
97	27091	Martin	MN
97	27085	McLeod	MN
97	27093	Meeker	MN
97	27101	Murray	MN
97	27103	Nicollet	MN
97	27105	Nobles	MN
97	27127	Redwood	MN
97	27129	Renville	MN
97	27131	Rice	MN
97	27143	Sibley	MN
97	27147	Steele	MN
97	27161	Waseca	MN
97	27165	Watonwan	MN
97	27173	Yellow Medicine	MN
98	47019	Carter	TN
98	47059	Greene	TN
98	47073	Hawkins	TN
98	47163	Sullivan	TN
98	47171	Unicoi	TN
98	47179	Washington	TN
98	51520	Bristol City	VA
98	51169	Scott	VA
98	51173	Smyth	VA
98	51191	Washington	VA
99	28003	Alcorn	MS
99	28013	Calhoun	MS
99	28017	Chickasaw	MS
99	28019	Choctaw	MS
99	28025	Clay	MS
99	28043	Grenada	MS
99	28057	Itawamba	MS
99	28081	Lee	MS
99	28087	Lowndes	MS
99	28095	Monroe	MS
99	28097	Montgomery	MS
99	28103	Noxubee	MS
99	28105	Oktibbeha	MS
99	28115	Pontotoc	MS
99	28117	Prentiss	MS
99	28139	Tippah	MS
99	28141	Tishomingo	MS
99	28145	Union	MS
99	28155	Webster	MS
99	28159	Winston	MS
99	47071	Hardin	TN
99	47109	McNairy	TN
100	37013	Beaufort	NC
100	37031	Carteret	NC

PEA Number	FIPS Number	County Name	State
100	37049	Craven	NC
100	37055	Dare	NC
100	37079	Greene	NC
100	37095	Hyde	NC
100	37103	Jones	NC
100	37107	Lenoir	NC
100	37117	Martin	NC
100	37137	Pamlico	NC
100	37147	Pitt	NC
100	37177	Tyrrell	NC
100	37187	Washington	NC
101	20015	Butler	KS
101	20173	Sedgwick	KS
102	08015	Chaffee	CO
102	08019	Clear Creek	CO
102	08027	Custer	CO
102	08029	Delta	CO
102	08037	Eagle	CO
102	08043	Fremont	CO
102	08045	Garfield	CO
102	08049	Grand	CO
102	08051	Gunnison	CO
102	08053	Hinsdale	CO
102	08057	Jackson	CO
102	08065	Lake	CO
102	08077	Mesa	CO
102	08081	Moffat	CO
102	08085	Montrose	CO
102	08091	Ouray	CO
102	08093	Park	CO
102	08097	Pitkin	CO
102	08103	Rio Blanco	CO
102	08107	Routt	CO
102	08113	San Miguel	CO
102	08117	Summit	CO
103	51043	Clarke	VA
103	51061	Fauquier	VA
103	51069	Frederick	VA
103	51139	Page	VA
103	51157	Rappahannock	VA
103	51171	Shenandoah	VA
103	51187	Warren	VA
103	51840	Winchester City	VA
103	54003	Berkeley	WV
103	54023	Grant	WV
103	54027	Hampshire	WV
103	54031	Hardy	WV
103	54037	Jefferson	WV

PEA Number	FIPS Number	County Name	State
103	54065	Morgan	WV
103	54083	Randolph	WV
103	54093	Tucker	WV
104	08069	Larimer	CO
104	08123	Weld	CO
105	13073	Columbia	GA
105	13181	Lincoln	GA
105	13189	McDuffie	GA
105	13245	Richmond	GA
105	13317	Wilkes	GA
105	45003	Aiken	SC
105	45037	Edgefield	SC
106	39009	Athens	OH
106	39047	Fayette	OH
106	39059	Guernsey	OH
106	39073	Hocking	OH
106	39079	Jackson	OH
106	39115	Morgan	OH
106	39119	Muskingum	OH
106	39121	Noble	OH
106	39127	Perry	OH
106	39131	Pike	OH
106	39141	Ross	OH
106	39145	Scioto	OH
106	39163	Vinton	OH
107	23003	Aroostook	ME
107	23009	Hancock	ME
107	23011	Kennebec	ME
107	23019	Penobscot	ME
107	23021	Piscataquis	ME
107	23025	Somerset	ME
107	23027	Waldo	ME
107	23029	Washington	ME
108	19049	Dallas	IA
108	19153	Polk	IA
108	19181	Warren	IA
109	37065	Edgecombe	NC
109	37069	Franklin	NC
109	37077	Granville	NC
109	37083	Halifax	NC
109	37127	Nash	NC
109	37131	Northampton	NC
109	37145	Person	NC
109	37181	Vance	NC
109	37185	Warren	NC
109	37195	Wilson	NC
110	21075	Fulton	KY
110	21105	Hickman	KY

PEA Number	FIPS Number	County Name	State
110	47005	Benton	TN
110	47017	Carroll	TN
110	47023	Chester	TN
110	47033	Crockett	TN
110	47039	Decatur	TN
110	47045	Dyer	TN
110	47047	Fayette	TN
110	47053	Gibson	TN
110	47069	Hardeman	TN
110	47075	Haywood	TN
110	47077	Henderson	TN
110	47079	Henry	TN
110	47095	Lake	TN
110	47097	Lauderdale	TN
110	47113	Madison	TN
110	47131	Obion	TN
110	47183	Weakley	TN
111	05007	Benton	AR
111	05087	Madison	AR
111	05143	Washington	AR
111	29119	McDonald	MO
111	40001	Adair	OK
111	40041	Delaware	OK
112	21003	Allen	KY
112	21009	Barren	KY
112	21031	Butler	KY
112	21057	Cumberland	KY
112	21061	Edmonson	KY
112	21099	Hart	KY
112	21141	Logan	KY
112	21169	Metcalfe	KY
112	21171	Monroe	KY
112	21213	Simpson	KY
112	21219	Todd	KY
112	21227	Warren	KY
112	47027	Clay	TN
112	47035	Cumberland	TN
112	47049	Fentress	TN
112	47087	Jackson	TN
112	47111	Macon	TN
112	47133	Overton	TN
112	47137	Pickett	TN
112	47141	Putnam	TN
112	47169	Trousdale	TN
113	42031	Clarion	PA
113	42039	Crawford	PA
113	42049	Erie	PA
113	42053	Forest	PA

PEA Number	FIPS Number	County Name	State
113	42121	Venango	PA
113	42123	Warren	PA
114	42051	Fayette	PA
114	42059	Greene	PA
114	54001	Barbour	WV
114	54017	Doddridge	WV
114	54033	Harrison	WV
114	54041	Lewis	WV
114	54049	Marion	WV
114	54061	Monongalia	WV
114	54077	Preston	WV
114	54091	Taylor	WV
114	54097	Upshur	WV
115	37021	Buncombe	NC
115	37087	Haywood	NC
115	37089	Henderson	NC
115	37099	Jackson	NC
115	37115	Madison	NC
115	37173	Swain	NC
115	37175	Transylvania	NC
116	17007	Boone	IL
116	17201	Winnebago	IL
116	55105	Rock	WI
117	13045	Carroll	GA
117	13077	Coweta	GA
117	13143	Haralson	GA
117	13149	Heard	GA
117	13171	Lamar	GA
117	13199	Meriwether	GA
117	13231	Pike	GA
117	13255	Spalding	GA
117	13263	Talbot	GA
117	13285	Troup	GA
117	13293	Upson	GA
118	18005	Bartholomew	IN
118	18013	Brown	IN
118	18031	Decatur	IN
118	18041	Fayette	IN
118	18059	Hancock	IN
118	18065	Henry	IN
118	18071	Jackson	IN
118	18079	Jennings	IN
118	18135	Randolph	IN
118	18139	Rush	IN
118	18145	Shelby	IN
118	18161	Union	IN
118	18177	Wayne	IN
119	53005	Benton	WA

PEA Number	FIPS Number	County Name	State
119	53021	Franklin	WA
119	53077	Yakima	WA
120	05027	Columbia	AR
120	05073	Lafayette	AR
120	22013	Bienville Parish	LA
120	22015	Bossier Parish	LA
120	22017	Caddo Parish	LA
120	22027	Claiborne Parish	LA
120	22119	Webster Parish	LA
120	22127	Winn Parish	LA
121	42009	Bedford	PA
121	42013	Blair	PA
121	42021	Cambria	PA
121	42061	Huntingdon	PA
121	42087	Mifflin	PA
121	42111	Somerset	PA
122	55025	Dane	WI
123	39005	Ashland	OH
123	39033	Crawford	OH
123	39067	Harrison	OH
123	39075	Holmes	OH
123	39139	Richland	OH
123	39157	Tuscarawas	OH
123	39169	Wayne	OH
124	53027	Grays Harbor	WA
124	53041	Lewis	WA
124	53045	Mason	WA
124	53049	Pacific	WA
124	53067	Thurston	WA
125	17013	Calhoun	IL
125	17083	Jersey	IL
125	17117	Macoupin	IL
125	17119	Madison	IL
125	29073	Gasconade	MO
125	29113	Lincoln	MO
125	29139	Montgomery	MO
125	29163	Pike	MO
125	29219	Warren	MO
126	04007	Gila	AZ
126	04009	Graham	AZ
126	04011	Greenlee	AZ
126	04021	Pinal	AZ
127	18027	Daviess	IN
127	18037	Dubois	IN
127	18051	Gibson	IN
127	18083	Knox	IN
127	18101	Martin	IN
127	18123	Perry	IN

PEA Number	FIPS Number	County Name	State
127	18125	Pike	IN
127	18129	Posey	IN
127	18147	Spencer	IN
127	18163	Vanderburgh	IN
127	18173	Warrick	IN
128	13009	Baldwin	GA
128	13021	Bibb	GA
128	13023	Bleckley	GA
128	13091	Dodge	GA
128	13153	Houston	GA
128	13169	Jones	GA
128	13225	Peach	GA
128	13235	Pulaski	GA
128	13289	Twiggs	GA
128	13315	Wilcox	GA
128	13319	Wilkinson	GA
129	17001	Adams	IL
129	17009	Brown	IL
129	17017	Cass	IL
129	17021	Christian	IL
129	17061	Greene	IL
129	17107	Logan	IL
129	17129	Menard	IL
129	17135	Montgomery	IL
129	17137	Morgan	IL
129	17149	Pike	IL
129	17167	Sangamon	IL
129	17169	Schuyler	IL
129	17171	Scott	IL
130	53063	Spokane	WA
131	37037	Chatham	NC
131	37085	Harnett	NC
131	37101	Johnston	NC
131	37105	Lee	NC
131	37163	Sampson	NC
132	48007	Aransas	TX
132	48025	Bee	TX
132	48355	Nueces	TX
132	48391	Refugio	TX
132	48409	San Patricio	TX
133	48005	Angelina	TX
133	48161	Freestone	TX
133	48225	Houston	TX
133	48289	Leon	TX
133	48293	Limestone	TX
133	48313	Madison	TX
133	48347	Nacogdoches	TX
133	48373	Polk	TX

PEA Number	FIPS Number	County Name	State
133	48395	Robertson	TX
133	48403	Sabine	TX
133	48405	San Augustine	TX
133	48407	San Jacinto	TX
133	48419	Shelby	TX
133	48455	Trinity	TX
133	48471	Walker	TX
134	39031	Coshocton	OH
134	39083	Knox	OH
134	39089	Licking	OH
134	39091	Logan	OH
134	39101	Marion	OH
134	39117	Morrow	OH
134	39159	Union	OH
135	48199	Hardin	TX
135	48241	Jasper	TX
135	48245	Jefferson	TX
135	48351	Newton	TX
135	48361	Orange	TX
135	48457	Tyler	TX
136	42035	Clinton	PA
136	42037	Columbia	PA
136	42081	Lycoming	PA
136	42093	Montour	PA
136	42097	Northumberland	PA
136	42109	Snyder	PA
136	42113	Sullivan	PA
136	42119	Union	PA
136	42131	Wyoming	PA
137	27049	Goodhue	MN
137	55005	Barron	WI
137	55013	Burnett	WI
137	55017	Chippewa	WI
137	55033	Dunn	WI
137	55035	Eau Claire	WI
137	55091	Pepin	WI
137	55093	Pierce	WI
137	55095	Polk	WI
137	55107	Rusk	WI
137	55113	Sawyer	WI
137	55129	Washburn	WI
138	50001	Addison	VT
138	50005	Caledonia	VT
138	50007	Chittenden	VT
138	50011	Franklin	VT
138	50013	Grand Isle	VT
138	50015	Lamoille	VT
138	50019	Orleans	VT

PEA Number	FIPS Number	County Name	State
138	50021	Rutland	VT
138	50023	Washington	VT
139	05001	Arkansas	AR
139	05003	Ashley	AR
139	05011	Bradley	AR
139	05013	Calhoun	AR
139	05017	Chicot	AR
139	05019	Clark	AR
139	05025	Cleveland	AR
139	05039	Dallas	AR
139	05041	Desha	AR
139	05043	Drew	AR
139	05051	Garland	AR
139	05053	Grant	AR
139	05057	Hempstead	AR
139	05059	Hot Spring	AR
139	05061	Howard	AR
139	05079	Lincoln	AR
139	05095	Monroe	AR
139	05097	Montgomery	AR
139	05099	Nevada	AR
139	05103	Ouachita	AR
139	05109	Pike	AR
139	05139	Union	AR
140	51033	Caroline	VA
140	51047	Culpeper	VA
140	51630	Fredericksburg City	VA
140	51099	King George	VA
140	51113	Madison	VA
140	51137	Orange	VA
140	51177	Spotsylvania	VA
140	51179	Stafford	VA
140	51193	Westmoreland	VA
141	27001	Aitkin	MN
141	27007	Beltrami	MN
141	27021	Cass	MN
141	27029	Clearwater	MN
141	27035	Crow Wing	MN
141	27041	Douglas	MN
141	27051	Grant	MN
141	27057	Hubbard	MN
141	27059	Isanti	MN
141	27065	Kanabec	MN
141	27095	Mille Lacs	MN
141	27097	Morrison	MN
141	27115	Pine	MN
141	27121	Pope	MN
141	27149	Stevens	MN

PEA Number	FIPS Number	County Name	State
141	27151	Swift	MN
141	27153	Todd	MN
141	27159	Wadena	MN
142	06009	Calaveras	CA
142	06043	Mariposa	CA
142	06047	Merced	CA
142	06069	San Benito	CA
142	06109	Tuolumne	CA
143	33003	Carroll	NH
143	33005	Cheshire	NH
143	33007	Coos	NH
143	33009	Grafton	NH
143	33019	Sullivan	NH
143	50009	Essex	VT
143	50017	Orange	VT
143	50025	Windham	VT
143	50027	Windsor	VT
144	48063	Camp	TX
144	48119	Delta	TX
144	48147	Fannin	TX
144	48159	Franklin	TX
144	48223	Hopkins	TX
144	48231	Hunt	TX
144	48277	Lamar	TX
144	48379	Rains	TX
144	48387	Red River	TX
144	48449	Titus	TX
144	48459	Upshur	TX
144	48467	Van Zandt	TX
144	48499	Wood	TX
145	47003	Bedford	TN
145	47015	Cannon	TN
145	47031	Coffee	TN
145	47041	DeKalb	TN
145	47051	Franklin	TN
145	47055	Giles	TN
145	47061	Grundy	TN
145	47117	Marshall	TN
145	47119	Maury	TN
145	47127	Moore	TN
145	47159	Smith	TN
145	47175	Van Buren	TN
145	47177	Warren	TN
145	47185	White	TN
146	37019	Brunswick	NC
146	37047	Columbus	NC
146	37129	New Hanover	NC
146	37141	Pender	NC

PEA Number	FIPS Number	County Name	State
147	10005	Sussex	DE
147	24039	Somerset	MD
147	24045	Wicomico	MD
147	24047	Worcester	MD
147	51001	Accomack	VA
147	51131	Northampton	VA
148	53029	Island	WA
148	53055	San Juan	WA
148	53057	Skagit	WA
148	53073	Whatcom	WA
149	28039	George	MS
149	28045	Hancock	MS
149	28047	Harrison	MS
149	28059	Jackson	MS
149	28131	Stone	MS
150	29029	Camden	MO
150	29059	Dallas	MO
150	29065	Dent	MO
150	29085	Hickory	MO
150	29105	Laclede	MO
150	29125	Maries	MO
150	29131	Miller	MO
150	29141	Morgan	MO
150	29149	Oregon	MO
150	29161	Phelps	MO
150	29167	Polk	MO
150	29169	Pulaski	MO
150	29203	Shannon	MO
150	29215	Texas	MO
150	29225	Webster	MO
150	29229	Wright	MO
151	37067	Forsyth	NC
151	37169	Stokes	NC
152	48183	Gregg	TX
152	48203	Harrison	TX
152	48423	Smith	TX
153	55027	Dodge	WI
153	55039	Fond du Lac	WI
153	55047	Green Lake	WI
153	55055	Jefferson	WI
153	55127	Walworth	WI
154	45033	Dillon	SC
154	45043	Georgetown	SC
154	45051	Horry	SC
154	45067	Marion	SC
155	55015	Calumet	WI
155	55087	Outagamie	WI
155	55139	Winnebago	WI

PEA Number	FIPS Number	County Name	State
156	16001	Ada	ID
157	04012	La Paz	AZ
157	04027	Yuma	AZ
157	06025	Imperial	CA
158	30029	Flathead	MT
158	30039	Granite	MT
158	30047	Lake	MT
158	30049	Lewis and Clark	MT
158	30053	Lincoln	MT
158	30061	Mineral	MT
158	30063	Missoula	MT
158	30077	Powell	MT
158	30081	Ravalli	MT
158	30089	Sanders	MT
159	13007	Baker	GA
159	13017	Ben Hill	GA
159	13019	Berrien	GA
159	13027	Brooks	GA
159	13037	Calhoun	GA
159	13061	Clay	GA
159	13071	Colquitt	GA
159	13075	Cook	GA
159	13101	Echols	GA
159	13155	Irwin	GA
159	13173	Lanier	GA
159	13185	Lowndes	GA
159	13205	Mitchell	GA
159	13243	Randolph	GA
159	13273	Terrell	GA
159	13277	Tift	GA
159	13287	Turner	GA
159	13321	Worth	GA
160	48015	Austin	TX
160	48051	Burleson	TX
160	48057	Calhoun	TX
160	48089	Colorado	TX
160	48123	DeWitt	TX
160	48149	Fayette	TX
160	48175	Goliad	TX
160	48239	Jackson	TX
160	48285	Lavaca	TX
160	48321	Matagorda	TX
160	48469	Victoria	TX
160	48477	Washington	TX
160	48481	Wharton	TX
161	17003	Alexander	IL
161	17055	Franklin	IL
161	17059	Gallatin	IL

PEA Number	FIPS Number	County Name	State
161	17065	Hamilton	IL
161	17069	Hardin	IL
161	17077	Jackson	IL
161	17081	Jefferson	IL
161	17087	Johnson	IL
161	17145	Perry	IL
161	17151	Pope	IL
161	17153	Pulaski	IL
161	17157	Randolph	IL
161	17165	Saline	IL
161	17181	Union	IL
161	17189	Washington	IL
161	17199	Williamson	IL
162	18025	Crawford	IN
162	18061	Harrison	IN
162	18175	Washington	IN
162	21027	Breckinridge	KY
162	21085	Grayson	KY
162	21093	Hardin	KY
162	21123	Larue	KY
162	21155	Marion	KY
162	21163	Meade	KY
162	21179	Nelson	KY
162	21215	Spencer	KY
162	21229	Washington	KY
163	19163	Scott	IA
163	17073	Henry	IL
163	17161	Rock Island	IL
164	01001	Autauga	AL
164	01051	Elmore	AL
164	01101	Montgomery	AL
165	01017	Chambers	AL
165	01019	Cherokee	AL
165	01029	Cleburne	AL
165	01111	Randolph	AL
165	13015	Bartow	GA
165	13055	Chattooga	GA
165	13115	Floyd	GA
165	13233	Polk	GA
166	06049	Modoc	CA
166	06089	Shasta	CA
166	06093	Siskiyou	CA
166	06103	Tehama	CA
166	41035	Klamath	OR
167	51005	Alleghany	VA
167	51015	Augusta	VA
167	51017	Bath	VA
167	51530	Buena Vista City	VA

PEA Number	FIPS Number	County Name	State
167	51580	Covington City	VA
167	51660	Harrisonburg City	VA
167	51091	Highland	VA
167	51678	Lexington City	VA
167	51163	Rockbridge	VA
167	51165	Rockingham	VA
167	51790	Staunton City	VA
167	51820	Waynesboro City	VA
167	54025	Greenbrier	WV
167	54071	Pendleton	WV
167	54075	Pocahontas	WV
168	17143	Peoria	IL
168	17179	Tazewell	IL
168	17203	Woodford	IL
169	37061	Duplin	NC
169	37133	Onslow	NC
169	37191	Wayne	NC
170	01005	Barbour	AL
170	01031	Coffee	AL
170	01039	Covington	AL
170	01045	Dale	AL
170	01061	Geneva	AL
170	01067	Henry	AL
170	01069	Houston	AL
170	12059	Holmes	FL
170	12133	Washington	FL
170	13239	Quitman	GA
171	05033	Crawford	AR
171	05047	Franklin	AR
171	05083	Logan	AR
171	05127	Scott	AR
171	05131	Sebastian	AR
171	40061	Haskell	OK
171	40077	Latimer	OK
171	40079	Le Flore	OK
171	40135	Sequoyah	OK
172	27017	Carlton	MN
172	27031	Cook	MN
172	27061	Itasca	MN
172	27071	Koochiching	MN
172	27075	Lake	MN
172	27137	St. Louis	MN
172	55031	Douglas	WI
173	51019	Bedford	VA
173	51515	Bedford City	VA
173	51035	Carroll	VA
173	51063	Floyd	VA
173	51067	Franklin	VA

PEA Number	FIPS Number	County Name	State
173	51071	Giles	VA
173	51121	Montgomery	VA
173	51155	Pulaski	VA
173	51750	Radford City	VA
173	54063	Monroe	WV
174	29043	Christian	MO
174	29077	Greene	MO
175	28009	Benton	MS
175	28033	DeSoto	MS
175	28071	Lafayette	MS
175	28093	Marshall	MS
175	28107	Panola	MS
175	28119	Quitman	MS
175	28137	Tate	MS
175	28143	Tunica	MS
175	28161	Yalobusha	MS
176	19015	Boone	IA
176	19025	Calhoun	IA
176	19027	Carroll	IA
176	19047	Crawford	IA
176	19073	Greene	IA
176	19075	Grundy	IA
176	19079	Hamilton	IA
176	19083	Hardin	IA
176	19091	Humboldt	IA
176	19127	Marshall	IA
176	19161	Sac	IA
176	19169	Story	IA
176	19171	Tama	IA
176	19187	Webster	IA
176	19197	Wright	IA
177	13029	Bryan	GA
177	13051	Chatham	GA
177	13103	Effingham	GA
178	20003	Anderson	KS
178	20011	Bourbon	KS
178	20059	Franklin	KS
178	20107	Linn	KS
178	20121	Miami	KS
178	29013	Bates	MO
178	29015	Benton	MO
178	29039	Cedar	MO
178	29083	Henry	MO
178	29101	Johnson	MO
178	29107	Lafayette	MO
178	29159	Pettis	MO
178	29195	Saline	MO
178	29185	St. Clair	MO

PEA Number	FIPS Number	County Name	State
178	29217	Vernon	MO
179	19007	Appanoose	IA
179	19051	Davis	IA
179	19057	Des Moines	IA
179	19087	Henry	IA
179	19099	Jasper	IA
179	19101	Jefferson	IA
179	19107	Keokuk	IA
179	19111	Lee	IA
179	19123	Mahaska	IA
179	19125	Marion	IA
179	19135	Monroe	IA
179	19157	Poweshiek	IA
179	19177	Van Buren	IA
179	19179	Wapello	IA
179	17067	Hancock	IL
179	17071	Henderson	IL
179	29045	Clark	MO
179	29199	Scotland	MO
180	04005	Coconino	AZ
180	04025	Yavapai	AZ
181	05081	Little River	AR
181	05091	Miller	AR
181	05113	Polk	AR
181	05133	Sevier	AR
181	40013	Bryan	OK
181	40023	Choctaw	OK
181	40089	McCurtain	OK
181	40127	Pushmataha	OK
181	48037	Bowie	TX
181	48067	Cass	TX
181	48315	Marion	TX
181	48343	Morris	TX
182	19103	Johnson	IA
182	19113	Linn	IA
183	29019	Boone	MO
183	29027	Callaway	MO
183	29051	Cole	MO
183	29053	Cooper	MO
183	29089	Howard	MO
183	29135	Moniteau	MO
183	29151	Osage	MO
184	22021	Caldwell Parish	LA
184	22035	East Carroll Parish	LA
184	22041	Franklin Parish	LA
184	22049	Jackson Parish	LA
184	22061	Lincoln Parish	LA
184	22067	Morehouse Parish	LA

PEA Number	FIPS Number	County Name	State
184	22073	Ouachita Parish	LA
184	22083	Richland Parish	LA
184	22111	Union Parish	LA
184	22123	West Carroll Parish	LA
185	26013	Baraga	MI
185	26043	Dickinson	MI
185	26053	Gogebic	MI
185	26061	Houghton	MI
185	26071	Iron	MI
185	26083	Keweenaw	MI
185	26103	Marquette	MI
185	26109	Menominee	MI
185	26131	Ontonagon	MI
185	55037	Florence	WI
185	55051	Iron	WI
185	55075	Marinette	WI
185	55078	Menominee	WI
185	55083	Oconto	WI
185	55115	Shawano	WI
186	45023	Chester	SC
186	45057	Lancaster	SC
186	45091	York	SC
187	16005	Bannock	ID
187	16011	Bingham	ID
187	16019	Bonneville	ID
187	16033	Clark	ID
187	16043	Fremont	ID
187	16051	Jefferson	ID
187	16065	Madison	ID
187	16077	Power	ID
187	16081	Teton	ID
188	36003	Allegany	NY
188	36009	Cattaraugus	NY
188	36013	Chautauqua	NY
188	42083	McKean	PA
188	42105	Potter	PA
189	22003	Allen Parish	LA
189	22009	Avoyelles Parish	LA
189	22011	Beauregard Parish	LA
189	22043	Grant Parish	LA
189	22059	La Salle Parish	LA
189	22079	Rapides Parish	LA
189	22115	Vernon Parish	LA
190	30019	Daniels	MT
190	30021	Dawson	MT
190	30031	Gallatin	MT
190	30033	Garfield	MT
190	30037	Golden Valley	MT

PEA Number	FIPS Number	County Name	State
190	30057	Madison	MT
190	30055	McCone	MT
190	30065	Musselshell	MT
190	30067	Park	MT
190	30069	Petroleum	MT
190	30083	Richland	MT
190	30085	Roosevelt	MT
190	30091	Sheridan	MT
190	30095	Stillwater	MT
190	30097	Sweet Grass	MT
190	30105	Valley	MT
190	30111	Yellowstone	MT
191	51007	Amelia	VA
191	51025	Brunswick	VA
191	51029	Buckingham	VA
191	51037	Charlotte	VA
191	51570	Colonial Heights City	VA
191	51049	Cumberland	VA
191	51053	Dinwiddie	VA
191	51595	Emporia City	VA
191	51081	Greensville	VA
191	51670	Hopewell City	VA
191	51111	Lunenburg	VA
191	51117	Mecklenburg	VA
191	51135	Nottoway	VA
191	51730	Petersburg City	VA
191	51147	Prince Edward	VA
191	51149	Prince George	VA
191	51183	Sussex	VA
192	37051	Cumberland	NC
193	20005	Atchison	KS
193	20043	Doniphan	KS
193	20045	Douglas	KS
193	20103	Leavenworth	KS
193	29003	Andrew	MO
193	29021	Buchanan	MO
194	42023	Cameron	PA
194	42027	Centre	PA
194	42033	Clearfield	PA
194	42047	Elk	PA
194	42065	Jefferson	PA
195	16009	Benewah	ID
195	16017	Bonner	ID
195	16021	Boundary	ID
195	16035	Clearwater	ID
195	16049	Idaho	ID
195	16055	Kootenai	ID
195	16057	Latah	ID

PEA Number	FIPS Number	County Name	State
195	16061	Lewis	ID
195	16069	Nez Perce	ID
195	16079	Shoshone	ID
196	29017	Bollinger	MO
196	29023	Butler	MO
196	29031	Cape Girardeau	MO
196	29035	Carter	MO
196	29093	Iron	MO
196	29123	Madison	MO
196	29133	Mississippi	MO
196	29143	New Madrid	MO
196	29157	Perry	MO
196	29179	Reynolds	MO
196	29181	Ripley	MO
196	29201	Scott	MO
196	29207	Stoddard	MO
196	29223	Wayne	MO
197	39013	Belmont	OH
197	39081	Jefferson	OH
197	39111	Monroe	OH
197	54009	Brooke	WV
197	54029	Hancock	WV
197	54051	Marshall	WV
197	54069	Ohio	WV
197	54095	Tyler	WV
197	54103	Wetzel	WV
198	05021	Clay	AR
198	05031	Craighead	AR
198	05055	Greene	AR
198	05075	Lawrence	AR
198	05093	Mississippi	AR
198	05111	Poinsett	AR
198	05121	Randolph	AR
198	29069	Dunklin	MO
198	29155	Pemiscot	MO
199	13111	Fannin	GA
199	13123	Gilmer	GA
199	13129	Gordon	GA
199	13213	Murray	GA
199	13227	Pickens	GA
199	13281	Towns	GA
199	13291	Union	GA
199	13313	Whitfield	GA
200	37033	Caswell	NC
200	37157	Rockingham	NC
200	51590	Danville City	VA
200	51089	Henry	VA
200	51690	Martinsville City	VA

PEA Number	FIPS Number	County Name	State
200	51141	Patrick	VA
200	51143	Pittsylvania	VA
201	48019	Bandera	TX
201	48127	Dimmit	TX
201	48163	Frio	TX
201	48171	Gillespie	TX
201	48259	Kendall	TX
201	48265	Kerr	TX
201	48283	La Salle	TX
201	48323	Maverick	TX
201	48325	Medina	TX
201	48385	Real	TX
201	48463	Uvalde	TX
201	48507	Zavala	TX
202	01113	Russell	AL
202	13053	Chattahoochee	GA
202	13145	Harris	GA
202	13197	Marion	GA
202	13215	Muscogee	GA
202	13259	Stewart	GA
202	13307	Webster	GA
203	26009	Antrim	MI
203	26019	Benzie	MI
203	26055	Grand Traverse	MI
203	26079	Kalkaska	MI
203	26085	Lake	MI
203	26089	Leelanau	MI
203	26101	Manistee	MI
203	26105	Mason	MI
203	26113	Missaukee	MI
203	26133	Osceola	MI
203	26165	Wexford	MI
204	21055	Crittenden	KY
204	21059	Daviess	KY
204	21091	Hancock	KY
204	21101	Henderson	KY
204	21107	Hopkins	KY
204	21149	McLean	KY
204	21177	Muhlenberg	KY
204	21183	Ohio	KY
204	21225	Union	KY
204	21233	Webster	KY
205	06023	Humboldt	CA
205	06033	Lake	CA
205	06045	Mendocino	CA
205	06105	Trinity	CA
206	53001	Adams	WA
206	53007	Chelan	WA

PEA Number	FIPS Number	County Name	State
206	53017	Douglas	WA
206	53025	Grant	WA
206	53037	Kittitas	WA
206	53047	Okanogan	WA
207	13003	Atkinson	GA
207	13005	Bacon	GA
207	13025	Brantley	GA
207	13039	Camden	GA
207	13049	Charlton	GA
207	13065	Clinch	GA
207	13069	Coffee	GA
207	13127	Glynn	GA
207	13191	McIntosh	GA
207	13229	Pierce	GA
207	13299	Ware	GA
208	37097	Iredell	NC
208	37159	Rowan	NC
209	55009	Brown	WI
209	55029	Door	WI
209	55061	Kewaunee	WI
210	36007	Broome	NY
210	36107	Tioga	NY
210	42115	Susquehanna	PA
211	40005	Atoka	OK
211	40019	Carter	OK
211	40029	Coal	OK
211	40033	Cotton	OK
211	40049	Garvin	OK
211	40063	Hughes	OK
211	40067	Jefferson	OK
211	40069	Johnston	OK
211	40085	Love	OK
211	40095	Marshall	OK
211	40099	Murray	OK
211	40107	Okfuskee	OK
211	40123	Pontotoc	OK
211	40133	Seminole	OK
211	40137	Stephens	OK
212	02020	Anchorage Borough	AK
213	41013	Crook	OR
213	41017	Deschutes	OR
213	41027	Hood River	OR
213	41031	Jefferson	OR
213	41037	Lake	OR
213	41055	Sherman	OR
213	41065	Wasco	OR
213	53039	Klickitat	WA
213	53059	Skamania	WA

PEA Number	FIPS Number	County Name	State
214	31109	Lancaster	NE
215	37003	Alexander	NC
215	37023	Burke	NC
215	37035	Catawba	NC
216	20021	Cherokee	KS
216	20037	Crawford	KS
216	29011	Barton	MO
216	29097	Jasper	MO
216	29145	Newton	MO
216	40115	Ottawa	OK
217	48303	Lubbock	TX
218	55073	Marathon	WI
218	55097	Portage	WI
218	55141	Wood	WI
219	19019	Buchanan	IA
219	19021	Buena Vista	IA
219	19023	Butler	IA
219	19033	Cerro Gordo	IA
219	19037	Chickasaw	IA
219	19041	Clay	IA
219	19059	Dickinson	IA
219	19063	Emmet	IA
219	19065	Fayette	IA
219	19067	Floyd	IA
219	19069	Franklin	IA
219	19081	Hancock	IA
219	19109	Kossuth	IA
219	19131	Mitchell	IA
219	19147	Palo Alto	IA
219	19151	Pocahontas	IA
219	19189	Winnebago	IA
219	19195	Worth	IA
220	48135	Ector	TX
220	48329	Midland	TX
221	48247	Jim Hogg	TX
221	48479	Webb	TX
221	48505	Zapata	TX
222	47029	Cocke	TN
222	47057	Grainger	TN
222	47063	Hamblen	TN
222	47067	Hancock	TN
222	47089	Jefferson	TN
222	47155	Sevier	TN
223	19061	Dubuque	IA
223	19097	Jackson	IA
223	17085	Jo Daviess	IL
223	55043	Grant	WI
223	55045	Green	WI

PEA Number	FIPS Number	County Name	State
223	55049	Iowa	WI
223	55065	Lafayette	WI
224	17015	Carroll	IL
224	17037	DeKalb	IL
224	17103	Lee	IL
224	17141	Ogle	IL
224	17177	Stephenson	IL
225	27055	Houston	MN
225	55053	Jackson	WI
225	55063	La Crosse	WI
225	55081	Monroe	WI
225	55121	Trempealeau	WI
225	55123	Vernon	WI
226	39003	Allen	OH
226	39011	Auglaize	OH
226	39107	Mercer	OH
226	39137	Putnam	OH
226	39161	Van Wert	OH
227	36045	Jefferson	NY
227	36049	Lewis	NY
227	36089	St. Lawrence	NY
228	51023	Botetourt	VA
228	51045	Craig	VA
228	51161	Roanoke	VA
228	51770	Roanoke City	VA
228	51775	Salem City	VA
229	32009	Esmeralda	NV
229	32017	Lincoln	NV
229	32021	Mineral	NV
229	32023	Nye	NV
229	49001	Beaver	UT
229	49017	Garfield	UT
229	49021	Iron	UT
229	49031	Piute	UT
229	49053	Washington	UT
230	37017	Bladen	NC
230	37093	Hoke	NC
230	37155	Robeson	NC
230	37165	Scotland	NC
231	31003	Antelope	NE
231	31011	Boone	NE
231	31021	Burt	NE
231	31023	Butler	NE
231	31025	Cass	NE
231	31037	Colfax	NE
231	31039	Cuming	NE
231	31053	Dodge	NE
231	31119	Madison	NE

PEA Number	FIPS Number	County Name	State
231	31125	Nance	NE
231	31139	Pierce	NE
231	31141	Platte	NE
231	31143	Polk	NE
231	31155	Saunders	NE
231	31167	Stanton	NE
231	31177	Washington	NE
231	31179	Wayne	NE
232	20013	Brown	KS
232	20031	Coffey	KS
232	20085	Jackson	KS
232	20087	Jefferson	KS
232	20139	Osage	KS
232	20177	Shawnee	KS
233	37045	Cleveland	NC
233	37109	Lincoln	NC
233	37161	Rutherford	NC
234	37057	Davidson	NC
234	37059	Davie	NC
234	37197	Yadkin	NC
235	48375	Potter	TX
235	48381	Randall	TX
236	31001	Adams	NE
236	31015	Boyd	NE
236	31017	Brown	NE
236	31019	Buffalo	NE
236	31035	Clay	NE
236	31041	Custer	NE
236	31047	Dawson	NE
236	31071	Garfield	NE
236	31077	Greeley	NE
236	31079	Hall	NE
236	31081	Hamilton	NE
236	31089	Holt	NE
236	31093	Howard	NE
236	31103	Keya Paha	NE
236	31115	Loup	NE
236	31121	Merrick	NE
236	31129	Nuckolls	NE
236	31149	Rock	NE
236	31163	Sherman	NE
236	31175	Valley	NE
236	31181	Webster	NE
236	31183	Wheeler	NE
237	13031	Bulloch	GA
237	13043	Candler	GA
237	13109	Evans	GA
237	13179	Liberty	GA

PEA Number	FIPS Number	County Name	State
237	13183	Long	GA
237	13251	Screven	GA
237	13267	Tattnall	GA
237	13305	Wayne	GA
238	45031	Darlington	SC
238	45041	Florence	SC
238	45089	Williamsburg	SC
239	37025	Cabarrus	NC
239	37167	Stanly	NC
240	51003	Albemarle	VA
240	51540	Charlottesville City	VA
240	51065	Fluvanna	VA
240	51079	Greene	VA
240	51109	Louisa	VA
240	51125	Nelson	VA
241	13001	Appling	GA
241	13107	Emanuel	GA
241	13141	Hancock	GA
241	13161	Jeff Davis	GA
241	13167	Johnson	GA
241	13175	Laurens	GA
241	13209	Montgomery	GA
241	13237	Putnam	GA
241	13271	Telfair	GA
241	13279	Toombs	GA
241	13283	Treutlen	GA
241	13303	Washington	GA
241	13309	Wheeler	GA
242	22019	Calcasieu Parish	LA
242	22023	Cameron Parish	LA
242	22053	Jefferson Davis Parish	LA
243	17127	Massac	IL
243	21007	Ballard	KY
243	21033	Caldwell	KY
243	21035	Calloway	KY
243	21039	Carlisle	KY
243	21083	Graves	KY
243	21139	Livingston	KY
243	21143	Lyon	KY
243	21157	Marshall	KY
243	21145	McCracken	KY
244	20017	Chase	KS
244	20027	Clay	KS
244	20041	Dickinson	KS
244	20061	Geary	KS
244	20111	Lyon	KS
244	20117	Marshall	KS
244	20127	Morris	KS

PEA Number	FIPS Number	County Name	State
244	20131	Nemaha	KS
244	20149	Pottawatomie	KS
244	20161	Riley	KS
244	20197	Wabaunsee	KS
244	20201	Washington	KS
245	29009	Barry	MO
245	29057	Dade	MO
245	29067	Douglas	MO
245	29091	Howell	MO
245	29109	Lawrence	MO
245	29153	Ozark	MO
245	29209	Stone	MO
245	29213	Taney	MO
246	01027	Clay	AL
246	01037	Coosa	AL
246	01081	Lee	AL
246	01087	Macon	AL
246	01123	Tallapoosa	AL
247	16027	Canyon	ID
247	16039	Elmore	ID
247	16073	Owyhee	ID
248	45027	Clarendon	SC
248	45055	Kershaw	SC
248	45061	Lee	SC
248	45085	Sumter	SC
249	48041	Brazos	TX
249	48185	Grimes	TX
250	35013	Dona Ana	NM
250	35051	Sierra	NM
251	20007	Barber	KS
251	20009	Barton	KS
251	20033	Comanche	KS
251	20047	Edwards	KS
251	20051	Ellis	KS
251	20053	Ellsworth	KS
251	20097	Kiowa	KS
251	20115	Marion	KS
251	20113	McPherson	KS
251	20135	Ness	KS
251	20145	Pawnee	KS
251	20151	Pratt	KS
251	20159	Rice	KS
251	20165	Rush	KS
251	20167	Russell	KS
251	20169	Saline	KS
251	20185	Stafford	KS
251	20195	Trego	KS
252	19035	Cherokee	IA

PEA Number	FIPS Number	County Name	State
252	19093	Ida	IA
252	19133	Monona	IA
252	19141	O'Brien	IA
252	19149	Plymouth	IA
252	19167	Sioux	IA
252	19193	Woodbury	IA
252	46127	Union	SD
253	55001	Adams	WI
253	55021	Columbia	WI
253	55023	Crawford	WI
253	55057	Juneau	WI
253	55077	Marquette	WI
253	55103	Richland	WI
253	55111	Sauk	WI
254	55003	Ashland	WI
254	55007	Bayfield	WI
254	55019	Clark	WI
254	55041	Forest	WI
254	55067	Langlade	WI
254	55069	Lincoln	WI
254	55085	Oneida	WI
254	55099	Price	WI
254	55119	Taylor	WI
254	55125	Vilas	WI
255	28011	Bolivar	MS
255	28015	Carroll	MS
255	28027	Coahoma	MS
255	28053	Humphreys	MS
255	28055	Issaquena	MS
255	28083	Leflore	MS
255	28125	Sharkey	MS
255	28133	Sunflower	MS
255	28135	Tallahatchie	MS
255	28151	Washington	MS
256	51009	Amherst	VA
256	51011	Appomattox	VA
256	51031	Campbell	VA
256	51083	Halifax	VA
256	51680	Lynchburg City	VA
257	56001	Albany	WY
257	56005	Campbell	WY
257	56009	Converse	WY
257	56011	Crook	WY
257	56021	Laramie	WY
257	56027	Niobrara	WY
257	56031	Platte	WY
257	56045	Weston	WY
258	01009	Blount	AL

PEA Number	FIPS Number	County Name	State
258	01043	Cullman	AL
258	01057	Fayette	AL
258	01093	Marion	AL
258	01133	Winston	AL
259	35005	Chaves	NM
259	35015	Eddy	NM
259	35025	Lea	NM
259	48165	Gaines	TX
259	48501	Yoakum	TX
260	26007	Alpena	MI
260	26029	Charlevoix	MI
260	26031	Cheboygan	MI
260	26039	Crawford	MI
260	26047	Emmet	MI
260	26119	Montmorency	MI
260	26135	Oscoda	MI
260	26137	Otsego	MI
260	26141	Presque Isle	MI
260	26143	Roscommon	MI
261	27027	Clay	MN
261	38017	Cass	ND
262	45013	Beaufort	SC
262	45049	Hampton	SC
262	45053	Jasper	SC
263	35019	Guadalupe	NM
263	35028	Los Alamos	NM
263	35033	Mora	NM
263	35047	San Miguel	NM
263	35049	Santa Fe	NM
264	02013	Aleutians East Borough	AK
264	02016	Aleutians West Census Area	AK
264	02050	Bethel Census Area	AK
264	02060	Bristol Bay Borough	AK
264	02070	Dillingham Census Area	AK
264	02122	Kenai Peninsula Borough	AK
264	02150	Kodiak Island Borough	AK
264	02164	Lake and Peninsula Borough	AK
264	02170	Matanuska-Susitna Borough	AK
264	02261	Valdez-Cordova Census Area	AK
265	19089	Howard	IA
265	19191	Winneshiek	IA
265	27039	Dodge	MN
265	27045	Fillmore	MN
265	27099	Mower	MN
265	27157	Wabasha	MN
265	27169	Winona	MN
265	55011	Buffalo	WI
266	37009	Ashe	NC

PEA Number	FIPS Number	County Name	State
266	37011	Avery	NC
266	37027	Caldwell	NC
266	37189	Watauga	NC
266	47091	Johnson	TN
267	55071	Manitowoc	WI
267	55117	Sheboygan	WI
268	19031	Cedar	IA
268	19045	Clinton	IA
268	19115	Louisa	IA
268	19139	Muscatine	IA
268	17131	Mercer	IL
268	17195	Whiteside	IL
269	55101	Racine	WI
270	17011	Bureau	IL
270	17099	La Salle	IL
270	17105	Livingston	IL
270	17155	Putnam	IL
271	36015	Chemung	NY
271	42015	Bradford	PA
271	42117	Tioga	PA
272	48035	Bosque	TX
272	48049	Brown	TX
272	48083	Coleman	TX
272	48093	Comanche	TX
272	48133	Eastland	TX
272	48143	Erath	TX
272	48193	Hamilton	TX
272	48217	Hill	TX
272	48333	Mills	TX
272	48425	Somervell	TX
273	17039	De Witt	IL
273	17113	McLean	IL
274	16013	Blaine	ID
274	16025	Camas	ID
274	16031	Cassia	ID
274	16047	Gooding	ID
274	16053	Jerome	ID
274	16063	Lincoln	ID
274	16067	Minidoka	ID
274	16083	Twin Falls	ID
275	48001	Anderson	TX
275	48213	Henderson	TX
275	48349	Navarro	TX
276	30011	Carter	MT
276	38001	Adams	ND
276	46019	Butte	SD
276	46033	Custer	SD
276	46047	Fall River	SD

PEA Number	FIPS Number	County Name	State
276	46063	Harding	SD
276	46081	Lawrence	SD
276	46093	Meade	SD
276	46103	Pennington	SD
276	46105	Perkins	SD
277	20035	Cowley	KS
277	20049	Elk	KS
277	20073	Greenwood	KS
277	20077	Harper	KS
277	20079	Harvey	KS
277	20095	Kingman	KS
277	20155	Reno	KS
277	20191	Sumner	KS
278	20001	Allen	KS
278	20019	Chautauqua	KS
278	20099	Labette	KS
278	20125	Montgomery	KS
278	20133	Neosho	KS
278	20205	Wilson	KS
278	20207	Woodson	KS
278	40035	Craig	OK
278	40105	Nowata	OK
278	40147	Washington	OK
279	16041	Franklin	ID
279	16071	Oneida	ID
279	49003	Box Elder	UT
279	49005	Cache	UT
280	20025	Clark	KS
280	20055	Finney	KS
280	20057	Ford	KS
280	20067	Grant	KS
280	20069	Gray	KS
280	20071	Greeley	KS
280	20075	Hamilton	KS
280	20081	Haskell	KS
280	20083	Hodgeman	KS
280	20093	Kearny	KS
280	20101	Lane	KS
280	20119	Meade	KS
280	20129	Morton	KS
280	20171	Scott	KS
280	20175	Seward	KS
280	20187	Stanton	KS
280	20189	Stevens	KS
280	20203	Wichita	KS
280	40007	Beaver	OK
280	40025	Cimarron	OK
280	40139	Texas	OK

PEA Number	FIPS Number	County Name	State
281	40091	McIntosh	OK
281	40101	Muskogee	OK
281	40111	Okmulgee	OK
281	40121	Pittsburg	OK
282	17057	Fulton	IL
282	17095	Knox	IL
282	17123	Marshall	IL
282	17125	Mason	IL
282	17109	McDonough	IL
282	17175	Stark	IL
282	17187	Warren	IL
283	36019	Clinton	NY
283	36031	Essex	NY
283	36033	Franklin	NY
284	45001	Abbeville	SC
284	45047	Greenwood	SC
284	45059	Laurens	SC
284	45065	McCormick	SC
285	04001	Apache	AZ
285	35006	Cibola	NM
285	35031	McKinley	NM
286	46099	Minnehaha	SD
287	55059	Kenosha	WI
288	48059	Callahan	TX
288	48253	Jones	TX
288	48441	Taylor	TX
289	49007	Carbon	UT
289	49013	Duchesne	UT
289	49015	Emery	UT
289	49019	Grand	UT
289	49029	Morgan	UT
289	49043	Summit	UT
289	49047	Uintah	UT
289	49051	Wasatch	UT
289	49055	Wayne	UT
290	27011	Big Stone	MN
290	27117	Pipestone	MN
290	27133	Rock	MN
290	27155	Traverse	MN
290	46005	Beadle	SD
290	46011	Brookings	SD
290	46025	Clark	SD
290	46029	Codington	SD
290	46039	Deuel	SD
290	46051	Grant	SD
290	46057	Hamlin	SD
290	46077	Kingsbury	SD
290	46079	Lake	SD

PEA Number	FIPS Number	County Name	State
290	46097	Miner	SD
290	46101	Moody	SD
290	46109	Roberts	SD
290	46111	Sanborn	SD
291	37123	Montgomery	NC
291	37125	Moore	NC
291	37153	Richmond	NC
292	08101	Pueblo	CO
293	21221	Trigg	KY
293	47081	Hickman	TN
293	47083	Houston	TN
293	47085	Humphreys	TN
293	47099	Lawrence	TN
293	47101	Lewis	TN
293	47135	Perry	TN
293	47161	Stewart	TN
293	47181	Wayne	TN
294	19013	Black Hawk	IA
294	19017	Bremer	IA
295	40071	Kay	OK
295	40103	Noble	OK
295	40117	Pawnee	OK
295	40119	Payne	OK
296	42107	Schuylkill	PA
297	41001	Baker	OR
297	41021	Gilliam	OR
297	41023	Grant	OR
297	41049	Morrow	OR
297	41059	Umatilla	OR
297	41061	Union	OR
297	41063	Wallowa	OR
297	41069	Wheeler	OR
298	02068	Denali Borough	AK
298	02090	Fairbanks North Star Borough	AK
298	02180	Nome Census Area	AK
298	02185	North Slope Borough	AK
298	02188	Northwest Arctic Borough	AK
298	02240	Southeast Fairbanks Census Area	AK
298	02270	Wade Hampton Census Area	AK
298	02290	Yukon-Koyukuk Census Area	AK
299	29001	Adair	MO
299	29025	Caldwell	MO
299	29033	Carroll	MO
299	29049	Clinton	MO
299	29061	Daviess	MO
299	29063	DeKalb	MO
299	29079	Grundy	MO
299	29081	Harrison	MO

PEA Number	FIPS Number	County Name	State
299	29103	Knox	MO
299	29117	Livingston	MO
299	29129	Mercer	MO
299	29171	Putnam	MO
299	29197	Schuyler	MO
299	29211	Sullivan	MO
300	01011	Bullock	AL
300	01013	Butler	AL
300	01041	Crenshaw	AL
300	01047	Dallas	AL
300	01085	Lowndes	AL
300	01105	Perry	AL
300	01109	Pike	AL
301	27109	Olmsted	MN
302	40003	Alfalfa	OK
302	40011	Blaine	OK
302	40015	Caddo	OK
302	40047	Garfield	OK
302	40053	Grant	OK
302	40073	Kingfisher	OK
302	40093	Major	OK
302	40151	Woods	OK
303	30005	Blaine	MT
303	30013	Cascade	MT
303	30015	Chouteau	MT
303	30035	Glacier	MT
303	30041	Hill	MT
303	30051	Liberty	MT
303	30073	Pondera	MT
303	30099	Teton	MT
303	30101	Toole	MT
304	37171	Surry	NC
304	37193	Wilkes	NC
305	40009	Beckham	OK
305	40039	Custer	OK
305	40043	Dewey	OK
305	40045	Ellis	OK
305	40055	Greer	OK
305	40057	Harmon	OK
305	40059	Harper	OK
305	40065	Jackson	OK
305	40075	Kiowa	OK
305	40129	Roger Mills	OK
305	40149	Washita	OK
305	40153	Woodward	OK
306	48077	Clay	TX
306	48485	Wichita	TX
307	19119	Lyon	IA

PEA Number	FIPS Number	County Name	State
307	31027	Cedar	NE
307	31107	Knox	NE
307	46009	Bon Homme	SD
307	46027	Clay	SD
307	46061	Hanson	SD
307	46067	Hutchinson	SD
307	46083	Lincoln	SD
307	46087	McCook	SD
307	46125	Turner	SD
307	46135	Yankton	SD
308	13079	Crawford	GA
308	13081	Crisp	GA
308	13093	Dooly	GA
308	13193	Macon	GA
308	13207	Monroe	GA
308	13249	Schley	GA
308	13261	Sumter	GA
308	13269	Taylor	GA
309	37015	Bertie	NC
309	37029	Camden	NC
309	37041	Chowan	NC
309	37073	Gates	NC
309	37091	Hertford	NC
309	37139	Pasquotank	NC
309	37143	Perquimans	NC
310	29055	Crawford	MO
310	29187	St. Francois	MO
310	29186	Ste. Genevieve	MO
310	29221	Washington	MO
311	08003	Alamosa	CO
311	08009	Baca	CO
311	08011	Bent	CO
311	08017	Cheyenne	CO
311	08021	Conejos	CO
311	08023	Costilla	CO
311	08025	Crowley	CO
311	08055	Huerfano	CO
311	08061	Kiowa	CO
311	08071	Las Animas	CO
311	08079	Mineral	CO
311	08089	Otero	CO
311	08099	Prowers	CO
311	08105	Rio Grande	CO
311	08109	Saguache	CO
311	35007	Colfax	NM
312	35045	San Juan	NM
313	48021	Bastrop	TX
313	48055	Caldwell	TX

PEA Number	FIPS Number	County Name	State
313	48287	Lee	TX
314	48073	Cherokee	TX
314	48365	Panola	TX
314	48401	Rusk	TX
315	30003	Big Horn	MT
315	30009	Carbon	MT
315	30017	Custer	MT
315	30025	Fallon	MT
315	30075	Powder River	MT
315	30079	Prairie	MT
315	30087	Rosebud	MT
315	30103	Treasure	MT
315	56003	Big Horn	WY
315	56019	Johnson	WY
315	56029	Park	WY
315	56033	Sheridan	WY
316	16007	Bear Lake	ID
316	16029	Caribou	ID
316	49009	Daggett	UT
316	49033	Rich	UT
316	56007	Carbon	WY
316	56023	Lincoln	WY
316	56035	Sublette	WY
316	56037	Sweetwater	WY
316	56041	Uinta	WY
317	31059	Fillmore	NE
317	31067	Gage	NE
317	31095	Jefferson	NE
317	31097	Johnson	NE
317	31127	Nemaha	NE
317	31131	Otoe	NE
317	31133	Pawnee	NE
317	31147	Richardson	NE
317	31151	Saline	NE
317	31159	Seward	NE
317	31169	Thayer	NE
317	31185	York	NE
318	27069	Kittson	MN
318	27077	Lake of the Woods	MN
318	27089	Marshall	MN
318	27113	Pennington	MN
318	27125	Red Lake	MN
318	27135	Roseau	MN
318	38005	Benson	ND
318	38019	Cavalier	ND
318	38027	Eddy	ND
318	38063	Nelson	ND
318	38067	Pembina	ND

PEA Number	FIPS Number	County Name	State
318	38071	Ramsey	ND
318	38079	Rolette	ND
318	38091	Steele	ND
318	38095	Towner	ND
318	38097	Traill	ND
318	38099	Walsh	ND
319	13095	Dougherty	GA
319	13177	Lee	GA
320	48235	Irion	TX
320	48413	Schleicher	TX
320	48435	Sutton	TX
320	48451	Tom Green	TX
321	18029	Dearborn	IN
321	18047	Franklin	IN
321	18115	Ohio	IN
321	18137	Ripley	IN
321	18155	Switzerland	IN
322	38009	Bottineau	ND
322	38013	Burke	ND
322	38023	Divide	ND
322	38049	McHenry	ND
322	38053	McKenzie	ND
322	38061	Mountrail	ND
322	38075	Renville	ND
322	38101	Ward	ND
322	38105	Williams	ND
323	35003	Catron	NM
323	35053	Socorro	NM
323	35057	Torrance	NM
323	35061	Valencia	NM
324	42103	Pike	PA
324	42127	Wayne	PA
325	38015	Burleigh	ND
325	38059	Morton	ND
326	27005	Becker	MN
326	27087	Mahnomen	MN
326	27107	Norman	MN
326	27111	Otter Tail	MN
326	27167	Wilkin	MN
327	45017	Calhoun	SC
327	45075	Orangeburg	SC
328	04017	Navajo	AZ
329	48047	Brooks	TX
329	48131	Duval	TX
329	48249	Jim Wells	TX
329	48261	Kenedy	TX
329	48273	Kleberg	TX
329	48297	Live Oak	TX

PEA Number	FIPS Number	County Name	State
329	48311	McMullen	TX
330	17033	Crawford	IL
330	17047	Edwards	IL
330	17101	Lawrence	IL
330	17159	Richland	IL
330	17185	Wabash	IL
330	17191	Wayne	IL
330	17193	White	IL
331	48079	Cochran	TX
331	48189	Hale	TX
331	48219	Hockley	TX
331	48279	Lamb	TX
331	48305	Lynn	TX
331	48437	Swisher	TX
331	48445	Terry	TX
332	37007	Anson	NC
332	45025	Chesterfield	SC
332	45069	Marlboro	SC
333	39037	Darke	OH
333	39149	Shelby	OH
334	48011	Armstrong	TX
334	48065	Carson	TX
334	48075	Childress	TX
334	48087	Collingsworth	TX
334	48101	Cottle	TX
334	48129	Donley	TX
334	48179	Gray	TX
334	48191	Hall	TX
334	48195	Hansford	TX
334	48211	Hemphill	TX
334	48233	Hutchinson	TX
334	48295	Lipscomb	TX
334	48357	Ochiltree	TX
334	48393	Roberts	TX
334	48483	Wheeler	TX
335	22031	De Soto Parish	LA
335	22069	Natchitoches Parish	LA
335	22081	Red River Parish	LA
335	22085	Sabine Parish	LA
336	27119	Polk	MN
336	38035	Grand Forks	ND
337	48097	Cooke	TX
337	48237	Jack	TX
337	48337	Montague	TX
337	48363	Palo Pinto	TX
338	08007	Archuleta	CO
338	08033	Dolores	CO
338	08067	La Plata	CO

PEA Number	FIPS Number	County Name	State
338	08083	Montezuma	CO
338	08111	San Juan	CO
339	31007	Banner	NE
339	31013	Box Butte	NE
339	31033	Cheyenne	NE
339	31045	Dawes	NE
339	31105	Kimball	NE
339	31123	Morrill	NE
339	31157	Scotts Bluff	NE
339	31165	Sioux	NE
339	56015	Goshen	WY
340	35009	Curry	NM
340	35011	DeBaca	NM
340	35021	Harding	NM
340	35037	Quay	NM
340	35041	Roosevelt	NM
340	35059	Union	NM
341	35027	Lincoln	NM
341	35035	Otero	NM
342	46003	Aurora	SD
342	46015	Brule	SD
342	46017	Buffalo	SD
342	46023	Charles Mix	SD
342	46035	Davison	SD
342	46043	Douglas	SD
342	46053	Gregory	SD
342	46059	Hand	SD
342	46065	Hughes	SD
342	46069	Hyde	SD
342	46073	Jerauld	SD
342	46085	Lyman	SD
342	46117	Stanley	SD
342	46119	Sully	SD
342	46123	Tripp	SD
343	48043	Brewster	TX
343	48103	Crane	TX
343	48105	Crockett	TX
343	48243	Jeff Davis	TX
343	48301	Loving	TX
343	48371	Pecos	TX
343	48377	Presidio	TX
343	48383	Reagan	TX
343	48389	Reeves	TX
343	48443	Terrell	TX
343	48461	Upton	TX
343	48475	Ward	TX
343	48495	Winkler	TX
344	01007	Bibb	AL

PEA Number	FIPS Number	County Name	State
344	01021	Chilton	AL
344	01065	Hale	AL
345	45039	Fairfield	SC
345	45071	Newberry	SC
345	45081	Saluda	SC
346	37039	Cherokee	NC
346	37043	Clay	NC
346	37075	Graham	NC
346	37113	Macon	NC
347	22037	East Feliciana Parish	LA
347	22077	Pointe Coupee Parish	LA
347	22091	St. Helena Parish	LA
347	22125	West Feliciana Parish	LA
347	28157	Wilkinson	MS
348	46013	Brown	SD
348	46021	Campbell	SD
348	46037	Day	SD
348	46041	Dewey	SD
348	46045	Edmunds	SD
348	46049	Faulk	SD
348	46091	Marshall	SD
348	46089	McPherson	SD
348	46107	Potter	SD
348	46115	Spink	SD
348	46129	Walworth	SD
348	46137	Ziebach	SD
349	37111	McDowell	NC
349	37121	Mitchell	NC
349	37199	Yancey	NC
350	05037	Cross	AR
350	05077	Lee	AR
350	05107	Phillips	AR
350	05123	St. Francis	AR
351	30109	Wibaux	MT
351	38007	Billings	ND
351	38011	Bowman	ND
351	38025	Dunn	ND
351	38029	Emmons	ND
351	38033	Golden Valley	ND
351	38037	Grant	ND
351	38041	Hettinger	ND
351	38043	Kidder	ND
351	38047	Logan	ND
351	38051	McIntosh	ND
351	38055	McLean	ND
351	38057	Mercer	ND
351	38065	Oliver	ND
351	38085	Sioux	ND

PEA Number	FIPS Number	County Name	State
351	38087	Slope	ND
351	38089	Stark	ND
351	46031	Corson	SD
352	48177	Gonzales	TX
352	48255	Karnes	TX
352	48493	Wilson	TX
353	17075	Iroquois	IL
353	18073	Jasper	IN
353	18111	Newton	IN
354	55135	Waupaca	WI
354	55137	Waushara	WI
355	56025	Natrona	WY
356	53019	Ferry	WA
356	53043	Lincoln	WA
356	53051	Pend Oreille	WA
356	53065	Stevens	WA
357	35039	Rio Arriba	NM
357	35055	Taos	NM
358	48031	Blanco	TX
358	48053	Burnet	TX
358	48299	Llano	TX
359	08075	Logan	CO
359	08087	Morgan	CO
359	08095	Phillips	CO
359	08121	Washington	CO
359	08125	Yuma	CO
359	31057	Dundy	NE
360	02100	Haines Borough	AK
360	02105	Hoonah-Angoon Census Area	AK
360	02110	Juneau Borough	AK
360	02130	Ketchikan Gateway Borough	AK
360	02195	Petersburg	AK
360	02198	Prince of Wales-Hyder	AK
360	02220	Sitka Borough	AK
360	02230	Skagway Municipality	AK
360	02275	Wrangell	AK
360	02282	Yakutat Borough	AK
361	49023	Juab	UT
361	49027	Millard	UT
361	49039	Sanpete	UT
361	49041	Sevier	UT
362	16003	Adams	ID
362	16015	Boise	ID
362	16045	Gem	ID
362	16075	Payette	ID
362	16085	Valley	ID
362	16087	Washington	ID
363	48003	Andrews	TX

PEA Number	FIPS Number	County Name	State
363	48033	Borden	TX
363	48115	Dawson	TX
363	48173	Glasscock	TX
363	48227	Howard	TX
363	48317	Martin	TX
364	30001	Beaverhead	MT
364	30007	Broadwater	MT
364	30023	Deer Lodge	MT
364	30043	Jefferson	MT
364	30093	Silver Bow	MT
365	40141	Tillman	OK
365	48009	Archer	TX
365	48023	Baylor	TX
365	48155	Foard	TX
365	48197	Hardeman	TX
365	48429	Stephens	TX
365	48447	Throckmorton	TX
365	48487	Wilbarger	TX
365	48503	Young	TX
366	53003	Asotin	WA
366	53023	Garfield	WA
366	53075	Whitman	WA
367	29007	Audrain	MO
367	29137	Monroe	MO
367	29175	Randolph	MO
367	29205	Shelby	MO
368	20029	Cloud	KS
368	20039	Decatur	KS
368	20065	Graham	KS
368	20089	Jewell	KS
368	20105	Lincoln	KS
368	20123	Mitchell	KS
368	20137	Norton	KS
368	20141	Osborne	KS
368	20143	Ottawa	KS
368	20147	Phillips	KS
368	20153	Rawlins	KS
368	20157	Republic	KS
368	20163	Rooks	KS
368	20183	Smith	KS
369	19003	Adams	IA
369	19071	Fremont	IA
369	19129	Mills	IA
369	19137	Montgomery	IA
369	19145	Page	IA
369	19173	Taylor	IA
369	29005	Atchison	MO
370	19011	Benton	IA

PEA Number	FIPS Number	County Name	State
370	19095	Iowa	IA
370	19183	Washington	IA
371	37005	Alleghany	NC
371	51640	Galax City	VA
371	51077	Grayson	VA
371	51197	Wythe	VA
372	08039	Elbert	CO
372	08063	Kit Carson	CO
372	08073	Lincoln	CO
372	20023	Cheyenne	KS
372	20063	Gove	KS
372	20109	Logan	KS
372	20179	Sheridan	KS
372	20181	Sherman	KS
372	20193	Thomas	KS
372	20199	Wallace	KS
373	53013	Columbia	WA
373	53071	Walla Walla	WA
374	08115	Sedgwick	CO
374	31005	Arthur	NE
374	31009	Blaine	NE
374	31029	Chase	NE
374	31049	Deuel	NE
374	31069	Garden	NE
374	31091	Hooker	NE
374	31101	Keith	NE
374	31111	Lincoln	NE
374	31113	Logan	NE
374	31117	McPherson	NE
374	31135	Perkins	NE
374	31171	Thomas	NE
375	35017	Grant	NM
375	35023	Hidalgo	NM
375	35029	Luna	NM
376	48111	Dallam	TX
376	48117	Deaf Smith	TX
376	48205	Hartley	TX
376	48341	Moore	TX
376	48359	Oldham	TX
376	48421	Sherman	TX
377	01023	Choctaw	AL
377	01063	Greene	AL
377	01091	Marengo	AL
377	01119	Sumter	AL
378	13033	Burke	GA
378	13125	Glascock	GA
378	13163	Jefferson	GA
378	13165	Jenkins	GA

PEA Number	FIPS Number	County Name	State
378	13301	Warren	GA
379	26033	Chippewa	MI
379	26095	Luce	MI
379	26097	Mackinac	MI
380	26003	Alger	MI
380	26041	Delta	MI
380	26153	Schoolcraft	MI
381	48137	Edwards	TX
381	48271	Kinney	TX
381	48465	Val Verde	TX
382	56013	Fremont	WY
382	56017	Hot Springs	WY
382	56043	Washakie	WY
383	19039	Clarke	IA
383	19053	Decatur	IA
383	19117	Lucas	IA
383	19159	Ringgold	IA
383	19175	Union	IA
383	19185	Wayne	IA
384	19005	Allamakee	IA
384	19043	Clayton	IA
384	19055	Delaware	IA
385	29111	Lewis	MO
385	29127	Marion	MO
385	29173	Ralls	MO
386	45005	Allendale	SC
386	45009	Bamberg	SC
386	45011	Barnwell	SC
387	38003	Barnes	ND
387	38021	Dickey	ND
387	38039	Griggs	ND
387	38045	LaMoure	ND
387	38073	Ransom	ND
387	38077	Richland	ND
387	38081	Sargent	ND
388	19009	Audubon	IA
388	19029	Cass	IA
388	19085	Harrison	IA
388	19165	Shelby	IA
389	31061	Franklin	NE
389	31063	Frontier	NE
389	31065	Furnas	NE
389	31073	Gosper	NE
389	31083	Harlan	NE
389	31085	Hayes	NE
389	31087	Hitchcock	NE
389	31099	Kearney	NE
389	31137	Phelps	NE

PEA Number	FIPS Number	County Name	State
389	31145	Red Willow	NE
390	48151	Fisher	TX
390	48335	Mitchell	TX
390	48353	Nolan	TX
390	48415	Scurry	TX
391	41025	Harney	OR
391	41045	Malheur	OR
392	29075	Gentry	MO
392	29087	Holt	MO
392	29147	Nodaway	MO
392	29227	Worth	MO
393	29041	Chariton	MO
393	29115	Linn	MO
393	29121	Macon	MO
394	46007	Bennett	SD
394	46055	Haakon	SD
394	46071	Jackson	SD
394	46075	Jones	SD
394	46095	Mellette	SD
394	46113	Shannon	SD
394	46121	Todd	SD
395	38031	Foster	ND
395	38069	Pierce	ND
395	38083	Sheridan	ND
395	38093	Stutsman	ND
395	38103	Wells	ND
396	19001	Adair	IA
396	19077	Guthrie	IA
396	19121	Madison	IA
397	01075	Lamar	AL
397	01107	Pickens	AL
398	31043	Dakota	NE
398	31051	Dixon	NE
398	31173	Thurston	NE
399	48281	Lampasas	TX
399	48411	San Saba	TX
400	48017	Bailey	TX
400	48069	Castro	TX
400	48369	Parmer	TX
401	48045	Briscoe	TX
401	48107	Crosby	TX
401	48125	Dickens	TX
401	48153	Floyd	TX
401	48169	Garza	TX
401	48263	Kent	TX
401	48345	Motley	TX
402	48095	Concho	TX
402	48267	Kimble	TX

PEA Number	FIPS Number	County Name	State
402	48319	Mason	TX
402	48307	McCulloch	TX
402	48327	Menard	TX
403	30027	Fergus	MT
403	30045	Judith Basin	MT
403	30059	Meagher	MT
403	30071	Phillips	MT
403	30107	Wheatland	MT
404	49025	Kane	UT
404	49037	San Juan	UT
405	56039	Teton	WY
406	19105	Jones	IA
407	16023	Butte	ID
407	16037	Custer	ID
407	16059	Lemhi	ID
408	48081	Coke	TX
408	48399	Runnels	TX
408	48431	Sterling	TX
409	48207	Haskell	TX
409	48269	King	TX
409	48275	Knox	TX
409	48417	Shackelford	TX
409	48433	Stonewall	TX
410	31031	Cherry	NE
410	31075	Grant	NE
410	31161	Sheridan	NE
411	48109	Culberson	TX
411	48229	Hudspeth	TX
412	72001	Adjuntas	PR
412	72003	Aguada	PR
412	72005	Aguadilla	PR
412	72007	Aguas Buenas	PR
412	72009	Aibonito	PR
412	72011	Anasco	PR
412	72013	Arecibo	PR
412	72015	Arroyo	PR
412	72017	Barceloneta	PR
412	72019	Barranquitas	PR
412	72021	Bayamon	PR
412	72023	Cabo Rojo	PR
412	72025	Caguas	PR
412	72027	Camuy	PR
412	72029	Canovanas	PR
412	72031	Carolina	PR
412	72033	Catano	PR
412	72035	Cayey	PR
412	72037	Ceiba	PR
412	72039	Ciales	PR

PEA Number	FIPS Number	County Name	State
412	72041	Cidra	PR
412	72043	Coamo	PR
412	72045	Comerio	PR
412	72047	Corozal	PR
412	72049	Culebra	PR
412	72051	Dorado	PR
412	72053	Fajardo	PR
412	72054	Florida	PR
412	72055	Guanica	PR
412	72057	Guayama	PR
412	72059	Guayanilla	PR
412	72061	Guaynabo	PR
412	72063	Gurabo	PR
412	72065	Hatillo	PR
412	72067	Hormigueros	PR
412	72069	Humacao	PR
412	72071	Isabela	PR
412	72073	Jayuya	PR
412	72075	Juana Diaz	PR
412	72077	Juncos	PR
412	72079	Lajas	PR
412	72081	Lares	PR
412	72083	Las Marias	PR
412	72085	Las Piedras	PR
412	72087	Loiza	PR
412	72089	Luquillo	PR
412	72091	Manati	PR
412	72093	Maricao	PR
412	72095	Maunabo	PR
412	72097	Mayaguez	PR
412	72099	Moca	PR
412	72101	Morovis	PR
412	72103	Naguabo	PR
412	72105	Naranjito	PR
412	72107	Orocovis	PR
412	72109	Patillas	PR
412	72111	Penuelas	PR
412	72113	Ponce	PR
412	72115	Quebradillas	PR
412	72117	Rincon	PR
412	72119	Rio Grande	PR
412	72121	Sabana Grande	PR
412	72123	Salinas	PR
412	72125	San German	PR
412	72127	San Juan	PR
412	72129	San Lorenzo	PR
412	72131	San Sebastian	PR
412	72133	Santa Isabel	PR

PEA Number	FIPS Number	County Name	State
412	72135	Toa Alta	PR
412	72137	Toa Baja	PR
412	72139	Trujillo Alto	PR
412	72141	Utuado	PR
412	72143	Vega Alta	PR
412	72145	Vega Baja	PR
412	72147	Vieques	PR
412	72149	Villalba	PR
412	72151	Yabucoa	PR
412	72153	Yauco	PR
413	66010	Guam	GU
413	69085	Northern Islands	MP
413	69100	Rota	MP
413	69110	Saipan	MP
413	69120	Tinian	MP
414	78010	St. Croix	VI
414	78020	St. John	VI
414	78030	St. Thomas	VI
415	60010	Eastern District	AS
415	60020	Manu'a District	AS
415	60030	Rose Island	AS
415	60040	Swains Island	AS
415	60050	Western District	AS
416	99023	Gulf of Mexico Central and East	GM
416	99001	Gulf of Mexico West	GM

[FR Doc. 2014–21007 Filed 9–3–14; 8:45 am]

BILLING CODE 6712–01–C

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission

DATE AND TIME: Tuesday, September 9, 2014 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g. Matters concerning participation in civil actions or proceedings or arbitration. Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2014–21190 Filed 9–2–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012292.

Title: MOL/K-Line Space Charter Agreement.

Parties: Mitsui O.S.K. Lines, Ltd. and Kawasaki Kisen Kaisha, Ltd.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 401 9th Street NW., Suite 900; Washington, DC 20004.

Synopsis: The agreement authorizes the parties to charter space to each other in the trade between the United States, on the one hand, and China and Japan, on the other hand.

Agreement No.: 012293.

Title: Maersk/MSC Vessel Sharing Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line; and MSC Mediterranean Shipping Company S.A.

Filing Party: Jeffrey Lawrence. Esq. and Wayne Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100, Washington, DC 20006.

Synopsis: The agreement would authorize the parties to share vessels and engage in related cooperative activities in the trades between each of Asia, North Europe and the Mediterranean one the one hand, and the U.S. on the other hand.

By Order of the Federal Maritime Commission.

Dated: August 29, 2014.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–21080 Filed 9–3–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

AHC Logistics Cargo Consultant, Inc. (NVO & OFF), 10540 NW. 26th Street, Suite G–108, Doral, FL 33172, Officers: Alvaro Hernandez-Crassus, President (QI), Any A. Vega, Vice President, Application Type: New NVO & OFF License.

Caucas International LLC (NVO & OFF), 1950 Old Gallows Road, Vienna, VA 22182, Officers: Angela M. Moore, Logistics Manager (QI), Fadi S. Abuhamdeh, Member, Application Type: New NVO & OFF License.

Del Corona & Scardigli USA Inc. (OFF), 15 W. 36th Street, Suite 11th Floor, New York, NY 10018, Officers: Fabio Goldoni, Vice President Sales (QI), Stefano D'Angelo, CEO, Application Type: New OFF License.

Easy Express Inc. (NVO & OFF), 11222 S. La Cienega Boulevard, Suite 688, Inglewood, CA 90304, Officers: Xin (a.k.a. Keith) Tu, CFO (QI), Yang Su, CEO, Application Type: QI Change.

Ed Cury Enterprises Inc. (NVO & OFF), 3053 NW. 82nd Avenue, Doral, FL 33122, Officers: Roberta M. Cury, Vice President (QI), Edson Silva, President, Application Type: New NVO & OFF License.

Lasus Group LLC (NVO & OFF), 2625 Collins Avenue, Apt. 1903, Miami, FL 33140, Officers: Susana I. Arce, Manager (QI), Rodrigo R. Arce, Manager, Application Type: New NVO & OFF License.

Lead Young Logistics International, Inc. (NVO), 1032 Edwards Road, Burlingame, CA 94010, Officer: Denis Cheng, President (QI), Application Type: New NVO License.

Quartz Logistics Inc. (NVO & OFF), 780 S. Nogales Street, Suite #D, City of Industry, CA 91748, Officers: Robert Wu, CEO (QI), Tai R. Wang, Secretary, Application Type: QI Change.

Razor Enterprise Inc. (NVO & OFF), 175–01 Rockaway Blvd., Suite 212, Jamaica, NY 11434, Officers: Bibi R. Juman, Vice President (QI), Edmond Yau, President, Application Type: Add Trade Name Razor Cargo Services.

Shock Value International, Inc. dba JP Global Logistics (NVO & OFF), 377 Oyster Point Blvd., Suite 11, South San Francisco, CA 94080, Officers: John S. Kim, Vice President (QI), Paul H. Choe, President, Application Type: New NVO & OFF License.

Southern Export Services, Inc. (NVO & OFF), 5192 Southridge Parkway, Suite 109, College Park, GA 30349, Officers: Joel Fischer-Columbo, Vice President—Tulsa Operations (QI), Andrew J. Senter, President, Application Type: QI Change.

Top Logistics NJ Inc (NVO), 53 Knapp Avenue, Edison, NJ 08817, Officers: Wenjie Wu, Vice President (QI), Rongfang Chai, Director, Application Type: New NVO License.

Vilden Global Trade Solutions SDN BHD, Inc. (NVO), 21515 Hawthorne Blvd., Suite 1030, Torrance, CA 90503, Officers: Gregory H. Pearson, President (QI), Po H. Lai, Vice President, Application Type: New NVO License.

Dated: August 29, 2014.

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–21079 Filed 9–3–14; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1264]

Submission of a Proposed Draft Guidance for Industry on Developing Drugs for Treatment of Duchenne Muscular Dystrophy; Establishment of a Public Docket

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is establishing a public docket to discuss issues related to developing drugs for Duchenne muscular dystrophy (DMD). During a public-private policy forum for DMD on December 12, 2013, FDA agreed that Parent Project Muscular Dystrophy (PPMD) and other interested parties in the DMD community could submit for FDA consideration a proposal for a draft guidance for industry on developing drugs for DMD. That proposed draft guidance was submitted to FDA on June 25, 2014. FDA values the guidance provided by the DMD community and is posting the document to seek additional guidance and public comment.

DATES: Submit electronic or written comments by October 6, 2014.

ADDRESSES: Submit written requests for single copies of the proposed draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the proposed draft guidance document.

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. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Colleen LoCicero, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4242, Silver Spring, MD 20993–0002, 301–796–1114, *colleen.locicero@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Comments

FDA invites comment on all matters relating to topics for consideration regarding DMD drug development. This request is not limited to comments on the proposal described in the submission by PPMD.

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. 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*.

II. Electronic Access

Persons with access to the Internet may obtain the proposed draft guidance document at *http://www.regulations.gov.*

Dated: August 29, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–21051 Filed 9–3–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Ryan White HIV/AIDS Program, Special Projects of National Significance (SPNS), the Albert Einstein College of Medicine, Enhancing Access to and Retention in Quality HIV Care for Women of Color Initiative

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of a deviation from competition requirements to award a program expansion supplement for the HIV/AIDS Bureau's (HAB's) Ryan White HIV/AIDS Program, Special Projects of National Significance (SPNS), the Albert Einstein College of Medicine, Enhancing Access to and Retention in Quality HIV Care for Women of Color Initiative.

SUMMARY: HRSA will be issuing a non-competitive award under the SPNS Program to current grantee, the Albert Einstein College of Medicine (Grant #5 H97HA15152–05–00), for approximately $55,000 during the budget period September 1, 2014, to August 31, 2015. This will allow the Albert Einstein College of Medicine to cover the costs associated with the publication of a special supplemental issue of the journal *AIDS Patient Care and STD's,* which will feature eight articles on findings from the Special Projects of National Significance (SPNS) Program Enhancing Access to and Retention in Quality HIV Care for Women of Color Initiative. A program expansion supplement will allow SPNS wider dissemination of the most current best practices and lessons learned for the care of women of color living with HIV. The journal *AIDS Patient Care and STD's* has a combined 18,200 print and online subscribers, and the publisher will also extend online distribution to readers of the *Journal of Women's Health* (approximately 32,000 additional subscribers) and to attendees of the Congress on Women's Health (approximately 800 physicians and nurses).

SUPPLEMENTARY INFORMATION: Intended Recipient of the Award: Albert Einstein College of Medicine (Grant #5 H97HA15152–05–00). The amount of the noncompetitive award is $55,000.

Authority: Section 2692 of the Public Health Service Act, 42, U.S.C. 300ff–111.

CFDA Number: 93.145.

Period of Supplemental Funding: September 1, 2014, through August 31, 2015.

Justification: SPNS Program is charged with the development of innovative models of HIV treatment, in order to respond to emerging needs of those with HIV/AIDS, including clients served by the Ryan White HIV/AIDS Program. A major goal of the SPNS Program is to disseminate findings and innovative models of care and treatment to the broader HIV provider community and encourage replication of successful models/interventions.

The SPNS Women of Color Initiative began September 1, 2009, and involved 11 demonstration site grantees and an Evaluation and Technical Assistance Center—the Albert Einstein College of Medicine. The Initiative enrolled 921 women of color living with HIV/AIDS in its multi-site evaluation; the findings from this initiative can improve the care of women living with HIV through the identification of best practices and lessons learned. The Albert Einstein College of Medicine has served as the Evaluation and Technical Assistance Center for the SPNS Women of Color Initiative from September 1, 2009, to the present. As such, this grantee has been tasked to lead and coordinate all dissemination activities for this initiative, and is best-positioned to lead and facilitate the publication process. This program expansion would allow for the publication of findings from the Women of Color Initiative in the journal of *AIDS Patient Care and STD's* in support of HRSA's and HAB's commitment to ensuring that comprehensive and effective models of care and treatment are available to underserved, un/under-insured populations, including those from communities of color.

FOR FURTHER INFORMATION CONTACT: Adan Cajina, MSc, Branch Chief, Special Programs of National Significance (SPNS), Division of Training and Capacity Development, HAB/HRSA, 5600 Fishers Lane, Rockville, Maryland 20857, by email at *acajina@hrsa.gov,* or by phone at (301) 443–3180.

Dated: August 27, 2014.

Mary K. Wakefield,

Administrator.

[FR Doc. 2014–21011 Filed 9–3–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Ryan White HIV/AIDS Program, AIDS Education and Training Centers, The University of Washington, Northwest AIDS Education and Training Center

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of a deviation from competition requirements to award a program expansion supplement for the HIV/AIDS Bureau's (HAB) Ryan White HIV/AIDS Program, AIDS Education and Training Centers (AETC) (H4A), The University of Washington, Northwest AIDS Education and Training Center (NWAETC).

SUMMARY: HRSA will be issuing a non-competitive award under the AETC Program, to current grantee, the University of Washington NWAETC, for approximately $250,239 during the budget period July 1, 2014, to June 30, 2015. This will allow the University of Washington NWAETC to develop a unique and flexible HIV distance learning curriculum that can be used in a variety of health care settings by a variety of health care providers. This on-line curriculum will enhance our ability to reach and so increase the numbers of health care providers skilled in delivering HIV/AIDS care and treatment at a time when there is a greater demand for these professionals—especially primary care physicians.

SUPPLEMENTARY INFORMATION: Intended Recipient of the Award: The University of Washington, NWAETC (Grant # H4AHA00051). The amount of the noncompetitive award is $250,239.

Authority: Section 2692 of the Public Health Service Act, 42, U.S.C. 300ff–111.

CFDA Number: 93.145

Period of Supplemental Funding: July 1, 2014, through June 30, 2015.

Justification: With the implementation of the Affordable Care Act, more people, including those living with HIV/AIDS, are able to access care and are being seen by providers in a variety of settings, including community health care centers. This has resulted in an increased need for primary care providers to receive training in HIV care. A program expansion supplement will allow the NWAETC to develop a comprehensive portfolio of web-based, HIV primary care distance learning and assessment resources and tools that will reach greater numbers of health care providers across the nation. This free, state-of-the-art HIV care and treatment curriculum will be evidence-based and aligned with up-to-date federal guidelines. Further, the curriculum would be accessed in an online environment that is effective at assessing HIV training needs, providing relevant, tailored training to meet those needs, and will monitor and evaluate individual and group progress throughout the curriculum.

The University of Washington NWAETC, now in the fifth year of a 5-year project ending on June 30, 2015, is uniquely positioned to rapidly develop and deliver the national HIV care and treatment distance curriculum, having the necessary infrastructure for implementation already developed and in place, and having previously demonstrated the capacity to develop similar products. A distance HIV curriculum is consistent with the goals of the AETC program—to provide HIV treatment education, clinical consultation, capacity building, and technical assistance to health care professionals and agencies. An on-line HIV care and treatment training curriculum will help to better meet the HIV training needs of the current health care workforce that is working to achieve the goals of the National HIV/AIDS Strategy (NHAS).

FOR FURTHER INFORMATION CONTACT: Rupali K. Doshi, MD, MS, Acting Branch Chief, HIV Education Branch, Division of Training and Capacity Development, HAB/HRSA, 5600 Fishers Lane, Rockville, Maryland 20857, by email at *rdoshi@hrsa.gov,* or by phone at (301) 443–5313.

Dated: August 27, 2014.

Mary K. Wakefield,

Administrator.

[FR Doc. 2014–21012 Filed 9–3–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at Vol. 79, FR 31952–31956 dated June 3, 2014).

This notice reflects organizational changes to the Health Resources and Services Administration. This notice updates the functional statement for the Healthcare Systems Bureau (RR). Specifically this notice: (1) Renames the Division of Vaccine Injury Compensation to the Division of Injury Compensation Programs (RR4); (2) transfers the Countermeasures Injury Compensation Program function from the Office of the Associate Administrator (RR) to the newly named Division of Injury Compensation Programs (RR4); (3) updates the functional statement for the Office of the Associate Administrator (RR); and (4) updates the functional statement for the Division of Injury Compensation Programs (RR4).

Chapter RR—Healthcare Systems Bureau

Section RR–10, Organization

Delete the organization for the Healthcare Systems Bureau (RR) in its entirety and replace with the following: The Healthcare Systems Bureau (RR) is headed by the Associate Administrator, who reports directly to the Administrator, Health Resources Services Administration.

(1) Office of the Associate Administrator (RR);

(2) Division of Transplantation (RR1);

(3) Division of Injury Compensation Programs (RR4);

(4) Office of Pharmacy Affairs (RR7);

(5) Division of Poison Control and Healthcare Facilities (RR9); and

(6) Division of National Hansen's Disease Program (RRH).

Section RR–20, Functions

Delete the functional statement for the Office of the Associate Administrator (RR), and the functional statement for the Division of Vaccine Injury Compensation (RR4), and replace in its entirety.

Office of the Associate Administrator (RR)

The Healthcare Systems Bureau leads the agency in providing health care programs to eligible organizations around the country. Specifically, (1) administers the Organ Transplantation Program to include the Organ Procurement and Transplantation Network (OPTN) to facilitate the allocation of donor organs to patients waiting for an organ transplant, and the Scientific Registry of Transplant Recipients that provides analytic support to the OPTN in the development and assessment of organ allocation and other OPTN policies; (2) administers the C.W. Bill Young Cell Transplantation Program to increase the number of unrelated blood stem cell transplants and improve the outcomes of blood stem cell transplants; (3) administers the National Cord Blood Inventory to increase the number of high quality cord blood units available for transplantation; (4) develops and maintains a national program of grants and contracts to organ procurement organizations and other entities to increase the number of organs made available for transplantation; (5) manages the national program for compliance with the Hill-Burton uncompensated care requirement and other assurances; (6) directs and administers a congressionally-directed grant program for the construction/renovation/equipping of health care and other facilities; (7) directs and administers the National Vaccine Injury Compensation Program; (8) manages and promotes the 340B Drug Pricing Program; (9) directs and administers the Poison Center Support, Enhancement, and Awareness Act; (10) implements and administers the Countermeasures Injury Compensation Program; (11) provides professional and administrative support for the HHS Medical Review Claims Panel; and (12) manages the National Hansen's Disease Program in accordance with regulations of the Public Health Service.

Division of Injury Compensation Programs (RR4)

The Division of Injury Compensation Programs, on behalf of the Secretary of Health and Human Services (HHS), administers and implements all

statutory and charter authorities related to the operations of the National Vaccine Injury Compensation Program, the Countermeasures Injury Compensation Program, and the Department of Health and Human Services Medical Review Claims Panel by: (1) Evaluating claims for compensation filed under the National Vaccine Injury Compensation Program and the Countermeasures Injury Compensation Program through medical review and assessment of compensability for all complete claims; (2) processing awards for compensation made under the National Vaccine Injury Compensation Program and the Countermeasures Injury Compensation Program; (3) promulgating regulations to develop and revise Vaccine and Countermeasures Injury Tables; (4) providing professional and administrative support to the Advisory Commission on Childhood Vaccines (ACCV) and the Medical Claims Review Panel; (5) maintaining responsibility for activities related to the ACCV including the development of policy, regulations, budget formulation, and legislation; the development and renewal of its charter and action memoranda to the Secretary; and the analysis of its findings and proposals; (6) developing and maintaining all automated information systems necessary for program implementation; (7) developing and disseminating program information; (8) maintaining a working relationship with the Department of Justice (DOJ) and the U.S. Court of Federal Claims through the DOJ, in the administration and operation of the National Vaccine Injury Compensation Program; (9) providing management, direction, budgetary oversight, coordination, and logistical support for the Medical Expert Panel, as well as Clinical Reviewer contracts; (10) developing, reviewing, and analyzing pending and new legislation relating to program changes, new initiatives, the ACCV, and changes to the Vaccine and Countermeasures Injury Tables, in coordination with the Office of the General Counsel; (11) providing programmatic outreach efforts to maximize public exposure to private and public constituencies; (12) providing submission of special reports to the Secretary of HHS, the Office of Management and Budget, Congress, and other governmental bodies; and (13) providing guidance in using the results and decisions of the Medical Claims Review Panel to HHS Operating Divisions to improve the quality of health care in its facilities and by its practitioners.

Section RR–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: August 25, 2014.

Mary K. Wakefield,

Administrator.

[FR Doc. 2014–21010 Filed 9–3–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 a meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Neurological Disorders and Stroke, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

Date: October 5–7, 2014.

Time: 6:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alan P. Koretsky, Ph.D., Scientific Director, Division of Intramural Research, National Institute of Neurological Disorders and Stroke, NIH, 35 Convent Drive, Room GF144, Bethesda, MD 20892, (301) 435–2232, *koretskya@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: August 28, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20933 Filed 9–3–14; 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 Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Initial Review Group Mental Health Services Research Committee.

Date: October 2, 2014.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6136, MSC 9606, Bethesda, MD 20852, 301–443–1225, *aschulte@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group Interventions Committee for Disorders Involving Children and Their Families.

Date: October 14, 2014.

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group Interventions Committee for Adult Disorders.

Date: October 14, 2014.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: August 28, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20931 Filed 9–3–14; 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 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 a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Mental Health, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Mental Health.

Date: October 6–8, 2014.

Time: October 06, 2014, 4:15 p.m. to 5:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Building 35, 35 Convent Drive, Bethesda, MD 20892.

Time: October 06, 2014, 7:00 p.m. to October 08, 2014, 12:20 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Jennifer E. Mehren, Ph.D., Executive Secretary, Division of Intramural Research Programs, National Institute of Mental Health, NIH, 35A Convent Drive, Room GE 412, Bethesda, MD 20892–3747, 301–496–3501, *mehrenj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: August 28, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20930 Filed 9–3–14; 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 Workshop

Notice is hereby given of a workshop convened by the Interagency Autism Coordinating Committee (IACC).

The purpose of the 2014 IACC Workshop on Under-Recognized Co-Occurring Conditions in ASD is to convene IACC members and invited subject matter and community experts to focus a discussion on a range of co-occurring health conditions in individuals with ASD that are under-recognized in clinical and services settings, as well as how to best support both research to better understand these conditions, increase community/provider awareness, and foster development of practice guidelines, policies, service approaches and other activities that will result in improvements in quality of life for those with ASD who are affected by these conditions. The workshop will be open to the public and accessible by live webcast and conference call.

Name of Committee: Interagency Autism Coordinating Committee (IACC).

Type of meeting: 2014 IACC Workshop on Under-Recognized Co-Occurring Conditions in ASD.

Date: September 23, 2014.

Time: 9:00 a.m. to 5:00 p.m. Eastern Time.

Agenda: The workshop will focus on a range of co-occurring health conditions in individuals with ASD that are under-recognized in clinical and services settings, as well as how to best support research, increased community/provider awareness, and other activities to improve the quality of life of those with ASD who are affected by these conditions.

Place: National Institutes of Health, John Edward Porter Neuroscience Research Center, 35 Convent Drive, Building 35, Room 620, Bethesda, Maryland 20892.

Conference Call Access Phone number: 888–469–0570, Access code: 7134439.

Webcast Live: http://videocast.nih.gov/.

Cost: The meeting is free and open to the public.

Registration: Pre-registration is recommended to expedite check-in. Seating in the meeting room is limited to room capacity and on a first come, first served basis. To register, please visit *www.iacc.hhs.gov.*

Deadlines: Notification of intent to present oral comments: Monday, September 8, 2014 by 5:00 p.m. ET. Submission of written/electronic statement for oral comments: Wednesday, September 10, 2014 by 5:00 p.m. ET. Final Deadline for Submission of written comments: Wednesday, September 10, 2014 by 5:00 p.m. ET.

Access: Medical Center Metro Station (Red Line). On-site parking is available for a fee, but very limited. Vehicles entering the NIH campus are subject to security inspections, and visitors must present photo identification for NIH campus access.

Contact Person: Ms. Lina Perez, Office of Autism Research Coordination, National Institute of Mental Health, NIH, 6001 Executive Boulevard, NSC, Room 6182a, Rockville, MD 20852. Phone: (301)-443–6040. Email: *IACCPublicInquiries@mail.nih.gov.*

Public Comments: Any member of the public age 18 and above interested in presenting oral comments to the Committee must notify the Contact Person listed on this notice by 5:00 p.m. Eastern on Monday, September 8, 2014, with their request to present oral comments at the meeting. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral presentation/statement including a brief description of the organization represented by 5:00 p.m. Eastern on Wednesday, September 10, 2014. Statements submitted will become a part of the public record. Only one representative of an organization or family will be allowed to present oral comments on behalf of that organization or family, and presentations will be limited to 2–3 minutes per speaker, depending on number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received, along with the required submission of the written/electronic statement by the specified deadline. In the case that there are more oral comments requested than can be accommodated in the time allotted, a waiting list will be maintained, and if an oral commenter is unable to meet the deadline for the submission of the accompanying written statement, his/her spot may be ceded to the next person on the waiting list. Any individuals who request oral comments but cannot be accommodated due to time limitations will be welcome to provide written public comments.

In addition, any interested person age 18 and above may submit written

comments to the IACC prior to the meeting by sending the comments to the Contact Person listed on this notice by 5:00 p.m. Eastern on Wednesday, September 10, 2014. The comments should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. NIMH anticipates written public comments received by 5:00 p.m. Eastern, Wednesday, September 10, 2014 will be presented to the Committee prior to the meeting for the Committee's consideration. Any written comments received after the September 10, 2014 deadline (between September 10–22, 2014) will be provided to the Committee either before or after the meeting, depending on the volume of comments received and the time required to process them in accordance with privacy regulations and other applicable Federal policies. All written public comments and oral public comment statements received by the deadlines for both oral and written public comments will be provided to the IACC for their consideration and will become part of the public record.

Privacy

Public comments provided to or prepared on behalf of the IACC become a part of the public record of the committee, so information that is private, confidential, copyrighted or proprietary should not be included, other than contact information to enable OARC or the IACC to contact a commenter if necessary. By voluntarily providing comments to the IACC, the commenter is consenting to the use and consideration of these comments by the committee and relevant federal agencies. Public comments received are prepared by OARC for the committee in accordance with the FACA, the Freedom of Information Act (FOIA), the Privacy Act, and other applicable laws, regulations and policies. With regard to written public comments, unless a specific request is made in writing to *IACCPublicInquiries@mail.nih.gov* to withhold the commenter's name, city, state, and affiliation, that information will remain in the comment. Other personally identifiable information, such as: Street addresses; personal email addresses; personal phone numbers; names of minors, dependent adults, and private third party individuals; photographs of individuals or photos depicting sensitive personal information; medical and educational records; and other sensitive personal records, will be redacted. In addition, foul, obscene, threatening, violent, derogatory or hate language or photos will be redacted. Please refrain from including such material in submissions. Written statements prepared in conjunction with oral public comments will also be redacted according to the above guidelines. With regard to oral public comments made at public meetings of the IACC, any information that is shared by the commenter during the public comment session, including the commenter's name, city, state, and affiliation, will become a part of the public record. Due to the public nature of IACC public comments, including the posting of materials related to the IACC on a government Web site, and the need to protect the privacy of minors, only individuals age 18 and above will be permitted to provide public comments to the IACC.

In the future, IACC public comments redacted per the above guidelines will be made available to the public on the IACC Web site. In addition, public comments or information pertaining to public comments may also be included or referenced in other public records of the IACC, such as meeting minutes, transcripts and videos that are made available to the public on the IACC Web site.

Core Values: In the 2009 IACC Strategic Plan, the IACC listed the ''Spirit of Collaboration'' as one of its core values, stating that, ''We will treat others with respect, listen to diverse views with open minds, discuss submitted public comments, and foster discussions where participants can comfortably offer opposing opinions.'' In keeping with this core value, the IACC and the NIMH Office of Autism Research Coordination (OARC) ask that members of the public who provide public comments or participate in meetings of the IACC also seek to treat others with respect and consideration in their communications and actions, even when discussing issues of genuine concern or disagreement.

Remote Access: This workshop will also be open to the public through a conference call number and live webcast on the Internet. Members of the public who participate using the conference call phone number will be able to listen to the discussion but will not be heard. If you experience any technical problems with the webcast or conference call, please send an email to *helpdeskiacc@gmail.com* or by phone at 415–652–8023.

Special Accommodations: Individuals who participate in person or by using these electronic services and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the contact person listed on this notice at least 5 days prior to the meeting.

Security: In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Also as a part of security procedures, attendees should be prepared to present a photo ID at the meeting registration desk during the check-in process. Pre-registration is recommended. Seating will be limited to the room capacity and seats will be on a first come, first served basis, with expedited check-in for those who are pre-registered.

Meeting schedule is subject to change.

Dated: August 28, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20934 Filed 9–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Bioengineering, Technology and Surgical Sciences Study Section.

Date: September 29–30, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Khalid Masood, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *masoodk@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group, Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions Study Section.

Date: September 30-October 1, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites—DC Convention Center, Washington, DC.

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 257–2638, *steeleln@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: October 1–2, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: Boris P Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group, Language and Communication Study Section.

Date: October 2, 2014.

Time: 8:00 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group, Behavioral Genetics and Epidemiology Study Section.

Date: October 2, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Row Hotel, 2015 Massachusetts Ave NW., Washington, DC.

Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurotransporters, Receptors, and Calcium Signaling Study Section.

Date: October 2–3, 2014.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW., Washington, DC 20001.

Contact Person: Peter B Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–12–259: Lymphatics in Health and Disease in the Digestive, Urinary, Cardiovascular and Pulmonary Systems.

Date: October 2, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bonnie L Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: August 28, 2014.

Carolyn A. Baum,

Program Analysts, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20932 Filed 9–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–0138]

Merchant Mariner Medical Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Merchant Mariner Medical Advisory Committee will meet to discuss matters relating to medical certification determinations for issuance of licenses, certificates of registry, merchant mariners' documents, medical standards and guidelines for the physical qualifications of operators of commercial vessels, medical examiner education, and medical research. The meeting will be open to the public.

DATES: The Merchant Mariner Medical Advisory Committee will meet on Monday, September 29 and Tuesday, September 30, 2014, from 8 a.m. to 4:30 p.m. and 8 a.m. to 5 p.m. respectively. Please note that the meeting may close early if the committee has completed its business. All submitted written materials, comments, and requests to make oral presentation at the meeting should reach Lieutenant Ashley Holm, Alternate Designated Federal Officer for the Merchant Mariner Medical Advisory Committee, no later than September 19, 2014. For contact information, please see the **FOR FURTHER INFORMATION CONTACT** section below. Any written material submitted by the public both before and after the meeting will be distributed to the Merchant Mariner Medical Advisory Committee and become part of the public record.

ADDRESSES: The meeting will be held at the Paul Hall Center for Maritime Training and Education, 2nd floor conference room (Maryland Room), 45353 St. Georges Avenue, Piney Point, Maryland 20674–0075. For further information about the Paul Hall Center hotel facilities, please contact Mr. Howard Thompson at (301) 994–0010 Ext. 5463.

For information on services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible. Please be advised that all attendees will be required to provide identification in the form of a government-issued picture identification card in order to gain admittance to the facility. If you plan to attend, please notify the Merchant Mariner Medical Advisory Committee Alternate Designated Federal Officer as soon as possible to assist with the administrative access into the Paul Hall Center prior to arrival.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. Written comments must be submitted no later than September 19, 2014 if you want committee members to be able to review it before the meeting, and must be identified by docket number USCG–2011–0138 and submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *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.

Instructions: All submissions must include the words ''Department of Homeland Security'' and the docket number for this action. All comments submitted 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–2011–0138 in the ''SEARCH'' box, press Enter and then click on the item you wish to view.

A public comment period will be held on September 29, 2014, from approximately 11 a.m.–11:30 a.m. Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Additionally, public comment will be sought throughout the meeting as specific issues are discussed by the committee. Contact Lieutenant Ashley Holm as indicated below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Lieutenant Ashley Holm, the Merchant Mariner Medical Advisory Committee Alternate Designated Federal Officer, at telephone 202–372–1128 or email *Ashley.e.holm@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix. The Merchant Mariner Medical Advisory Committee Meeting is authorized by 46 U.S.C. 7115 and advises the Secretary on matters related to (a) medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; (b) medical standards and guidelines for the physical qualifications of operators of commercial vessels; (c) medical examiner education; and (d) medical research.

A copy of all meeting documentation is available at *https://homeport.uscg.mil* by using these key strokes: Missions; Port and Waterways; Safety Advisory Committees; MMMAC and then use the announcements key. Alternatively, you may contact Lieutenant Ashley Holm as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda

Day 1

The agenda for September 29, 2014 meeting is as follows:

(1) Remarks from the Vice President, Paul Hall Center.

(2) Opening remarks from the Assistant Commandant for Prevention Policy.

(3) Opening remarks from the Designated Federal Officer.

(4) Swearing-in of new committee members.

(5) Roll call of committee members and determination of a quorum.

(6) Review of last full committee meeting's minutes.

(7) Presentation on sleep disorders in merchant mariners.

(8) Public comments.

(9) Introduction of new task(s).

(10) Working Groups addressing the following task statements may meet to deliberate—

(a) Task Statement 1, Revision of Navigation and Vessel Inspection Circular 04–08. The Navigation and Vessel Inspection Circular can be found at *http://www.uscg.mil/hq/cg5/nvic/* Medical and Physical Guidelines for Merchant Mariner Credentials.

(b) Task Statement 4, Revising the CG–719K Medical Evaluation Report Form for mariner physicals. The form can be found at *http://www.uscg.mil/nmc.*

(c) Task Statement 5, Creating medical expert panels for the top medical conditions to analyze and determine proper implementation of required medical testing and minimum compliance.

(d) Task Statement 6, Review of current statutory and regulatory medical requirements for merchant mariner credentialing.

(e) The Committee will receive new task statements from the Coast Guard, review the information presented on each issue, deliberate and formulate recommendations for the Department's consideration.

(11) Adjournment of meeting.

Day 2

The agenda for September 30, 2014 meeting is as follows:

(1) Continue work on Task Statements.

(2) By mid-afternoon, the Working Groups will report, and if applicable, make recommendations for the full committee to consider for presentation to the Coast Guard. The committee may vote on the working group's recommendations on this date. The public will have an opportunity to speak after each Working Group's Report before the full committee takes any action on each report.

(3) Closing remarks/plans for next meeting.

(4) Adjournment of Meeting.

Dated: August 21, 2014.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2014–21043 Filed 9–3–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0125]

Agency Information Collection Activities: Secondary Inspections Tool, Form M–1061; Extension, Without Change, of a Currently Approved Collection

ACTION: 60-Day notice.

The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 3, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0125 in the subject box, the agency name and Docket ID USCIS–2011–0008. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2011–0008;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov*;

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do*, or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Secondary Inspections Tool.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form M–1061; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The Secondary Inspections Tool (SIT) is an internet-based tool that processes, displays, and retrieves biometric and biographic data from the Automated Biometric Identification System (IDENT) within the US-Visitor and Immigrant Status Indicator Technology (US–VISIT) system. USCIS officers in USCIS District/Field Offices will be instructed to use SIT at the time of a required interview in connection with an immigration or naturalization benefit request, or an individual's appearance at a USCIS District/Field Office to receive a document evidencing an immigration benefit, following a required appearance at an Application Support Center (ASC) for fingerprinting. This information collection is necessary for USCIS to collect and process the required biometric and biographic data from an applicant, petitioner, sponsor, beneficiary, or other individual residing in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,363,141 responses at 5 minutes (.083 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 113,140 annual burden hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: August 28, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–20957 Filed 9–3–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–73]

30-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing of Delinquent, Default and Foreclosure With Service Members Act

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* October 6, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 11, 2014.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing of Delinquent, Default and Foreclosure with Service Members Act.

OMB Approval Number: 2502–0584.

Type of Request: Extension.

HUD–PA 426 Avoiding Foreclosure Brochure.

HUD 9539 Request for Occupied Conveyance.

HUD 92070 Service members Civil Relief Act Notice Disclosure.

HUD 27011 Single Family Application for Insurance Benefits.

HUD 92068–A Monthly Delinquent Loan Report.

Description of the need for the information and proposed use: This information collection covers the mortgage loan servicing of FHA-insured loans that are delinquent, in default or in foreclosure. The data and information provided is essential for managing HUD's programs and the FHA's Mutual Mortgage Insurance Fund (MMI).

Respondents: 7806.

Estimated Number of Respondents: 334 (FHA); 250 (VA); 7000 (Conventional Prime); 222 (Conventional Sub-Prime).

Estimated Number of Responses: 138,356,350.

Frequency of Response: The frequency is on occasion.

Average Hours per Response: 10 minutes to 15 minutes.

Total Estimated Burdens: 10,912,800.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 28, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–21119 Filed 9–3–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–72]

30-Day Notice of Proposed Information Collection: Requirements for Single Family Mortgage Instruments

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: Comments Due Date: October 6, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 20, 2014.

A. Overview of Information Collection

Title of Information Collection: Requirements for Single Family Mortgage Instruments.

OMB Approval Number: 2502–0404.

Type of Request: Extension.

Form Number: None.

Description of the need for the information and proposed use: This information is used to verify that a mortgage has been properly recorded and is eligible for FHA insurance.

Respondents: Individuals or household.

Estimated Number of Respondents: 11,907.

Estimated Number of Responses: 1,261,143.

Frequency of Response: One per mortgage.

Average Hours per Response: 5 minutes.

Total Estimated Burdens: 630,572.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 28, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–21120 Filed 9–3–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2014–N082; FXES11130100000–145–FF01E00000]

Endangered and Threatened Wildlife and Plants; Revised Draft Recovery Plan for the Coterminous United States Population of Bull Trout (Salvelinus confluentus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the

availability of the Revised Draft Recovery Plan for the Coterminous United States Population of Bull Trout under the Endangered Species Act of 1973, as amended (Act). The revised draft recovery plan includes specific goals, objectives, and criteria that should be met to remove the species from the Federal List of Endangered and Threatened Wildlife and Plants. We request review and comment on this revised draft recovery plan from Federal, State and local agencies, Native American Tribes, and the public.

DATES: In order to be considered, comments on the revised draft recovery plan must be received on or before December 3, 2014.

ADDRESSES: An electronic copy of the recovery plan is available at *http://www.fws.gov/endangered/species/recovery-plans.html* and *http://www.fws.gov/pacific/ecoservices/endangered/recovery/plans.html.* Copies of the recovery plan are also available by request from the U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709; telephone (208) 378–5345. Printed copies of the recovery plan will be available for distribution within 4 to 6 weeks after publication of this notice.

If you want to comment, you may submit written comments by one of the following methods:

(1) You may submit written comments and materials to Bull Trout Recovery, Idaho Fish and Wildlife Office, at the above Boise address.

(2) You may hand-deliver written comments to our Idaho Fish and Wildlife Office, at the above Boise address, or fax them to (208) 378–5262.

(3) You may send comments by email to *fw1bulltroutrecoveryplan@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Carrier, State Supervisor, U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, at the above Boise address; telephone (208) 378–5243. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

In November 1999, all populations of bull trout within the coterminous United States were listed as a threatened species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* Act) (64 FR 58910; November 1, 1999). This final listing added bull trout in the Coastal-Puget Sound populations (Olympic Peninsula and Puget Sound regions) and Saint Mary-Belly River populations (east of the Continental divide in Montana) to the previous listing of three distinct population segments of bull trout in the Columbia River, Klamath River, and Jarbidge River basins (63 FR 31647, June 10, 1998; 64 FR 17110, April 8, 1999).

Recovery of endangered and threatened animals and plants is a primary goal of our endangered species program. To help guide the recovery effort, we prepare recovery plans for most listed species. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for downlisting or delisting, and estimate time and cost for implementing recovery measures.

For the coterminous population of bull trout, three separate draft bull trout recovery plans were completed in 2002 and 2004. The 2002 draft recovery plan (USFWS 2002) addressed bull trout populations within the Columbia, St. Mary-Belly, and Klamath River basins and included individual chapters for 24 separate recovery units. In 2004, draft recovery plans were developed for the Coastal–Puget Sound drainages in western Washington, including two recovery unit chapters (USFWS 2004a), and for the Jarbidge River in Nevada (USFWS 2004b). None of these draft recovery plans were finalized, but they have served to identify recovery actions across the range of the species, and provide the framework for implementing numerous recovery actions by our partner agencies, local working groups, and others with an interest in bull trout conservation.

Our most recent 5-year status review for bull trout was completed on April 8, 2008, and concluded that listing the species as ''threatened'' remained warranted rangewide in the coterminous United States. Based on this status review, in our 2010 recovery report to Congress we reported that bull trout were generally ''stable'' overall rangewide (species status neither improved nor declined during the reporting year), with some core area populations decreasing, some stable, and some increasing. Since the listing of bull trout, there has been very little change in the general distribution of bull trout in the conterminous United States, and we are not aware that any known, occupied bull trout core areas have been extirpated. Additionally, since the listing of bull trout, numerous conservation measures have been and continue to be implemented across its coterminous range. These measures are being undertaken by a wide variety of local and regional partnerships, including State fish and game agencies, State and Federal land management and water resource agencies, Tribal governments, power companies, watershed working groups, water users, ranchers, and landowners.

Recovery Plan Components

The primary recovery strategy for bull trout in the coterminous United States that we propose in the draft recovery plan is to: (1) Conserve bull trout so that they are geographically widespread across representative habitats and demographically stable in six Recovery Units; (2) effectively manage and ameliorate the primary threats in each of six recovery units at the core area scale such that bull trout are not likely to become endangered in the foreseeable future; (3) build upon the numerous and ongoing conservation actions implemented on behalf of bull trout since their listing in 1999, and improve our understanding of how various threat factors potentially affect the species; (4) use that information to work cooperatively with our partners to design, fund, prioritize, and implement effective conservation actions in those areas that offer the greatest long-term benefit to sustain bull trout and where recovery can be achieved; and (5) apply adaptive management principles to implementing the bull trout recovery program to account for new information.

Bull trout population status remains strong in some core areas. However, in developing this revised draft recovery plan, we also acknowledge that despite our best conservation efforts, it is likely that some existing bull trout core areas will become extirpated due to various factors, including the effects of small populations and isolation (35 of 110 extant core areas comprise a single local population). Our current approach to developing recovery criteria and necessary recovery actions for bull trout is intended to ensure adequate conservation of genetic diversity, life-history features, and broad geographical representation of bull trout populations while acknowledging some local extirpations are likely to occur.

We may initiate an assessment of whether recovery has been achieved and delisting is warranted when the recovery criteria below have been met in each recovery unit. Alternatively, if recovery criteria are met in an individual recovery unit, we may initiate an assessment of whether to designate that recovery unit as a distinct population segment and if delisting of that distinct population segment would be warranted.

For the Coastal, Mid-Columbia, Upper Snake and Columbia Headwaters Recovery Units, the draft plan provides that primary threats must be effectively

managed in at least 75 percent of all core areas, representing 75 percent or more of bull trout local populations within each of these four recovery units. For the Klamath and St. Mary Recovery Units, the draft plan provides that all primary threats must be effectively managed in all existing core areas, representing all existing local populations. In addition, because 9 of the 17 known local populations in the Klamath Recovery Unit have been extirpated and others are significantly imperiled and require active management, we believe that the geographic distribution of bull trout within this recovery unit needs to be substantially expanded before it can be considered to have met recovery goals. To achieve recovery, we seek to add seven additional local populations distributed among the three core areas (two in the Upper Klamath Lake core area, three in the Sycan core area, and two in the Upper Sprague core area). In recovery units where shared foraging/migratory/overwintering (FMO) habitat outside core areas has been identified, connectivity and habitat in these shared FMO areas should be maintained in a condition sufficient for regular bull trout use and successful dispersal among the connecting core areas for those core areas to meet the criterion.

If threats are effectively managed at these thresholds, we expect that bull trout populations will respond accordingly and reflect the biodiversity principles of resiliency, redundancy, and representation. Specifically, achieving the proposed recovery criteria in each recovery unit would result in geographically widespread and demographically stable local bull trout populations within the range of natural variation, with their essential cold water habitats connected to allow their diverse life history forms to persist into the foreseeable future; therefore, the species would be brought to the point where the protections of the Act are no longer necessary.

We anticipate that the final bull trout recovery plan will describe the principal actions needed to advance the recovery of bull trout in the six recovery units within the coterminous United States; and will include individual Recovery Unit Implementation Plans (RUIPs) for each recovery unit that will provide site-specific detail at the core area scale. The RUIPs for each recovery unit will be developed through an interagency collaboration of interested and knowledgeable Federal, Tribal, State, private, and other parties prior to completion of the final recovery plan. In many parts of the range of bull trout, local interagency bull trout working groups have previously identified recovery actions necessary for local bull trout core area conservation, and are already implementing conservation actions. Therefore, we anticipate that in many areas, developing a RUIP will build upon existing efforts and information. RUIPs incorporated in the final recovery plan will also include implementation schedule that outline core area specific recovery actions and estimated costs for bull trout recovery.

To allow public review and comment on the draft RUIPs for each recovery unit, including the draft Implementation Schedule and total estimated recovery costs, we will publish in the **Federal Register** a notice of their availability for review at least 90 days prior to completing the final bull trout recovery plan.

Request for Public Comments

Section 4(f) of the Act requires us to provide public notice and an opportunity for public review and comment during recovery plan development. It is also our policy to request peer review of recovery plans (59 FR 34270; July 1, 1994). In an appendix to the approved final recovery plan, we will summarize and respond to the issues raised by the public and peer reviewers. Substantive comments may or may not result in changes to the recovery plan; comments regarding recovery plan implementation will be forwarded as appropriate to Federal or other entities so that they can be taken into account during the course of implementing recovery actions.

We request written comments on the revised draft recovery plan. We will consider all comments we receive by the date specified in DATES prior to final approval of the plan.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your 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

The authority for this action is section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 23, 2014.

Robyn Thorson,

Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2014–21026 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2014–N145; FXRS1261XPSAGEG–145–FF06E13000]

Endangered and Threatened Wildlife and Plants; Enhancement of Survival Permit Applications; Greater Sage-Grouse Umbrella Candidate Conservation Agreement With Assurances for Wyoming Ranch Management

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received applications for enhancement of survival permits (EOS permits) under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act), pursuant to the Greater Sage-grouse Umbrella Candidate Conservation Agreement with Assurances for Wyoming Ranch Management (Umbrella CCAA). The permit applications, if approved, would authorize incidental take associated with implementation of specified individual Candidate Conservation Agreements with Assurances (individual CCAAs) developed in accordance with the Umbrella CCAA. We invite the public to comment on the EOS permit applications set out below. The Act requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please send your written comments by October 6, 2014.

ADDRESSES: *Submitting Comments:* Send written comments by one of the following methods. Please specify the permit(s) you are commenting on by relevant number(s) (e.g., Permit No. TE–XXXXXX).

- *U.S. mail:* Tyler Abbott, Wyoming Ecological Services Field Office (ESFO), U.S. Fish and Wildlife Service, 5353 Yellowstone Road, Suite 308A, Cheyenne, WY 82009.
- *Email: tyler_abbott@fws.gov.*
- *Fax:* Tyler Abbott, (307) 772–2358.

Reviewing Documents: You may review copies of the enhancement of survival permit applications during regular business hours at the Wyoming

ESFO (see address above). You may also request hard copies by telephone at (307) 772–2374, ext. 231, or by letter to the Wyoming ESFO. Please specify the permit(s) you are interested in by relevant number(s) (e.g., Permit No. TE–XXXXXX).

FOR FURTHER INFORMATION CONTACT: Tyler Abbott, U.S. Fish and Wildlife Service, (307) 772–2374, ext. 231 (phone); *tyler_abbott@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

A Candidate Conservation Agreement with Assurances is an agreement with the Service in which private and other non-Federal landowners voluntarily agree to undertake management activities and conservation efforts on their properties to enhance, restore, or maintain habitat to benefit species that are proposed for listing under the Act, that are candidates for listing, or that may become candidates. The Service and several State, Federal, and local partners developed the Umbrella CCAA (available at *http://www.fws.gov/wyominges*) to provide Wyoming ranchers with the opportunity to voluntarily conserve greater sage-grouse and its habitat while carrying out their ranching activities. The Umbrella CCAA was made available for public review and comment on February 7, 2013 (see 78 FR 9066), and was executed by the Service on November 8, 2013.

Pursuant to the Umbrella CCAA, ranchers in Wyoming may apply for an EOS permit under the Act by agreeing to implement certain conservation measures for the greater sage-grouse on their properties. These conservation measures are specified in individual CCAAs for their properties, which are developed in accordance with the Umbrella CCAA and are subject to the terms and conditions stated in that agreement. Landowners consult with the Service and other participating agencies to develop an individual CCAA for their property, and submit it to the Service for approval with their EOS permit application. If we approve the individual CCAA and EOS permit application, we will issue an EOS permit, under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*), that authorizes incidental take of greater sage-grouse that results from activities covered by the individual CCAA, should the species become listed. Through the Umbrella CCAA and the individual CCAA and EOS permit, we also provide assurances to participating landowners that, if the greater sage-grouse is listed, and so long as they are properly implementing their individual CCAA, we will not require any conservation measures with respect to greater sage-grouse in addition to those provided in the individual CCAA or impose additional land, water, or financial commitments or restrictions on land, water, or resource use in connection with the species. The EOS permit would become effective on the effective date of listing of the greater sage-grouse as endangered or threatened and would continue through the end of the individual CCAA's 20-year term. Regulatory requirements and issuance criteria for EOS permits through a CCAA are found in 50 CFR 17.22(d) and 17.32(d), as well as 50 CFR part 13.

Applications Available for Review and Comment

We invite local, State, and Federal agencies and the public to comment on the following EOS permit applications. The Umbrella CCAA, as well as the individual CCAAs submitted with the permit applications, are also available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552). The following applicants request approval of EOS permits for the greater sage-grouse, pursuant to the Umbrella CCAA, for the purpose of enhancing the species' survival.

Permit Application Number TE32286B

Applicant: Bousman Livestock, Inc., Sublette County, Wyoming.

Permit Application Number TE32288B

Applicant: G&E Livestock, Inc., Sublette County, Wyoming.

Permit Application Number TE40466B

Applicant: Blaha Ranch, Inc., Sublette County, Wyoming.

Permit Application Number TE40464B

Applicant: Boroff Land and Livestock, Sublette County, Wyoming.

Permit Application Number TE40467B

Applicant: Pape Ranches, Inc., Sublette County, Wyoming.

Permit Application Number TE40478B

Applicant: Donald W. Rogers, Jr., Sublette County, Wyoming.

Permit Application Number TE40463B

Applicant: HIP Investments LLC, Johnson County, Wyoming.

Permit Application Number TE40602B

Applicant: Merlin Ranch, Johnson County, Wyoming.

Permit Application Number TE42567B

Applicant: Longreach Buffalo Company LLC, Campbell County, Wyoming.

Public Availability of Comments

All comments and materials we receive in response to these requests will become part of the public record, and will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

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

We provide this notice under section 10(c) of the Act (16 U.S.C. 1539(c)).

Dated: August 15, 2014.

Michael G. Thabault,

Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2014–21023 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–R–2014–N183; FXRS12610600000–145–FF06R06000]

National Bison Range Complex, Moiese, MT; Environmental Assessment for the Proposed Annual Funding Agreement with the Confederated Salish and Kootenai Tribes; Extension of Public Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extension of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), advise the public that we are extending the public review and comment period for the draft environmental assessment for a draft annual funding agreement at the National Bison Range Complex.

DATES: To ensure consideration, please send your written comments by September 18, 2014.

ADDRESSES: Send your comments or requests for more information by any one of the following methods.

Email: bisonrange@fws.gov. Include ''NBR AFA'' in the subject line.

U.S. Mail: Laura King, Planning Division, National Bison Range Complex, 58355 Bison Range Road, Moiese, MT 59824.

Document Request: A copy of the environmental assessment may be obtained by writing to U.S. Fish and Wildlife Service, Division of Refuge Planning, 134 Union Boulevard, Suite 300, Lakewood, CO 80228; or by download from *http://fws.gov/bisonrange*.

FOR FURTHER INFORMATION CONTACT: Laura King, by telephone at 406–644–2211, ext. 210, or via email at *laura_king@fws.gov* (email); or Toni Griffin, by phone at 303–236–4378, or via email at *toni_griffin@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On August 5, 2014, we published a **Federal Register** notice (79 FR 45452) announcing the availability of the draft environmental assessment (EA) for a draft annual funding agreement at the National Bison Range Complex for public review and comment, in accordance with National Environmental Policy Act (40 CFR 1506.6(b)) requirements. We also opened a comment period lasting from August 5, 2014, through September 4, 2014. We now extend the public comment period on the draft EA until September 18, 2014, in response to requests we have received from Public Employees for Environmental Responsibility and local residents. For more information on the draft EA and the Bison Range, please see our August 5, 2014, notice.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask 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

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508, 43 CFR part 46); other appropriate Federal laws and regulations; Executive Order 12996; the National Wildlife Refuge System Improvement Act of 1997; and Service policies and procedures for compliance with those laws and regulations.

Dated: August 25, 2014.

Matt Hogan,

Acting Regional Director, Mountain Prairie Region, U.S. Fish and Wildlife Service.

[FR Doc. 2014–21014 Filed 9–3–14; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–NCRO–16194; PPNCNAMAN4/PPMPSPD1Z.YM00000]

Establishment of a New Recreation Fee Area at National Mall and Memorial Parks

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service plans to install parking meters and collect expanded amenity recreation fees at public parking areas in West Potomac Park and the National Mall. We are installing the parking meters to better manage public parking in West Potomac Park and on the National Mall, to allow more visitors access to park sites, and to encourage the use of public transit and other transportation alternatives. We will use the revenue to provide improved and more affordable visitor-transportation-related activities inside the park.

DATES: We will begin collecting fees on March 4, 2015.

FOR FURTHER INFORMATION CONTACT: Eliza Voigt, Park Planner, National Mall and Memorial Parks, 900 Ohio Drive SW., Washington, DC 20024; telephone (202) 245–4694; or by email at *eliza_voigt@nps.gov.*

SUPPLEMENTARY INFORMATION: This notice is to comply with Section 804 of the Federal Lands Recreation Enhancement Act of 2004 (Pub. L. 108–447). The act requires agencies to give the public 6 months advance notice of the establishment of a new recreation fee area.

The initial rates will be $2 per hour, Monday through Sunday, between the hours of 7:00 a.m. and 8:00 p.m., with a maximum parking limit of three hours. For buses, the rate will be $6 per hour, with the same days, hours of operation, and maximum time limits as for other vehicles. The bus rates are based on the determination that a bus occupies a parking space equal to three cars.

These fees were determined through a comparability study of similar sites in the area at Federal, state, and private recreation areas and will only be charged at the National Mall and Memorial Parks. In accordance with NPS public involvement guidelines, the park engaged numerous individuals, organizations, and local, state, and Federal government representatives while planning for the implementation of this fee.

Dated: August 26, 2014.

Lena McDowall,

Associate Director, Business Services.

[FR Doc. 2014–21033 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–DL–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–BOHA–16258; PPMPSPD1Z.YM0000] [PPNEBOHAS1]

Boston Harbor Islands National Recreation Area Advisory Council

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Boston Harbor Islands National Recreation Area Advisory Council. The agenda includes a discussion and vote on changes to the Committee bylaws, and the Council's mission, goals, and community outreach initiative. Superintendent Parker will also give updates about park summer operations, topics will include: Visitation, staffing, private boater use of the park, ferry service/schedule/ridership, vendor operations (marina/moorings/food service/park store), volunteering, planning for the 2016 anniversaries of the park (20 years), the National Park Service (100 years), and the Boston Light Tricentennial (300 years).

DATES: September 29, 2014, 6:00 p.m. to 8:00 p.m. (Eastern).

ADDRESSES: WilmerHale, 60 State Street, 26th Floor Conference Room, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Giles Parker, Superintendent and Designated Federal Official (DFO), Boston Harbor Islands National Recreation Area, 15 State Street, Suite 1100, Boston, MA 02109, telephone (617) 223–8669, or email *giles_parker@nps.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Those wishing to submit written comments may contact the DFO for the Boston Harbor Islands National Recreation Area

Advisory Council, Giles Parker, by mail at National Park Service, Boston Harbor Islands, 15 State Street, Suite 1100, Boston, MA 02109, or via email *giles_parker@nps.gov.* 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 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.

The Council was appointed by the Director of the National Park Service pursuant to Public Law 104–333. The purpose of the Council is to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the implementation of a management plan and park operations. Efforts have been made locally to ensure that the interested public is aware of the meeting dates.

Dated: August 27, 2014.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2014–21103 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CEBE–16109; PPNECEBE00, PPMPSAS1Z.Y00000]

Notice of the 2014–2015 Meeting Schedule for Cedar Creek and Belle Grove National Historical Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of public meetings.

SUMMARY: As required by the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), the National Park Service is hereby giving notice that the Cedar Creek and Belle Grove National Historical Park Advisory Commission will hold quarterly meetings to discuss park projects and the implementation of the park's general management plan.

DATES: September 18, 2014.

ADDRESSES: Middletown Town Hall Council Chambers, 7875 Church Street, Middletown, VA 22645.

DATES: December 18, 2014.

ADDRESSES: Warren County Government Center, 220 North Commerce Avenue, Front Royal, VA 22630.

DATES: March 19, 2015.

ADDRESSES: Strasburg Town Hall Council Chambers, 174 East King Street, Strasburg, VA 22657.

DATES: June 18, 2015.

ADDRESSES: Middletown Town Hall Council Chambers, 7875 Church Street, Middletown, VA 22645.

DATES: September 17, 2015.

ADDRESSES: Warren County Government Center, 220 North Commerce Avenue, Front Royal, VA 22630.

DATES: December 17, 2015.

ADDRESSES: Strasburg Town Hall Council Chambers, 174 East King Street, Strasburg, VA 22657.

Agenda: All meetings are open to the public and begin at 9 a.m. Topics to be discussed include: Visitor services and interpretation—including directional and interpretive signage and visitor facilities, land protection planning, historic preservation, and natural resource protection.

Commission meetings will consist of the following:

1. General Introductions
2. Review and Approval of Commission Meeting Notes
3. Reports and Discussions
4. Old Business
5. New Business
6. Closing Remarks

FOR FURTHER INFORMATION CONTACT: Further information concerning the meetings may be obtained from Amy Bracewell, Site Manager, Cedar Creek and Belle Grove National Historical Park, P.O. Box 700, Middletown, Virginia 22645, telephone (540) 868–9176, or visit the park Web site: *http://www.nps.gov/cebe/parkmgmt/park-advisory-commission.htm.*

SUPPLEMENTARY INFORMATION: The Commission was designated by Congress to provide advice to the Secretary of the Interior on the preparation and implementation of the park's general management plan and to advise on land protection. Individuals who are interested in the park, the implementation of the plan, or the business of the Commission are encouraged to attend the meetings. Interested members of the public may present, either orally or through written comments, information for the Commission to consider during the public meeting. Attendees and those wishing to provide comment are strongly encouraged to preregister through the contact information provided. Scheduling of public comments during the Commission meeting will be determined by the chairperson of the Commission.

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 may ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Dated: August 29, 2014.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2014–21086 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–16448;PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before August 9, 2014. Pursuant to section 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by September 19, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 8, 2014.

Paul Lusignan,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

CALIFORNIA

Los Angeles County

Forum, 3900 Manchester Blvd., Inglewood, 14000661

Santa Cruz County

Lower Sky Meadow Residential Area Historic District, (Big Basin Redwoods State Park MPS), 7, 8, 9, 10, 14, 15 & 16 Sky Meadow Ln., Boulder Creek, 14000662

IOWA

Black Hawk County

Overland Waterloo Company Building, (Downtown Waterloo MPS), 500 E. 4th St., Waterloo, 14000663

Waterloo West Commercial Historic District, (Downtown Waterloo MPS), 217–333 W. 4th, 301–317 W. 5th & 612–716 Jefferson Sts., Waterloo, 14000664

Jasper County

Newton Downtown Historic District, Centered around Courthouse Sq., Newton, 14000665

Johnson County

Hawthorne Glove and Novelty Company—Shrader Drug Company Building, 529 S. Gilbert St., Iowa City, 14000666

Johnson County Poor Farm and Asylum Historic District, S. side of Melrose & Slothtower Aves., Iowa City, 14000668

Jones County

Wapsipinicon State Park Historic District, 21301 Cty. Rd. E34, Anamosa, 14000669

LOUISIANA

Caddo Parish

Shreveport Commercial Historic District (Boundary Increase and Decrease), 710, 416, 410, 400, 330, 228, 220, 214, 208 Travis, 408, 223, 219, 217 Fannin, 305, 308, 401 Market Sts., Shreveport, 14000673

Natchitoches Parish

St. Augustine Catholic Church and Cemetery, 2262 LA 484, Natchez, 14000679

Orleans Parish

Edgewood Park Historic District, Roughly bounded by Peoples & Humanity Sts., Gentilly Blvd., Peoples Ave. & Fairmont Dr., New Orleans, 14000690

Iberville Public Housing Development Historic District, (United States Housing Authority Funded Public Housing in Louisiana MPS), 401 Treme St., New Orleans, 14000692

Washington Parish

Brumfield Homestead, 47082 T.C. Brumfield Rd., Franklinton, 14000693

MASSACHUSETTS

Norfolk County

Original Congregational Church of Wrentham, 1 East & 22 Dedham Sts., Wrentham, 14000694

Wellesley Congregational Church and Cemetery, 2 Central St., Wellesley, 14000696

Suffolk County

Almont Apartments, 1439–1443 & 1447–1451 Blue Hill Ave., Boston, 14000698

NEBRASKA

Douglas County

Memmen Apartments, 2214, 2216, 2218 & 2220 Florence Blvd., Omaha, 14000701

NEW YORK

New York County

CIRCLE LINE X (sightseeing vessel), Pier 83 & West 42nd St., Manhattan, 14000702

NORTH CAROLINA

Davie County

Cooleemee Mill Town Historic District, Roughly bounded by Marginal, Hickory, Center & Holt Sts., Neely & Pine Ridge Rds., S. Yadkin R., Cooleemee, 14000704

Greene County

Hardee House, 515 L.A. Moye Rd., Ormondsville, 14000703

OREGON

Lake County

Paisley Five Mile Point Caves, Address Restricted, Paisley, 14000708

SOUTH CAROLINA

Jasper County

Richardson, J.C., House, 67 Gillison Branch Rd., Robertville, 14000709

UTAH

Carbon County

Alcove, The, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000631

Archeological Site No. 42Cb2049, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000699

Archeological Site No. 42Cb78, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000633

Archeological Site No. 42Cb1378, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000675

Archeological Site No. 42Cb143, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000634

Archeological Site No. 42Cb1711, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000676

Archeological Site No. 42Cb1716, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000677

Archeological Site No. 42Cb1727, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000678

Archeological Site No. 42Cb1735, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000680

Archeological Site No. 42Cb1736, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000681

Archeological Site No. 42Cb1738, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000682

Archeological Site No. 42Cb1740, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000683

Archeological Site No. 42Cb1744, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000684

Archeological Site No. 42Cb1748, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000685

Archeological Site No. 42Cb1749, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000686

Archeological Site No. 42Cb1750, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000687

Archeological Site No. 42Cb1750, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000688

Archeological Site No. 42Cb1753, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000689

Archeological Site No. 42Cb1754, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000691

Archeological Site No. 42Cb1862, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000695

Archeological Site No. 42Cb1910, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000697

Archeological Site No. 42Cb2051, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000700

Archeological Site No. 42Cb2052, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000705

Archeological Site No. 42Cb2053, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000707

Archeological Site No. 42Cb2054, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000711

Archeological Site No. 42Cb2055, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000712

Archeological Site No. 42Cb2056, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000713

Archeological Site No. 42Cb2058, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000714

Archeological Site No. 42Cb2059, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000715

Archeological Site No. 42Cb2060, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000716

Archeological Site No. 42Cb2061, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000717

Archeological Site No. 42Cb2062, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000718

Archeological Site No. 42Cb2069, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000719

Archeological Site No. 42Cb2075, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000720

Archeological Site No. 42Cb2080, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000721

Archeological Site No. 42Cb2082, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000722

Archeological Site No. 42Cb2167, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000723

Archeological Site No. 42Cb2171, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000724

Archeological Site No. 42Cb2173, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000725

Archeological Site No. 42Cb2174, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000726

Archeological Site No. 42Cb2192, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000727

Archeological Site No. 42Cb2193, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000728

Archeological Site No. 42Cb2194, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000729

Archeological Site No. 42Cb2196, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000730

Archeological Site No. 42Cb2198, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000731

Archeological Site No. 42Cb2199, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000732

Archeological Site No. 42Cb2204, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000733

Archeological Site No. 42Cb2207, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000734

Archeological Site No. 42Cb2209, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000740

Archeological Site No. 42Cb2214, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000735

Archeological Site No. 42Cb2215, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000736

Archeological Site No. 42Cb2216, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000737

Archeological Site No. 42Cb2223, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000738

Archeological Site No. 42Cb2234, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000739

Archeological Site No. 42Cb23, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000629

Archeological Site No. 42Cb2458, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000741

Archeological Site No. 42Cb2487, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000743

Archeological Site No. 42Cb2491, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000744

Archeological Site No. 42Cb2531, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000746

Archeological Site No. 42Cb2547, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000747

Archeological Site No. 42Cb2550, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000748

Archeological Site No. 42Cb2557, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000750

Archeological Site No. 42Cb2558, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000751

Archeological Site No. 42Cb2566, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000752

Archeological Site No. 42Cb259, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000636

Archeological Site No. 42Cb261, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000638

Archeological Site No. 42Cb262, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000639

Archeological Site No. 42Cb2736, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000753

Archeological Site No. 42Cb2771, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000754

Archeological Site No. 42Cb2833, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000755

Archeological Site No. 42Cb2845, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000756

Archeological Site No. 42Cb2846, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000757

Archeological Site No. 42Cb34, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000630

Archeological Site No. 42Cb404, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000640

Archeological Site No. 42Cb44, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000632

Archeological Site No. 42Cb528, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000745

Archeological Site No. 42Cb627, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000641

Archeological Site No. 42Cb675, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000642

Archeological Site No. 42Cb716, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000644

Archeological Site No. 42Cb717, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000645

Archeological Site No. 42Cb719, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000646

Archeological Site No. 42Cb720, (Nine Mile Canyon, Utah MPS), Address Restricted, Price, 14000647

Archeological Site No. 42Cb721, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000648

Archeological Site No. 42Cb722, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000649

Archeological Site No. 42Cb727, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000650

Archeological Site No. 42Cb728, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000651

Archeological Site No. 42Cb732, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000652

Archeological Site No. 42Cb805, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000654

Archeological Site No. 42Cb815, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000655

Archeological Site No. 42Cb839, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000656

Archeological Site No. 42Cb8496, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000742

Archeological Site No. 42Cb852, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000657

Archeological Site No. 42Cb853, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000658

Archeological Site No. 42Cb857, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000659

Archeological Site No. 42Cb858, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000660

Archeological Site No. 42Cb861, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000667

Archeological Site No. 42Cb864, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000670

Archeological Site No. 42Cb867, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000671

Archeological Site No. 42Cb905, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000672

Archeological Site No. 42Cb996, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000674

Archeological Site No. 42Cb710, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000643

Patti's Place, (Nine Mile Canyon, Utah MPS) Address Restricted, Price, 14000653

WYOMING

Sweetwater County

Eden—Farson Site, Address Restricted, Eden, 14000710

[FR Doc. 2014–21009 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SERO–FOMA–16121; PPSESEROC3, PMP00UP05.YP0000]

Record of Decision for the General Management Plan, Fort Matanzas National Monument, Florida

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to 42 U.S.C. 4332(2)(C) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of the Record of Decision (ROD) for the General Management Plan (GMP) for Fort Matanzas National Monument (National Monument). On 08/01/14, the Regional Director, Southeast Region, approved the ROD for the project.

FOR FURTHER INFORMATION CONTACT: Superintendent Gordon Wilson, Fort Matanzas National Monument, One South Castillo Drive, St. Augustine, FL 32084; telephone (904) 829–6506, Ext. 221.

SUPPLEMENTARY INFORMATION: The NPS evaluated three alternatives for managing use and development of the national monument in the GMP Final Environmental Impact Statement:

Alternative A—No action.

Alternative B—The preferred alternative would continue the ban on off-road vehicle access to the Anastasia Island Beach within the National Monument boundary and would manage the site in a manner consistent with its history as a small military outpost within a sometimes harsh, but beautiful and rich natural environment. There would be minimal development of new facilities and minimal expansion of existing facilities. There would be increased emphasis on the interpretation of the natural environment.

Alternative C—The NPS would seek authority to permit driving within defined geographical limits on the Anastasia Island beach within the National Monument boundary through the promulgation of a Special Regulation and the preparation of an Off Road Vehicle Plan and an Environmental Impact Statement. This alternative combines the history of the Rattlesnake Island fortified outpost with its establishment as a National Monument and the further development and evolution of the park to its present day configuration. A portion of the north end of Anastasia Island would be preserved as an exhibit that commemorates the efforts of the New Deal agencies and local citizens would create a permanent monument to the Spanish history of the site. The central and southern ends of Anastasia Island, and the east side of Highway A1A would continue to be managed to protect and conserve the natural resources of the zone.

The ROD selected alternative B and the NPS will immediately begin to implement that alternative as the GMP. The GMP will guide the management of the national monument over the next 20+ years.

The responsible official for this FEIS/GMP is the Regional Director, NPS Southeast Region, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: August 13, 2014.

Stan Austin,

Regional Director, Southeast Region.

[FR Doc. 2014–21038 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–JD–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection for 1029–0083; Request for Comments

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request renewed approval to collect information on the certification of blasters in Federal program states and on Indian lands, and the related form.

DATES: Comments on the proposed information collection must be received by November 3, 2014, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208–2783, or by email at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for approval. This collection is contained in 30 CFR part 955—Certification of Blasters in Federal program states and on Indian lands, and Form OSM–74. OSMRE will request a 3-year term of approval for each information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for 30 CFR part 955 and Form OSM–74 is 1029–0083, and is codified at 30 CFR 955.10.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

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.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: 30 CFR Part 955—Certification of blasters in Federal program states and on Indian lands.

OMB Control Number: 1029–0083.

Summary: This information is being collected to ensure that the applicants for blaster certification are qualified. This information, with blasting tests, will be used to determine the eligibility of the applicant.

Bureau Form Number: OSM–74.

Frequency of Collection: On occasion.

Description of Respondents: Individuals intent on being certified as blasters in Federal program States and on Indian lands.

Total Annual Responses: 19.

Total Annual Burden Hours: 19.

Total Annual Non-Wage Burden Cost: $1,525.

Dated: August 29, 2014.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2014–21085 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection; Request for Comments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request renewed approval for the collection of information for Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans.

DATES: Comments on the proposed information collection must be received by November 3, 2014, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Room 203—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease, at (202) 208–2783, or by email at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for renewed approval. OSMRE will seek a 3-year term of approval for the collection contained in 30 CFR Part 784.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for Part 784 is 1029–0039, and may be found in OSMRE's regulations at 30 CFR 784.10. Responses are required to obtain a benefit for this collection.

OSMRE has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents and costs.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSMRE's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: 30 CFR Part 784—Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans.

OMB Control Number: 1029–0039.

Summary: Sections 507(b), 508(a) and 516(b) of Public Law 95–87 require underground coal mine permit applicants to submit an operations and reclamation plan and establish performance standards for the mining operation. Information submitted is used by the regulatory authority to determine if the applicant can comply with the applicable performance and environmental standards required by the law.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: 45 underground coal mining permit applicants and 24 State regulatory authorities.

Total Annual Responses: 1,271.

Total Annual Burden Hours: 15,043.

Total Annual Non-wage Cost Burden: $378,982.

Dated: August 29, 2014.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2014–21088 Filed 9–3–14; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–873]

Certain Integrated Circuit Devices and Products Containing the Same Commission Determination Not To Review an Initial Determination Granting an Unopposed Motion To Terminate the Investigation as to Remaining Respondents; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 71) granting an unopposed motion to terminate the investigation as to remaining respondents HTC Corporation of Taiwan; HTC America, Inc., of Bellevue, Washington; LG Electronics, Inc., of the Republic of Korea; LG Electronics U.S.A., Inc., of Englewood Cliffs, New Jersey; LG Electronics MobileComm U.S.A., Inc., of San Diego, California; Motorola Mobility LLC, of Libertyville, Illinois; Nokia Corporation (Nokia Oyj), of Finland; Nokia, Inc., of Sunnyvale, California (collectively, ''Remaining Respondents'') based upon withdrawal of the complaint under 19 CFR 210.21(a)(1).

FOR FURTHER INFORMATION CONTACT: Panyin A Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on

this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 15, 2013, based on a complaint filed by Tela Innovations, Inc., of Los Gatos, California (''Tela''). 78 FR 16533 (March 15, 2013). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuit devices and products containing the same by reason of infringement of various claims of U.S. Patent Nos. 8,264,049; 8,264,044; 8,258,550; 8,258,547; 8,217,428; 8,258,552; 8,030,689. The notice of investigation named the following entities as respondents: Motorola Mobility LLC, of Libertyville, Illinois (''Motorola''); Pantech Co., Ltd., of the Republic of Korea; Pantech Wireless, Inc., of Atlanta, Georgia (collectively, ''Pantech''); and Remaining Respondents. The Office of Unfair Import Investigations is a party to the investigation.

On July 21, 2014, the ALJ issued IDs (Order Nos. 68 and 69), terminating the investigation as to Motorola and Pantech based upon settlement and consent order stipulations, respectively. The Commission determined not to review.

On July 31, 2014, Tela and Remaining Respondents filed a joint unopposed motion to terminate the investigation as to Remaining Respondents based upon (1) settlement under 19 CFR 210.21(b) or (2) withdrawal of the complaint under 19 CFR 210.21(a). On August 1, 2014, the Commission investigative attorney filed a response in support of the motion to terminate the investigation.

On August 1, 2014, the ALJ issued the subject ID, granting the motion to terminate the investigation as to Remaining Respondents. The ALJ found that the parties complied with the requirements of Commission rules 210.21(a)(1) and 210.21(b)(1) (19 CFR 210.21(a)(1), 210.21(b)(1)), and that terminating Remaining Respondents from the investigation would not be contrary to the public interest. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID and terminates Remaining Respondents under 19 CFR 210.21(a)(1), withdrawal of the complaint. This terminates the investigation in its entirety.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 28, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–20935 Filed 9–3–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Safe Drinking Water Act, the Clean Water Act and the Resource Conservation and Recovery Act

On August 28, 2014, the Department of Justice lodged with the United States District Court for the District of Nebraska a proposed Consent Decree in *United States* v. *Omaha Tribe of Nebraska and Omaha Tribal Utility Commission,* Civil Action No. 8:14–cv–00255.

This civil action asserts claims for civil penalties and injunctive relief against the Omaha Tribe of Nebraska and the Omaha Tribal Utility Commission (''Defendants'') for alleged violations of the Safe Drinking Water Act, 42 U.S.C. Sec 300i (''SDWA''); the Clean Water Act, 33 U.S.C 1319(a), (b) & (d) (''CWA''); and the Resource Conservation and Recovery Act, 42 U.S.C. 6973(b) (''RCRA'') at Defendants' Macy Public Water System, Macy Public Wastewater Treatment Facility, and Mother Earth Recycling Center (collectively ''Utilities'') serving the towns of Macy and Walthill, Nebraska on the Omaha Reservation. The United States seeks injunctive relief and civil penalties intended to address Defendants' failure to comply with a March 2011 Environmental Protection Agency Administrative Order on Consent alleging longstanding violations of the SDWA, CWA, and RCRA at the Defendants' Utilities.

To resolve the United States' claims Defendants will pay a civil penalty of $2,000 and implement a number of corrective measures to build the Defendants' financial, managerial and technical capacity to operate and maintain the Utilities in compliance with statutory and regulatory requirements.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Omaha Tribe of Nebraska and Omaha Tribal Utility Commission,* Civil Action No. 8:14–cv–00255, D.J. Ref. No. 90–5–1–1–10496. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Resource Conservation and Recovery Act, 42 U.S.C. 6973.

All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General U.S. DOJ–ENRD P.O. Box 7611 Washington, DC 20044–7611.

During the public comment period, Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $17.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–21006 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States, State of Illinois, State of Iowa, and State of Missouri v. Tyson Foods, Inc. and The Hillshire Brands Company; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America, State of Illinois, State of Iowa, and State of Missouri* v. *Tyson Foods, Inc. and*

The Hillshire Brands Company, Civil Action No. 1:14–cv–01474–JEB. On August 27, 2014, the United States and the States of Illinois, Iowa, and Missouri filed a Complaint alleging that the proposed acquisition by Tyson Foods, Inc. (''Tyson'') of The Hillshire Brands Company (''Hillshire'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed the same time as the Complaint, requires Tyson to divest Heinold Hog Markets, its division that purchases sows.

Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to William H. Stallings, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, Department of Justice, Washington, DC 20530, (telephone: 202–514–9323).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 8000, Washington, D.C. 20530, State of Illinois, by its Attorney General, Lisa Madigan, 100 West Randolph Street, Chicago, Illinois 60601, State of Iowa, Iowa Department of Justice, Special Litigation Division, Hoover Office Building-Second Floor, 1305 East Walnut Street, Des Moines, Iowa 50319, and *State of Missouri, Office of the Attorney General, Consumer Protection Division, Post Office Box 899, Jefferson City, Missouri 65102,* Plaintiffs, v. *Tyson Foods, Inc., 2200 Don Tyson Parkway, Springdale, Arkansas 72762–6999,* and *The Hillshire Brands Company, 400 South Jefferson Street, Chicago, Illinois 60607,* Defendants.

Case: 1:14–cv–01474–JEB

Judge: Hon. James Boasberg

Filed: 08/27/2014

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, and the States of Illinois, Iowa, and Missouri (collectively, ''Plaintiffs'') bring this civil antitrust action to enjoin the proposed acquisition by Tyson Foods, Inc. (''Tyson'') of The Hillshire Brands Company (''Hillshire'') (collectively, ''Defendants'') and to obtain other equitable relief. Plaintiffs allege as follows:

I.

Nature of the Action

1. Tyson and Hillshire compete against each other and against others to procure sows from farmers in the United States. Farmers earn approximately $700 million annually from sales of sows and rely on competition among purchasers to ensure competitive prices. Tyson's proposed acquisition of Hillshire would eliminate head-to-head competition between the companies and create a firm that would account for over a third of all sows purchased from farmers in the United States.

2. Sows are female pigs that are raised for the purpose of breeding hogs. At the end of their productive breeding lives, sows are sold for slaughter. Packers such as Hillshire use the meat from sows in the production of pork sausage. In contrast, hogs are swine raised solely for the purpose of slaughter; their meat is typically used for pork products other than sausage.

3. Tyson, through its Heinold Hog Markets division (''Heinold''), purchases sows from farmers and re-sells them to packers, including Hillshire. Tyson has buying stations located throughout the Midwest that procure sows directly from local farmers, sort the sows according to different characteristics, and ship them to packers according to each packer's particular requirements. Packers overwhelmingly use marketers such as Heinold to procure sows rather than purchase directly from farmers due to the efficiencies marketers offer in terms of sorting, shipping, and other services. Hillshire is one of the few packers that purchases sows directly from farmers; as such, it competes directly against Heinold to procure sows from farmers.

4. On July 1, 2014, Tyson and Hillshire entered into a definitive agreement under which Tyson will acquire Hillshire. Unless enjoined, the proposed acquisition is likely to lessen competition substantially in the market for the purchase of sows from farmers in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

II.

Jurisdiction and Venue

5. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. § 25, and the Plaintiff States bring this action under Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18. The Plaintiff States, by and through their respective Attorneys General, bring this action as *parens patriae* on behalf of the citizens, general welfare, and economy of each of their states.

6. Defendants are engaged in interstate commerce and in activities substantially affecting interstate commerce. Tyson, through Heinold, and Hillshire purchase sows from farmers located throughout the United States. This Court has subject matter jurisdiction over this action and jurisdiction over the parties pursuant to 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

7. Defendants have consented to venue and personal jurisdiction in this District.

III.

Defendants and the Proposed Transaction

8. Tyson Foods, Inc. is a Delaware corporation with its principal place of business in Springdale, Arkansas. In 2013, Tyson had total revenues of approximately $34.4 billion. Tyson is one of the world's largest meat companies. It produces, distributes, and markets chicken, beef, pork, and prepared food products. Tyson Hog Markets, Inc., a subsidiary of Tyson and Tyson Fresh Meats, Inc., purchases hogs for Tyson's hog processing facilities. Tyson does not process sows. Tyson does, however, buy and resell sows through Heinold. In 2013, Heinold had overall revenues of approximately $270 million.

9. The Hillshire Brands Company is a Maryland corporation with its principal place of business in Chicago, Illinois. Hillshire is a manufacturer and marketer of brand name food products for the retail and foodservice markets, including sausage, hot dogs, and luncheon meats. Its brand names include Jimmy Dean, Ball Park, and Hillshire Farm. Hillshire's total revenues were approximately $3.9 billion for the year ended June 29, 2013.

10. On July 1, 2014, Tyson and Hillshire entered into a definitive agreement for the acquisition by Tyson

of Hillshire. On July 16, 2014, Tyson commenced a tender offer to purchase all of Hillshire's outstanding shares. The tender offer is conditioned on the valid tendering, without a valid withdrawal, of at least two-thirds of Hillshire's outstanding stock prior to expiration of the offer. As of August 12, over 70% of Hillshire's outstanding shares had been validly tendered and not validly withdrawn.

IV.

Trade and Commerce

A. The Sow Packing Industry

11. Sausage producers primarily buy sows from marketers such as Heinold. Marketers purchase sows from individual farmers and assemble truck loads (with approximately 100 sows per load) for delivery to sausage plants. Marketers utilize buying stations to procure sows from farmers. A buying station includes space for offloading and loading sows, pens for holding the sows, scales, and administrative space. Sows are usually kept at a buying station no longer than three days and may be shipped out to a slaughterer the same day they arrive from a farm.

12. Larger marketers have multiple buying stations. Heinold operates eight buying stations located in Atkinson, Illinois; Burlington, Indiana; Randall and Sioux City, Iowa; Jones, Michigan; Windom, Minnesota; Monroe City, Missouri, and St. Paul, Nebraska. Heinold buys sows from more than 2,400 farmers located throughout the United States. In 2013, Heinold purchased about 660,000 sows from farmers in the United States, paying more than $150 million to farmers.

13. Hillshire slaughters sows and produces sausage at a facility in Newbern, Tennessee. Whereas most other sausage producers purchase nearly all of their sows from marketers, Hillshire is unique among major sausage manufacturers in that it purchases over half of its sows directly from farmers. The sows that Hillshire purchases from farmers are usually transported directly by truck from the farm to Hillshire's Tennessee facility. Hillshire purchases sows from approximately 100 farmers located throughout the United States. In 2013, it purchased more than 250,000 sows from farmers in the United States, paying approximately $80 million to farmers.

14. The frequency and number of a particular farmer's sales of sows depends on the size of its breeding operations. Larger operations sell sows every week; smaller operations sell sows much less frequently. Some operations are of a sufficient size to be able to sell sows by the truckload whereas many farms sell lots of smaller sizes.

B. The Relevant Market

15. There are no economic uses for slaughtered sows other than for the production of pork sausage. It is highly unlikely that a small decrease in the prices paid for sows would be rendered unprofitable by a switch of the sale of sows to other purchasers for any other use.

16. The purchase of sows from farmers is a relevant antitrust product market. In part because income from sow sales represents a small percentage of the overall revenues of a hog breeding operation, a small decrease in the prices farmers receive for sows typically would not affect farmers' decisions about when to slaughter sows, the size of their breeding operations, or whether to abandon their investments in hog breeding altogether. Although the sale of sows constitutes a small percentage of overall revenues, farmers rely on this source of income as an important contribution to their earnings.

17. Hog breeding operations are concentrated in the central area of the United States, including Iowa, Illinois, and Missouri, and in North Carolina. All else equal, farmers prefer to transport sows as short a distance as possible, unless the price that the farmer receives justifies shipping the sows farther. For instance, Hillshire sometimes fully compensates the farmer for transportation costs, which makes it economical for farmers located hundreds of miles away from the Hillshire plant to sell to Hillshire. Sows are commonly shipped throughout the central area of the United States where the purchasing facilities of the merging parties are located and where a major portion of sow sales and slaughter take place. The overwhelming majority of sow purchases occur within this region. As sows are also shipped even farther distances to slaughter facilities throughout the nation, the United States is the outer bounds of a relevant geographic market.

18. Thus, the purchase of sows from farmers in the United States is a relevant market (*i.e.,* a line of commerce and a section of the country) under Section 7 of the Clayton Act, 15 U.S.C. § 18.

C. Anticompetitive Effects

19. The acquisition of Hillshire by Tyson will combine two of the major purchasers of sows from farmers in the United States and create a company that would account for approximately 35% of all purchases in this market. Using the Herfindahl-Hirschman Index (HHI), a standard measure of concentration, the post-acquisition HHI would increase by more than 500 points, resulting in a post-acquisition HHI of approximately 2100.

20. Farmers have benefited from competition between Tyson and Hillshire in a variety of respects. Farmers track offering prices from sow purchasers. For many farmers, at particular points in time, the merging parties constitute their two best alternatives. The purchasing facilities of the merging parties are two of a small number of potential buyers from whom farmers seek or receive quotes. As the transaction eliminates a significant competing bidder, bidding is likely to be less aggressive and farmers are likely to receive lower prices for sows. As the prices offered decrease, farmers may ship sows to more distant purchasers. This additional shipping time and cost constitute an economic inefficiency that would follow from the elimination of competition between Hillshire and Tyson.

21. Tyson's acquisition of Hillshire would eliminate actual and potential competition between Heinold Hog Markets and Hillshire, leaving farmers with fewer outlets for their sows and lower prices in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

D. Absence of Countervailing Factors

22. Successful entry or repositioning into the market for the purchase of sows from farmers would not be timely, likely, or sufficient to deter the anticompetitive effects resulting from this transaction. Slaughterers that do not currently purchase sows directly from farmers are unlikely to begin to do so because they value the sorting and weighing services performed by marketers at their buying stations. Entry by new marketers or expansion by existing marketers sufficient to replace the market impact of the loss of competition resulting from the transaction is also unlikely. The process of locating and acquiring land, obtaining permits, and constructing buying stations would require an extensive period of time and would be unlikely to occur in response to anticompetitive price decreases resulting from the merger.

V.

Violation Alleged

23. Plaintiffs hereby incorporate paragraphs 1 through 22.

24. Unless enjoined, Tyson's proposed acquisition of Hillshire is likely to substantially lessen competition and restrain trade in the purchase of sows from farmers in the

United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, in the following ways:

a. actual and potential competition between Tyson and Hillshire in the purchase of sows from farmers in the United States will be eliminated;

b. competition in the purchase of sows from farmers in the United States will be substantially lessened; and

c. prices paid to farmers in the United States for sows will likely decrease.

VI.

Request for Relief

25. Plaintiffs request that:

a. Tyson's proposed acquisition of Hillshire be adjudged and decreed to be unlawful and in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18;

b. Defendants and all persons acting on their behalf be preliminarily and permanently enjoined and restrained from consummating the proposed transaction or from entering into or carrying out any contract, agreement, plan, or understanding, the effect of which would be to combine Tyson and Hillshire;

c. Plaintiffs be awarded its costs for this action; and

d. Plaintiffs receive such other and further relief as the Court deems just and proper.

Dated this 27th day of August, 2014.

Respectfully submitted,

For Plaintiff United States:

/s/

William J. Baer (D.C. Bar #324723)
Assistant Attorney General for Antitrust

/s/

David I. Gelfand (D.C. BAR #416596)
Deputy Assistant Attorney General

/s/

Patricia A. Brink
Director of Civil Enforcement

/s/

William H. Stallings (D.C. BAR #444924)
Chief
Transportation, Energy & Agriculture Section

/s/

Caroline E. Laise
Assistant Chief
Transportation, Energy & Agriculture Section

/s/

Angela L. Hughes (D.C. Bar #303420)*,
Katherine A. Celeste,
Jill A. Ptacek,
Attorneys

Antitrust Division,
U.S. Department of Justice, 450 Fifth Street, N.W., Suite 8000, Washington, DC 20530, Telephone: (202) 307–6410, Facsimile: (202) 307–2784, E-mail: Angela.Hughes@usdoj.gov

Attorneys for the United States
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For Plaintiff State of Illinois
Lisa Madigan
Attorney General

Cara Hendrickson
Chief, Public Interest Division

Robert Pratt
Chief, Antitrust Bureau
Public Interest Division

/s/

Blake Harrop
Senior Assistant Attorney General, Illinois Bar No. 99000, 100 West Randolph Street, Chicago, Illinois 60601, Ph: 312–814–1004, Fax: 312–814–4209, bharrop@atg.state.il.us

For Plaintiff State of Iowa:

Thomas J. Miller
Attorney General

/s/

Layne M. Lindebak (IA Bar AT0004755)
Assistant Attorney General, Special Litigation Division, Hoover Office Building—Second Floor, 1305 East Walnut Street, Des Moines, IA 50319, Tel: (515) 281–7054, Fax: (515) 281–4902; Layne.Lindebak@iowa.com.

Dated: August 26, 2014

For Plaintiff State of Missouri:
Chris Koster
Attorney General

/s/

Anne E. Schneider
Assistant Attorney General/Antitrust Counsel
Kyle A. Poelker
Assistant Attorney General
Office of the Missouri Attorney General, P.O. Box 899, Jefferson City, MO 65102, Phone: (573) 751–7445, Fax: (573) 751–2041, Email: Anne.Schneider@ago.mo.gov, Email: Kyle.Poelker@ago.mo.gov

Certificate of Service

I, Angela L. Hughes, hereby certify that on August 27, 2014, I caused a copy of the foregoing Complaint, Proposed Final Judgment, Hold Separate Stipulation and Order, Competitive Impact Statement, and United States' Explanation of Consent Decree Procedures to be served on Defendants Tyson Foods, Inc. and The Hillshire Brands Company by electronic mail to their duly authorized legal representatives of the Defendants, as follows:

For Defendants

Tyson Foods, Inc.
Ronan P. Harty
Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017, Telephone: (212) 450–4870, Facsimile: (202) 701–5870, Email: ronan.harty@DavisPolk.com

The Hillshire Brands Company
Clifford H. Aronson
(D.C. Bar #335182)
Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036–6522, Telephone: 212.735.2644, Facsimile: 917.777.2644, Email: clifford.aronson@skadden.com

/s/

Angela L Hughes*
Attorney, Antitrust Division, U.S. Department of Justice, 450 Fifth Street, N.W., Suite 8000, Washington, DC 20530, Telephone: (202) 307–6410, Facsimile: (202) 307–2784, Email: angela.hughes@usdoj.gov

United States District Court for the District of Columbia

United States of America, State of Illinois, State of Iowa, and *State of Missouri, Plaintiffs,* v. *Tyson Foods, Inc.,* and *The Hillshire Brands Company, Defendants.*

Case: 1:14-cv-01474-JEB

Judge: Hon. James Boasberg

Filed: 08/27/2014

Competitive Impact Statement

Plaintiff United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I.

Nature and Purpose of the Proceeding

Defendant Tyson Foods, Inc. (''Tyson'') and Defendant The Hillshire Brands Company (''Hillshire'') (collectively, ''Defendants'') entered into an agreement on July 1, 2014, pursuant to which Tyson will acquire all of the outstanding shares of Hillshire. The all-cash transaction, which includes Hillshire's outstanding net debt, is valued at approximately $8.55 billion. The United States filed a civil antitrust Complaint on August 27, 2014, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially in the market for the purchase of sows from farmers in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

At the same time the Complaint was filed, Plaintiffs also filed a Hold Separate Stipulation and Order (''Hold Separate'') and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, Defendants are to divest Tyson's sow purchasing business, also known as Heinold Hog Markets (the ''Divestiture Assets''). Under the terms of the Hold Separate, the Defendants will take certain steps to ensure that Tyson Hog Markets, Inc., a subsidiary of Tyson that includes the Divestiture Assets, is operated as a competitively independent, economically viable and ongoing business concern that will remain independent of Hillshire's sow purchasing operation and will be uninfluenced by the consummation of the acquisition, and that competition between Tyson and Hillshire in the purchase of sows from farmers is maintained during the pendency of the ordered divestiture.

Plaintiffs and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II.

Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Defendant Tyson is a Delaware corporation with its headquarters in Springdale, Arkansas. In 2013, Tyson had total revenues of approximately $34.4 billion. Tyson is one of the world's largest meat companies, producing, distributing, and marketing chicken, beef, pork, and prepared foods. Tyson's subsidiary Tyson Fresh Meats, Inc. is responsible for the purchase of hogs and cattle for Tyson's processing facilities; hog purchases are handled by Tyson Hog Markets, Inc., a subsidiary of Tyson Fresh Meats. In addition to buying hogs for Tyson's processing facilities, Tyson Hog Markets' subsidiary Heinold Hog Markets (''Heinold''), buys and resells sows.[1] In 2013, Heinold had revenues of approximately $270 million.

Defendant Hillshire is a Maryland corporation headquartered in Chicago, Illinois. Hillshire is a manufacturer and marketer of brand name food products for the retail and foodservice markets, including sausage, hot dogs, and luncheon meats. Its brand names include Jimmy Dean, Ball Park, and Hillshire Farm. Hillshire's total revenues were approximately $3.9 billion for the year ended June 29, 2013.

On July 1, 2014, Tyson and Hillshire entered into a definitive agreement for the acquisition by Tyson of Hillshire. On July 16, 2014, Tyson commenced a tender offer to purchase all of Hillshire's outstanding shares. The tender offer is conditioned on the valid tendering, without a valid withdrawal, of at least two-thirds of Hillshire's outstanding stock prior to expiration of the offer. As of August 12, over 70% of Hillshire's outstanding shares had been validly tendered and not validly withdrawn.

[1] Sows are female hogs that have produced at least one litter and will no longer be used for breeding. Heinold also purchases boars and outs (runts or deformed hogs) from farmers.

B. Industry Background

Sows are female pigs raised for the purpose of breeding hogs. Sows are sold for slaughter at the end of their productive breeding lives. Packers use the meat from sows in the production of pork sausage. In contrast, hogs are swine raised solely for the purpose of slaughter; their meat is typically used for pork products other than sausage.

Sausage producers, other than Hillshire, primarily buy sows from marketers such as Heinold. Marketers purchase sows from individual farmers and assemble truck loads (with approximately 100 sows per load) for delivery to sausage plants. Marketers utilize buying stations to procure sows from farmers. The frequency and number of a particular farmer's sales of sows depends on the size of its breeding operations. Larger operations sell sows every week; smaller operations sell sows much less frequently. Some operations are of a sufficient size to be able to sell sows by the truckload whereas many farms sell lots of smaller sizes.

Heinold operates eight buying stations located in Atkinson, Illinois; Burlington, Indiana; Randall and Sioux City, Iowa; Jones, Michigan; Windom, Minnesota; Monroe City, Missouri, and St. Paul, Nebraska. Heinold buys sows from more than 2,400 farmers located throughout the United States. In 2013, Heinold purchased about 660,000 sows from farmers in the United States, paying more than $150 million to farmers.

Hillshire slaughters sows and produces sausage at a facility in Newbern, Tennessee. Whereas most other sausage producers purchase nearly all of their sows from marketers, Hillshire is unique in that it purchases over half of its sows directly from farmers. The sows that Hillshire purchases from farmers are usually transported directly by truck from the farm to Hillshire's Tennessee facility. Hillshire purchases sows from approximately 100 farmers located throughout the United States. In 2013, it purchased more than 250,000 sows from farmers in the United States, paying approximately $80 million to farmers.

C. Relevant Markets

There are no economic uses for slaughtered sows other than for the production of pork sausage. It is highly unlikely that a small decrease in the prices paid for sows would be rendered unprofitable by farmers switching to selling sows to other purchasers for any other uses.

The purchase of sows from farmers is a relevant antitrust product market. In part because income from sow sales represents a small percentage of the overall revenues of a hog breeding operation, a small decrease in the prices farmers receive for sows typically would not affect farmers' decisions about when to slaughter sows, the size of their breeding operations, or whether to abandon their investments in hog breeding altogether. Although the sale of sows constitutes a small percentage of overall revenues, farmers rely on this source of income as an important contribution to their earnings.

Hog breeding operations are concentrated in the central area of the United States, including Iowa, Illinois, and Missouri, and in North Carolina. All else equal, farmers prefer to transport sows as short a distance as possible, unless the price that the farmer receives justifies shipping the sows farther. For instance, Hillshire sometimes fully compensates the farmer for transportation costs, which makes it economical for farmers located hundreds of miles away from the Hillshire plant to sell to Hillshire. Sows are commonly shipped throughout the central area of the United States where the purchasing facilities of the merging parties are located and where a major portion of sow sales and slaughter take place. The overwhelming majority of sow purchases occur within this region. As sows are also shipped even farther distances to slaughter facilities throughout the nation, the United States is the outer bounds of a relevant geographic market.

Thus, the purchase of sows from farmers in the United States is a relevant market (i.e., a line of commerce and a section of the country) under Section 7 of the Clayton Act, 15 U.S.C. § 18.

D. Anticompetitive Effects of Tyson's Acquisition of Hillshire

The market for the purchase of sows from farmers is concentrated. The acquisition of Hillshire by Tyson will combine two of the major purchasers of sows from farmers in the United States and would create a company that accounts for approximately 35% of all purchases in this market. Using the Herfindahl-Hirschman Index, the post-acquisition HHI would increase by more than 500 points, resulting in a post-acquisition HHI of approximately 2100.

Farmers have benefited from competition between Tyson and Hillshire in a variety of ways. Farmers track prices offered by sow purchasers. For many farmers, at particular points in time, the merging parties constitute their two best alternatives. The purchasing facilities of the merging parties are two of a small number of potential buyers from whom farmers

seek or receive quotes. As the transaction eliminates a significant competing bidder, bidding is likely to be less aggressive and farmers are likely to receive lower prices for sows. As the prices offered decrease, farmers may need to ship sows to more distant purchasers. This additional shipping time and cost constitute an economic inefficiency that would follow from the elimination of competition between Hillshire and Tyson.[2]

Successful entry or repositioning into the market for the purchase of sows from farmers would not be timely, likely, or sufficient to deter the anticompetitive effects resulting from this transaction. Slaughterers that do not currently purchase sows directly from farmers are unlikely to begin to do so because they value the sorting and weighing services performed by marketers at their buying stations. Entry by new marketers or expansion by existing marketers sufficient to replace the market impact of the loss of competition resulting from the transaction is also unlikely. The process of locating and acquiring land, obtaining permits, and constructing buying stations would require an extensive period of time and would be unlikely to occur in response to anticompetitive price decreases resulting from the merger.

Tyson's acquisition of Hillshire would eliminate actual and potential competition between Tyson and Hillshire, leaving farmers with fewer outlets for their sows and lower prices in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

III.

Explanation of the Proposed Final Judgment

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the market for purchases of sows from U.S. farmers by establishing a new, independent, and economically viable competitor. The proposed Final Judgment requires the Defendants, within 90 days after the filing of the Complaint, or five days after notice of entry of the Final Judgment, whichever is later, to divest all of Heinold (''the Divestiture Assets''), which constitute all the assets Tyson currently uses to compete against Hillshire for sow purchases from U.S. farmers. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and shall cooperate with prospective purchasers.

The terms of the proposed Final Judgment require the Defendants to divest the Divestiture Assets within 90 days. If Defendants are unable to accomplish the divestiture within this period, the United States, after consultation with the Plaintiff States, may extend this period up to 60 days and shall notify the Court in such circumstances. A prompt divestiture has the benefits of restoring competition lost as a result of the acquisition and reducing the possibility that the value of the assets will be diminished.

Section V(B) of the Hold Separate Stipulation and Order specifies that the Divestiture Assets will be maintained as a viable business and that Hillshire employees will not gain access to customer or supplier lists specific to the Divestiture Assets prior to divestiture.

Section IV(B) of the proposed Final Judgment requires the Defendants to furnish information to prospective acquirers in an attempt to sell the divestiture assets.

Section X of the proposed Final Judgment provides that the United States may appoint a Monitoring Trustee with the power and authority to investigate and report on the parties' compliance with the terms of the Final Judgment and the Hold Separate during the pendency of the divestiture, including keeping Tyson Hog Markets separate from the sow purchasing operations of Hillshire. The Monitoring Trustee would not have any responsibility or obligation for the operation of the parties' businesses. The Monitoring Trustee will serve at Defendants' expense, on such terms and conditions as the United States approves, and Defendants must assist the trustee in fulfilling its obligations. The Monitoring Trustee will file monthly reports and will serve until the divestitures are complete. The Monitoring Trustee shall serve until the divestiture of all the Divestiture Assets is finalized pursuant to either Section IV or Section V of the Final Judgment.

In the event that Defendants do not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, Section V of the proposed Final Judgment provides that the Court will appoint a Divestiture Trustee selected by the United States to effect the sale of the Divestiture Assets. If a Divestiture Trustee is appointed, the proposed Final Judgment provides that Defendant Tyson will pay all costs and expenses of the Divestiture Trustee. The Divestiture Trustee's commission will be structured so as to incentivize the Divestiture Trustee to complete the divestiture as quickly as possible while trying to obtain the highest possible price for the Divestiture Assets. After his or her appointment becomes effective, the Divestiture Trustee will file monthly reports with the Court and the United States which set forth his or her efforts to accomplish the divestiture. At the end of six (6) months, if the divestiture has not been accomplished, the Divestiture Trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the Divestiture Trustee's appointment.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the market for the purchase of sows from U.S. farmers.

IV.

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V.

Procedures Available for Modification of the Proposed Final Judgment

Plaintiffs and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the

[2] Mergers of competing buyers can enhance market power on the buying side of a market, raising significant antitrust concerns. *See* U.S. Dep't of Justice and Federal Trade Commission, Horizontal Merger Guidelines (2010), § 12.

Federal Register, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to: William H. Stallings, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, United States Department of Justice, 450 5th St. NW., Suite 8000, Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI.

Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Tyson's acquisition of Hillshire. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition in the market for the purchase of sows from U.S. farmers. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII.

Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one, as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[3]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short

[3] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[4] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'''').

of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States v. Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States,* 460 U.S. 1001 (1983); *see also United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 ("the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged."). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications,* courts "cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power." *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. § 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Sen. John Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." *SBC Commc'ns,* 489 F. Supp. 2d at 11.[5]

VIII.

Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: August 27, 2014

Respectfully submitted,

/s/

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*Attorney of Record

United States District Court for the District of Columbia

United States of America, State of Illinois, State of Iowa, and *State of Missouri,* Plaintiffs, v. *Tyson Foods, INC.,* and *The Hillshire Brands Company,* Defendants.

Case: 1:14-cv-01474-JEB
Judge: Hon. James Boasberg
Filed: 08/27/2014

Proposed Final Judgment

WHEREAS, Plaintiffs, United States of America and the States of Illinois, Iowa, and Missouri (collectively "Plaintiffs"), filed their Complaint on August 27, 2014, and Plaintiffs and Defendants Tyson Foods, Inc. ("Tyson") and The Hillshire Brands Company ("Hillshire") by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by Defendants to assure that competition is not substantially lessened;

AND WHEREAS, Plaintiffs require Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to Plaintiffs that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means the entity to which Defendant Tyson divests the Divestiture Assets.

B. "Tyson" means Defendant Tyson Foods, Inc., a Delaware corporation with its headquarters in Springdale, Arkansas, its successors and assigns, and its subsidiaries, including Tyson Fresh Meats, Inc., divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Tyson Fresh Meats, Inc." means Tyson Fresh Meats, Inc, a subsidiary of Tyson.

D. "Hillshire" means Defendant The Hillshire Brands Company, a Maryland corporation with its headquarters in Chicago, Illinois, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. "Divestiture assets" means the entire business of Heinold Hog Markets, including any and all of the tangible or intangible assets used primarily in connection with Heinold Hog Markets, including but not limited to, all leasehold and real property rights associated with the buying stations located at 700 East Henry, Atkinson, Illinois 61235; 3125 So St Rd 29, Burlington, Indiana 46915; 3069 380th St, Story City, Iowa 50248; 624 Cunningham Dr, Sioux City, Iowa 51106; 12760 M60 West, Jones, Michigan 49061; 401 Route W, Monroe City, Missouri 63456; 954 14th Ave, St. Paul,

[5] *See United States v. Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States v. Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, at *22 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93–298, at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.").

Nebraska 68873; and 2720 Hwy 60, Windom, Minnesota 56101; any inventory, office furniture, materials, supplies, livestock pens, scales and other tangible property and assets used primarily in connection with operating the BOS purchasing business; all licenses, permits, and authorizations issued by any governmental organization relating to operating the BOS purchasing business, subject to licensor's approval or consent; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to operating the BOS purchasing business, including supply agreements and employee contracts; all customer and Producer lists, specifications, contracts, accounts, and credit records; all records relating to the business of operating BOS buying stations including repairs; all intangible assets used in the development, production, and operation of the BOS purchasing business, including, but not limited to, exclusive use of the Heinold Hog Markets name and trademark, all the licenses and sublicenses, technical information, computer software and related documentation, know-how, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, and safety procedures for the handling of materials, substances and BOS.

F. ''Heinold Hog Markets'' means Heinold Hog Markets, Tyson's BOS purchasing business that is part of Tyson Hog Markets, Inc., a subsidiary of Tyson Fresh Meats, Inc.

G. ''BOS'' means boars (un-castrated male hogs), outs (runts or deformed hogs), and sows (female hogs that have produced at least one litter).

H. ''Buying station'' means those facilities identified in II.E. above at which BOS are purchased from Producers, sorted, weighed, and subsequently sold and shipped to processors or packers.

I. ''Plaintiff States'' means the States of Illinois, Iowa, and Missouri.

J. ''Producers'' means owners or operators of facilities at which hogs are bred or farrowed.

K. ''Proposed Transaction'' means Tyson's proposed acquisition of Hillshire pursuant to the Agreement and Plan of Merger entered into by Tyson and Hillshire dated July 1, 2014.

III. Applicability

A. This Final Judgment applies to Tyson and Hillshire, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and V of this Final Judgment, Defendant Tyson sells or otherwise disposes of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendant Tyson need not obtain such an agreement from the acquirer of the assets divested pursuant to this Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed, within 90 calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion after consultation with the Plaintiff States. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed 60 calendar days in total, and shall notify the Court in such circumstances.

B. In accomplishing the divestiture ordered by this Final Judgment, Defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privileges or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer and the United States information relating to the personnel involved in the operation and management of the Divestiture Assets to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ any Defendant employee whose primary responsibility is the operation and management of the Divestiture Assets. For a period of twelve (12) months following entry of the Final Judgment, the Defendants shall not solicit to hire, or hire, any Tyson employee hired by the Acquirer unless (1) such individual is terminated or laid off by the Acquirer, or (2) the Acquirer agrees in writing that Defendants may solicit or hire that individual.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of the Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer that each asset will be operational on the date of sale.

F. Defendants shall warrant to the Acquirer that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each asset.

G. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets. Following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

H. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by Divestiture Trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, after consultation with the Plaintiff States, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business purchasing BOS. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of the United States that the Divestiture Assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States's sole judgment after consultation with the Plaintiff States, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of purchasing of BOS; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, after consultation with the Plaintiff States, that none of the terms of any agreement between an Acquirer and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Divestiture Trustee

A. If Defendant Tyson has not divested the Divestiture Assets within the time period specified in Section IV(A), Defendants shall notify the United States and the Plaintiff States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States, after consultation with the Plaintiff States, at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the Divestiture

Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section VI.

D. The Divestiture Trustee shall serve at the cost and expense of Defendant Tyson, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to Defendant Tyson and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the Divestiture Trustee and Defendant Tyson are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to the Defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture. The Divestiture Trustee and any consultants, accountants, attorneys, and other agents retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial and other information relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information, or any applicable privilege for any of the forgoing. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the Divestiture Trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestiture ordered under this Final Judgment within six (6) months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such reports contains information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Divestiture Trustee.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendant Tyson or the Divestiture Trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States and the Plaintiff States of any proposed divestiture required by Section IV or V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States, after consultation with the Plaintiff States, may request from Defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested of them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer, any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to Defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V, Defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United

States to information provided by Defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. Appointment of Monitoring Trustee

A. Upon application of the United States, the Court shall appoint a Monitoring Trustee selected by the United States and approved by the Court.

B. The Monitoring Trustee shall have the power and authority to monitor Defendants' compliance with the terms of this Final Judgment and the Hold Separate Stipulation and Order entered by this Court, and shall have such other powers as this Court deems appropriate. The Monitoring Trustee shall be required to investigate and report on the Defendants' compliance with this Final Judgment and the Hold Separate Stipulation and Order and the Defendants' progress toward effectuating the purposes of this Final Judgment, including but not limited to: keeping Tyson Fresh Meats, Inc. separate from the sow purchasing operations of Defendant Hillshire.

C. Subject to Section X(E) of this Final Judgment, the Monitoring Trustee may hire at the cost and expense of Defendants any consultants, accountants, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment. Any such consultants, accountants, attorneys, or other agents shall serve on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications.

D. Defendants shall not object to actions taken by the Monitoring Trustee in fulfillment of the Monitoring Trustee's responsibilities under any Order of this Court on any ground other than the trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Monitoring Trustee within ten (10) calendar days after the action taken by the Monitoring Trustee giving rise to the Defendants' objection.

E. The Monitoring Trustee shall serve at the cost and expense of Defendants pursuant to a written agreement with Defendants and on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications. The compensation of the Monitoring Trustee and any consultants, accountants, attorneys, and other agents retained by the Monitoring Trustee shall be on reasonable and customary terms commensurate with the individuals' experience and responsibilities. If the Monitoring Trustee and Defendants are unable to reach agreement on the trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of appointment of the trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Monitoring Trustee shall, within three (3) business days of hiring any consultants, accountants, attorneys, or other agents, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

F. The Monitoring Trustee shall have no responsibility or obligation for the operation of Defendants' businesses.

G. Defendants shall use their best efforts to assist the Monitoring Trustee in monitoring Defendants' compliance with their individual obligations under this Final Judgment and under the Hold Separate Stipulation and Order. The Monitoring Trustee and any consultants, accountants, attorneys, and other agents retained by the Monitoring Trustee shall have full and complete access to the personnel, books, records, and facilities relating to compliance with this Final Judgment, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Monitoring Trustee's accomplishment of its responsibilities.

H. After its appointment, the Monitoring Trustee shall file reports monthly, or more frequently as needed, with the United States, and, as appropriate, the Court setting forth Defendants' efforts to comply with its obligations under this Final Judgment and under the Hold Separate Stipulation and Order. To the extent such reports contain information that the Monitoring Trustee deems confidential, such reports shall not be filed in the public docket of the Court.

I. The Monitoring Trustee shall serve until the divestiture of all the Divestiture Assets is finalized pursuant to either Section IV or Section V of this Final Judgment.

J. If the United States determines that the Monitoring Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Monitoring Trustee.

XI. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their counsel present (individual and/or Defendant's counsel), regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of (i) the executive branch of the United States, or (ii) the Plaintiff States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XII. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust

Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

_____

United States District Judge

[FR Doc. 2014–21102 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Fisher Clinical Services, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 6, 2014. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 6, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of importers, of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on December 13, 2013, Fisher Clinical Services, Inc., 700A–C Nestle Way, Breinigsville, Pennsylvania 18031–1522 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Methylphenidate (1724)	II
Levorphanol (9220)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II

The company plans to import the listed substances for analytical research and testing and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

The company plans to import an intermediate form of Tapentadol (9780) to bulk manufacture Tapentadol for distribution to its customers.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21056 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Cody Laboratories, Inc.

ACTION: Notice of application.

SUMMARY: On July 3, 2014, Cody Laboratories, Inc., Cody, Wyoming, applied to be registered as an importer of basic classes of controlled substances.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 6, 2014. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 6, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and request for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of importers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on July 3, 2014, Cody Laboratories, Inc., 601 Yellowstone Avenue, Cody, Wyoming 82414–9321, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Phenylacetone (8501)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import narcotic raw materials for manufacturing and further distribution to its customers. The company is registered with the DEA as a manufacturer of several controlled substances that are manufactured from poppy straw concentrate.

The company plans to import an intermediate form of tapentadol (9780), to bulk manufacture tapentadol for distribution to its customers.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21058 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Mylan Technologies, Inc.

ACTION: Notice of registration.

SUMMARY: Mylan Technologies, Inc., applied to be registered as an importer of certain basic classes of controlled substances. The DEA grants Mylan Technologies, Inc., registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32316, Mylan Technologies, Inc., 110 Lake Street, Saint Albans, Vermont 05478, applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Mylan Technologies, Inc., to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Methylphenidate (1724)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21052 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Arizona Department of Corrections, Aspc-Florence

ACTION: Notice of registration.

SUMMARY: Arizona Department of Corrections, ASPC-Florence applied to be registered as an importer of a certain basic class of controlled substance. The DEA grants Arizona Department of Corrections, ASPC-Florence registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32317, Arizona Department of Corrections, ASPC-Florence, 1305 E. Butte Avenue, Florence, Arizona 85132, applied to be registered as an importer of a certain basic class of controlled substance. No comments or objections were submitted for this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Arizona Department of Corrections, ASPC-Florence to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of Pentobarbital (2270), a basic class of controlled substance listed in schedule II.

The facility intends to import the above listed controlled substance for legitimate use. Supplies of this particular controlled substance are inadequate and are not available in the form needed within the current domestic supply of the United States.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21083 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Wildlife Laboratories, Inc.

ACTION: Notice of registration.

SUMMARY: Wildlife Laboratories, Inc., applied to be registered as an importer of certain basic classes of controlled substances. The DEA grants Wildlife Laboratories, Inc., registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, FR 79 32318, Wildlife Laboratories, Inc., 1230 West Ash Street, Suite D, Windsor, Colorado 80550, applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Wildlife Laboratories, Inc., to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of controlled substances:

Controlled substance	Schedule
Etorphine (except HCl) (9056)	I
Etorphine HCl (9059)	II

The company plans to import the listed controlled substances for sale to its customers.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21087 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Akorn, Inc.

ACTION: Notice of registration.

SUMMARY: Akorn, Inc., applied to be registered as an importer of a certain basic class of controlled substance. The DEA grants Akorn, Inc., registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32317, Akorn, Inc., 1222 W. Grand Avenue, Decatur, Illinois 62522, applied to be registered as an importer of a certain basic class of controlled substance. No comments or objections were reviewed for this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Akorn, Inc., to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of Remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import Remifentanil in bulk for use in dosage form manufacturing.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21063 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Chattem Chemicals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 3, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on June 23, 2014, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Chattanooga, Tennessee 37409, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
4-Methoxyamphetamine (7411)	I
Dihydromorphine (9145)	I
Amphetamine (1100)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	
Remifentanil (9739)	II
Sufentanil (9740)	II
Tapentadol (9780)	
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution and sale to its customers. Regarding (9640) the company plans to manufacture another controlled substance for sale to its customers.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21062 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Organix, Inc.

ACTION: Notice of registration.

SUMMARY: Organix, Inc. applied to be registered as a manufacturer of certain basic classes of narcotic and non-narcotic controlled substances. The DEA grants Organix, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated April 21, 2014, and published in the **Federal Register** on April 28, 2014, 79 FR 23376, Organix, Inc., 240 Salem Street, Woburn, Massachusetts 01801, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections have been received.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Organix, Inc. to manufacture the basic classes of controlled substances is

consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Lysergic acid diethylamide (7315)	I
Heroin (9200)	I
Morphine (9300)	II

The company plans to manufacture reference standards for distribution to its research and forensics customers.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21060 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: National Center for Natural Products Research (NIDA MProject), Inc.

ACTION: Notice of registration.

SUMMARY: National Center for Natural Products Research (NIDA MProject), Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants National Center for Natural Products Research (NIDA MProject), Inc., registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated November 5, 2013, and published in the **Federal Register** on November 18, 2013, 78 FR 69132, National Center for Natural Products Research (NIDA MProject), Inc., University of Mississippi, 135 Coy Waller Complex, University, Mississippi 38677, applied to be registered as a manufacturer of certain basic classes of controlled substances.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of National Center for Natural Products Research (NIDA MProject), Inc., to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verified the company's compliance with state and local laws, and reviewed the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to cultivate marihuana in support of the National Institute on Drug Abuse for research approved by the Department of Health and Human Services.

No comments or objections have been received.

Dated: August 27, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–21077 Filed 9–3–14; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (14–091)]

NASA Federal Advisory Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Annual invitation for public nominations by U.S. citizens for service on NASA Federal advisory committees.

SUMMARY: NASA announces its annual invitation for public nominations for service on NASA Federal advisory committees. U.S. citizens may submit self-nominations for consideration as potential members of NASA's Federal advisory committees. NASA's Federal advisory committees have member vacancies from time to time throughout the year, and NASA will consider self-nominations to fill such intermittent vacancies. NASA is committed to selecting members to serve on its Federal advisory committees based on their individual expertise, knowledge, experience, and current/past contributions to the relevant subject area.

DATE: The deadline for NASA receipt of all public nominations is October 1, 2014.

ADDRESSES: Self-nominations from interested U.S. citizens must be sent electronically to NASA in letter form, be signed, and must include the name of specific NASA Federal advisory committee of interest for NASA consideration. Self-nomination letters are limited to specifying interest in only one (1) NASA Federal advisory committee per year. The following additional information is required to be attached to each self-nomination letter (i.e., cover letter): (1) Professional resume (one-page maximum); (2) professional biography (one-page maximum). Please submit the self-nomination package as a single package containing cover letter and both required attachments to *hq-nasanoms@mail.nasa.gov.* All public self-nomination packages must be submitted electronically via email to NASA; paper-based documents sent through postal mail (hard-copies) will not be accepted. **Note:** Nomination letters that are noncompliant with inclusion of the three (3) mandatory documents listed above will not receive further consideration by NASA.

FOR FURTHER INFORMATION CONTACT: To view charters and obtain further information on NASA's Federal advisory committees, please visit the NASA Advisory Committee Management Division Web site noted below. For any questions, please contact Ms. Marla King, Advisory Committee Specialist, Advisory Committee Management Division, Office of International and Interagency Relations, NASA Headquarters, Washington, DC 20546, (202) 358–1148.

SUPPLEMENTARY INFORMATION: NASA's six (6) currently chartered Federal advisory committees are listed below. The individual charters may be found at the NASA Advisory Committee Management Division's Web site at *http://oiir.hq.nasa.gov/acmd.html:*

- *Aerospace Safety Advisory Panel*—The Aerospace Safety Advisory Panel provides advice and recommendations to the NASA Administrator and the Congress on matters related to safety, and performs such other duties as the NASA Administrator may request.
- *Applied Sciences Advisory Committee*—The Applied Sciences

Advisory Committee provides advice and makes recommendations to the Director, Earth Science Division, Science Mission Directorate, NASA Headquarters, on Applied Sciences programs, policies, plans, and priorities.

• *International Space Station (ISS) Advisory Committee*—The ISS Advisory Committee provides advice and recommendations to the NASA Associate Administrator for Human Exploration and Operations Mission Directorate on all aspects related to the safety and operational readiness of the ISS. It addresses additional issues and/or areas of interest identified by the NASA Associate Administrator for Human Exploration and Operations Mission Directorate.

• *International Space Station (ISS) National Laboratory Advisory Committee*—The ISS National Laboratory Advisory Committee monitors, assesses, and makes recommendations to the NASA Administrator regarding effective utilization of the ISS as a national laboratory and platform for research, and such other duties as the NASA Administrator may request.

• *NASA Advisory Council*—The NASA Advisory Council (NAC) provides advice and recommendations to the NASA Administrator on Agency programs, policies, plans, financial controls, and other matters pertinent to the Agency's responsibilities. The NAC consists of the Council and five (5) Committees: Aeronautics; Human Exploration and Operations; Institutional; Science; and Technology, Innovation and Engineering. **Note**: All nominations for the NASA Advisory Council must indicate the specific entity of interest, i.e., either the Council or one of its five (5) Committees.

• *National Space-Based Positioning, Navigation and Timing (PNT) Advisory Board*—The National Space-Based PNT Advisory Board provides advice to the PNT Executive Committee (comprised of nine stakeholder Federal agencies, of which NASA is a member) on U.S. space-based PNT policy, planning, program management, and funding profiles in relation to the current state of national and international space-based PNT services.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–21024 Filed 9–3–14; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353; NRC–2011–0166]

Exelon Generation Company, LLC; Limerick Generating Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Final supplement 49 to the generic environmental impact statement for license renewal of nuclear plants; availability.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published a final plant-specific supplement to the *Generic Environmental Impact Statement for License Renewal of Nuclear Plants* (GEIS), NUREG–1437, regarding the renewal of Operating Licenses NPF–39 and NPF–85 for an additional 20 years of operation for Limerick Generating Station, Units 1 and 2 (LGS). The LGS site is located in Pottstown, PA. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

DATES: The final supplement is available as of September 4, 2014.

ADDRESSES: Please refer to Docket ID NRC–2011–0166 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0166. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession numbers for the final Supplement 49 to the GEIS are ML14238A284 and ML14238A290.

• *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.

• In addition, the Pottstown Regional Public Library, 500 East High Street, Pottstown, PA 19464–5656, has agreed to make the final supplement available for public inspection.

FOR FURTHER INFORMATION CONTACT: Leslie Perkins, Office of Nuclear Reactor Regulation, telephone: 800–368–5692, ext. 2375, email: *Leslie.Perkins@nrcgov*, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: As discussed in Section 9.3 of the final supplement, the staff determined that the adverse environmental impacts of license renewal for LGS are not so great that preserving the option of license renewal for energy-planning decisionmakers would be unreasonable. This recommendation is based on: (1) The analysis and findings in the GEIS; (2) information provided in the environmental report and other documents submitted by Exelon Generation Company, LLC; (3) consultation with Federal, state, local, and Tribal agencies; (4) the NRC staff's independent environmental review; and (5) consideration of public comments received during the scoping process and on the draft Supplemental Environmental Impact Statement.

Dated at Rockville, Maryland, this 27th day of August, 2014.

For The Nuclear Regulatory Commission.

Brian Wittick,

Chief, Reactor Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–21116 Filed 9–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Project No. 0782; EA–13–033; NRC–2013–0152]

In the Matter of Korea Hydro and Nuclear Power, Co., Ltd. and All Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein; Order Imposing Protection Requirements for Access to Safeguards Information (Effective Immediately)

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; modification.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing this

amended Order to clarify the access requirements and approvals necessary to provide adequate protection of Safeguards Information.

DATES: *Effective Date:* See attachment.

ADDRESSES: Please refer to Docket ID NRC–2013–0152 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0152. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For questions about this Order, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access 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 amended Order is available in ADAMS under accession no.: ML14177A190.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jeffrey Ciocco, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6391, email: *Jeff.Ciocco@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 27th day of August 2014.

For the Nuclear Regulatory Commission.

Jeffrey Ciocco,

Senior Project Manager, Licensing Branch 2, Division of New Reactor Licensing, Office of New Reactors.

Attachment—Amended Order Imposing Protection Requirements for Access to Safeguards Information (Effective Immediately)

Amended Order Imposing Protection Requirements for Access to Safeguards Information (Effective Immediately)

I.

Korea Hydro and Nuclear Power, Co. Ltd. (KHNP) submitted a letter of intent to the U.S. Nuclear Regulatory Commission (NRC) for a design certification (DC) application in 2013. On July 1, 2013, the NRC issued an Order imposing Safeguards Information (SGI) protection requirements and fingerprinting and criminal history records check requirements for access to SGI. In a letter dated November 7, 2013, KHNP clarified its position on how it intended to share the aircraft impact analysis (AIA) with employees and contractors. The NRC is issuing this revised Order to clarify the access requirements and approvals necessary to provide adequate protection of SGI.

In June 2009, the Commission published a rulemaking in the **Federal Register** (FR) (74 FR 28112) requiring applicants for a variety of licensing activities, including nuclear power plant designers, to perform a design-specific assessment of the effects of the impact of a large, commercial aircraft and to incorporate design features and functional capabilities into the nuclear power plant design to provide additional inherent protection with reduced use of operator actions. A discussion of the specific requirements for applicants for new nuclear power reactors can be found in Section V of the **Federal Register** notice. To assist designers in completing this assessment, the Commission has decided to provide the detailed aircraft impact characteristics that should be used as reasonable inputs for reactor vendors and architect and engineers who have the need-to-know and who meet the NRC's requirements for the disclosure of such information to use in the required aircraft impact assessments.

The NRC derived the characteristics from agency analyses performed on operating reactors to support, in part, the development of a broadly effective set of mitigation strategies to combat fires and explosions from a spectrum of hypothetical aircraft impacts. Although the detailed characteristics were not selected as a basis for designing new reactors, the staff is suggesting them as a starting point for aircraft impact assessments. On August 5, 2011, the NRC issued Regulatory Guide (RG) 1.217, ''Guidance for the Assessment of Beyond-Design-Basis Aircraft Impacts,'' which endorses the methodologies described in the industry guidance document, Nuclear Energy Institute (NEI) 07–13, ''Methodology for Performing Aircraft Impact Assessments for New Plant Designs,'' Revision 8, dated April 2011. NEI 07–13 includes the aircraft impact characteristics in two appendices. In addition, the staff recognizes that no national or international consensus has been reached on the selection of appropriate characteristics for such analyses. Therefore, the information should be considered preliminary and subject to authorized stakeholder comment. The detailed aircraft characteristics that are the subject of this Order are hereby designated as SGI [1] in accordance with Section 147 of the Atomic Energy Act of 1954, as amended (AEA).

On October 24, 2008, the NRC revised Title 10 of the *Code of Federal Regulations* (10 CFR) 73.21, ''Protection of Safeguards Information: Performance Requirements,'' to include applicants in the list of entities required to protect SGI (73 FR 63546). The NRC is issuing this order to KHNP to impose requirements for the protection of SGI in addition to the requirements set forth in 10 CFR 73.21, which include nomination of a reviewing official, restrictions on storage of SGI, and access to SGI by certain individuals. This revised Order clarifies the access requirements and approval process for individuals to obtain access to SGI.

To implement this Order, KHNP must nominate an individual who will review the results of the Federal Bureau of Investigation (FBI) criminal history records check to make SGI access determinations. This individual, called the reviewing official, must be someone who seeks access to SGI. Based on the results of the FBI criminal history records check, the NRC staff will determine if this individual may have access to SGI. If the NRC determines that the individual may not be granted access to SGI, the enclosed order prohibits that individual from obtaining access to any SGI. Once the NRC approves a reviewing official, this reviewing official—and only this reviewing official—can make SGI access determinations for other KHNP employees identified as having a need for SGI, who have been fingerprinted, and who have had a criminal history records and background check in accordance with this Order. The reviewing official can only make SGI access determinations for other individuals but cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore, if KHNP wishes to have a new or additional reviewing official, the NRC must approve this

[1] SGI is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under Section 147 of the AEA.

individual before he or she can act in that capacity.

II.

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of SGI. Section 147 of the AEA grants the Commission explicit authority to issue such orders, as necessary, to prohibit the unauthorized disclosure of SGI. To provide assurance that KHNP continues to implement appropriate measures to ensure a consistent level of protection to prohibit unauthorized disclosure of SGI, as well as to comply with the fingerprinting, criminal history records check, and background check requirements for access to SGI, KHNP shall implement the requirements for the protection of SGI as set forth in 10 CFR 73.21, 10 CFR 73.22, ''Protection of Safeguards Information: Specific Requirements,'' and this Order.

By rule, certain categories of individuals are exempted from the fingerprinting requirements under 10 CFR 73.59, ''Relief from Fingerprinting, Identification and Criminal History Records Checks and Other Elements of Background Checks for Designated Categories of Individuals.'' Those individuals include Federal, State, and local law enforcement personnel in the United States (U.S.); Agreement State inspectors who conduct security inspections on behalf of the NRC; members of the U.S. Congress; certain employees of members of Congress or congressional committees who have undergone fingerprinting for a previous U.S. Government criminal history check; and representatives of the International Atomic Energy Agency or certain foreign government organizations. In addition, individuals who have had a favorably decided U.S. Government criminal history check within the last 5 years, or individuals who have active U.S. Federal security clearances (provided in either case that they provide the appropriate documentation), have already been subjected to fingerprinting and criminal history checks and, thus, have satisfied the fingerprinting requirement.

In addition, under 10 CFR 2.202, ''Orders,'' the NRC finds that, in light of the matters identified above, which warrant the issuance of this Order, the public health, safety, and interest require that this Order be effective immediately.

III.

Accordingly, under Sections 147, 149, 161b, 161i, 161o, 182, and 186 of the AEA, and the Commission's regulations in 10 CFR 2.202 and10 CFR Part 73, ''Physical Protection of Plants and Materials,'' *it is hereby ordered, effective immediately, that KHNP and all other persons who seek or obtain access to safeguards information as described herein shall comply with the requirements set forth in 10 CFR 73.21, 10 CFR 73.22, and this order.*

A. (1) No person shall have access to any SGI if the NRC, when making an SGI access determination for a nominated reviewing official, has determined, based on fingerprinting and an FBI identification and criminal history records check, that the person nominated may not have access to SGI.

(2) KHNP shall store SGI designated by this Order only in the facility or facilities specifically approved in writing by the NRC for storage of SGI designated by this Order. KHNP may request, in writing, NRC approval of additional facilities for the storage of the SGI designated by this Order that the NRC will consider on a case-by-case basis.

(3) KNHP may not provide SGI to non-employees unless it has obtained prior NRC approval. Such approvals will be determined on a case-by-case basis.

(4) KHNP may provide SGI designated by this Order to individuals (such as foreign/non-U.S. nationals, U.S. citizens living in foreign countries, or individuals under the age of 18) for whom fingerprinting and an FBI criminal history records check are not reasonably expected to yield sufficient criminal history information to form the basis of an informed decision on granting access to SGI, provided that the individual satisfies the requirements of this Order, and that KHNP has implemented measures, in addition to those set forth in this Order, to ensure that the individual is suitable to have access to the SGI designated by this Order.

Such additional measures must include, but are not limited to, equivalent criminal history records checks conducted by a U.S. local, U.S. State, or foreign governmental agency and enhanced background checks, including employment and credit history. The NRC must review these additional measures and approve them in writing.

B. No person may provide SGI to any other person, except in accordance with Section III.A. above. Before a person provides SGI to any person, a copy of this Order shall be provided to the person receiving the SGI.

C. KHNP shall comply with the following requirements:

(1) KHNP shall, within 20 days of the date of this Order, submit the fingerprints of one individual whom (a) it nominates as the reviewing official for determining access to SGI by other individuals, and (b) has an established need to know the information. The NRC will determine if this individual (or any subsequent reviewing official) may have access to SGI and, therefore, will be permitted to serve as KHNP's reviewing official.[2] KHNP may, at the same time or later, submit the fingerprints of other individuals to whom it seeks to grant access to SGI. Fingerprints shall be submitted and reviewed in accordance with the procedures described in the attachment to this Order.

(2) KHNP shall, in writing, within 20 days of the date of this Order, notify the Commission (1) if it is unable to comply with any of the requirements described in the Order, including the attachment, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide KHNP's justification for seeking relief from, or variation of, any specific requirement.

KHNP shall submit responses to C.(1) and C.(2) above to the Director, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, KHNP shall mark its responses as ''Security-Related Information-Withhold Under 10 CFR 2.390.'' Except for the requirements for fingerprinting and background check, the Director, Office of New Reactors, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by KHNP.

IV.

In accordance with 10 CFR 2.202, KHNP must, and any other person adversely affected by this Order may, submit an answer to this Order and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, the NRC will consider extending the time to request a hearing. A request for an extension to submit an answer or request a hearing must be made in writing to the Director, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law by which KHNP or other entities adversely affected rely, and the reasons as to why the NRC should not have issued this Order. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN:

[2] The NRC's determination of this individual's access to SGI in accordance with the process described in Enclosure 3 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to KHNP, if the answer or hearing request is by an entity other than KHNP. Because of possible delays in delivery of mail to U.S. Government offices, the agency asks that answers and requests for hearing be transmitted to the Secretary of the Commission, either by facsimile transmission to 301–415–1101 or email to *hearingdocket@nrc.gov,* as well as to the Office of the General Counsel either by facsimile transmission to 301–415–3725 or email to *OGCMailCenter@nrc.gov.* If an entity other than KHNP requests a hearing, that entity shall set forth, with particularity, the manner in which this Order adversely affects its interest and shall address the criteria set forth in 10 CFR 2.309, ''Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions.''

If KHNP, or a person whose interest is adversely affected, requests a hearing, the Commission will issue an order designating the time and place of the hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Under 10 CFR 2.202(c)(2)(i), KHNP may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the order on the grounds that the order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified above in Section III shall be final 20 days from the date of this Order without further order or proceedings.

If the agency approves an extension for a hearing, the provisions, as specified above in Section III, shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland, 27th day of August 2014.

For The U.S. Nuclear Regulatory Commission.

Glenn M. Tracy,

Director, Office of New Reactors.

Guidance for Evaluation of Access to Safeguards Information With the Inclusion of Criminal History Records (Fingerprint) Checks

When a licensee or other person [3] submits fingerprints to the U.S. Nuclear Regulatory Commission (NRC) under an NRC Order, it will receive a criminal history summary of information, provided in U.S. Federal records, since the individual's 18th birthday. Individuals retain the right to correct and complete information and to initiate challenge procedures described in Enclosure 3. The licensee will receive the information from the criminal history records check for those individuals requiring access to Safeguards Information (SGI), and the reviewing official will evaluate that information using the guidance below. Furthermore, the requirements for all Orders, which apply to the information and material to which access is being granted, must be met.

The licensee's reviewing official is required to evaluate all pertinent and available information in making a determination of access to SGI, including the criminal history information about the individual as required by the NRC Order. The criminal history records check is used when determining if an individual has a record of criminal activity that indicates that the individual should not have access to SGI. Each determination of access to SGI, which includes a review of criminal history information, must be documented to include the basis for the decision that is made.

(i) If negative information is discovered that the individual did not provide, or which is different in any material respect from the information that the individual provided, this information should be considered, and decisions made based on these findings must be documented.

(ii) Any record containing a pattern of behaviors that indicates that the behaviors could recur or continue, or recent behaviors that cast doubt on whether an individual should have access to SGI, should be carefully evaluated before any authorization of access to SGI.

It is necessary for a licensee to resubmit fingerprints only under two conditions:

(1) The FBI has determined that the fingerprints cannot be classified because of poor quality in the mechanics of taking the initial impressions.

(2) The initial submission is lost.

If the FBI advises that four sets of fingerprints are unclassifiable because they are unreadable, the NRC will automatically forward a name search to the FBI. When those search results are received from the FBI, no further search is necessary.

Process To Challenge NRC Denials or Revocations of Access to Safeguards Information

1. Policy

This policy establishes a process for individuals whom the U.S. Nuclear Regulatory Commission (NRC) licenses or other person [4] nominated as reviewing officials to challenge and appeal NRC denials or revocations of access to Safeguards Information (SGI). Any individual nominated as a licensee reviewing official whom the NRC has determined may not have access to SGI shall, to the extent provided below, be afforded an opportunity to challenge and appeal the NRC's determination. This policy shall not be construed to require the disclosure of SGI to any person; neither shall it be construed to create a liberty or property interest of any kind in the access of any individual to SGI.

2. Applicability

This policy applies solely to those employees of licensees who are nominated as reviewing officials and who are thus considered, by the NRC, for initial or continued access to SGI in that position.

3. SGI Access Determination Criteria

The NRC will determine whether access to SGI will be granted to an individual nominated to be a reviewing official. Access to SGI shall be denied or revoked whenever it is determined that an individual does not meet the applicable standards. Any doubt about an individual's eligibility for initial or continued access to SGI shall be resolved in favor of the national security, and access will be denied or revoked.

4. Procedure To Challenge the Contents of Records Obtained From the FBI

a. Before a determination by the NRC Facilities Security Branch Chief that an individual nominated as a reviewing official is denied or revoked access to

[3] As used herein, ''licensee'' means any licensee or person who is required to conduct fingerprinting.

[4] As used herein, ''licensee'' means any licensee or person who is required to conduct fingerprinting.

SGI, the individual shall have the following recourse:

(i) Be given the contents of records obtained from the FBI for the purpose of assuring correct and complete information. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures, including either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation, Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI will forward the challenge to the submitting agency and request that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any necessary changes in accordance with the information supplied by that agency.

(ii) Be afforded 10 days to initiate an action challenging the results of an FBI criminal history records check (described in (i), above) after the record is made available to the individual for his or her review. If the individual initiates such a challenge, the NRC Facilities Security Branch Chief may make a determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record.

5. Procedure To Provide Additional Information

a. Before a determination by the NRC Facilities Security Branch Chief that an individual nominated as a reviewing official is denied or revoked access to SGI, the individual shall have the following recourse:

(i) Be afforded an opportunity to submit information relevant to the individual's trustworthiness and reliability. The NRC Facilities Security Branch Chief shall, in writing, notify the individual of this opportunity and any deadlines for submitting this information. The NRC Facilities Security Branch Chief may make a determination of access to SGI only upon receipt of the additional information that the individual submits, or, if no such information is submitted, when the deadline to submit such information has passed.

6. Procedure To Notify an Individual of the NRC Facilities Security Branch Chief Determination To Deny or Revoke Access to SGI

Upon a determination by the NRC Facilities Security Branch Chief that an individual nominated as a reviewing official is denied or has his or her access to SGI revoked, the individual shall be given a written explanation of the basis for this determination.

7. Procedure To Appeal an NRC Determination To Deny or Revoke Access to SGI

Upon a determination by the NRC Facilities Security Branch Chief that an individual nominated as a reviewing official is denied or has his or her access to SGI revoked, the individual shall be given an opportunity to appeal this determination to the Director, Division of Facilities and Security. The determination must be appealed within 20 days of receipt of the written notice of the determination by the Facilities Security Branch Chief and may either be in writing or in person. Any appeal made in person shall take place at the NRC's headquarters and shall be at the individual's own expense. The determination by the Director, Division of Facilities and Security, shall be rendered within 60 days after receipt of the appeal.

8. Procedure To Notify an Individual of the Determination by the Director, Division of Facilities and Security, Upon an Appeal

A determination by the Director, Division of Facilities and Security, shall be provided to the individual in writing and include an explanation of the basis for this determination. A decision by the Director, Division of Facilities and Security, to affirm the Facilities Branch Chief's determination to deny or revoke an individual's access to SGI is final and not subject to further administrative appeals.

General Requirements

Licensees and other persons who are required to conduct fingerprinting shall comply with the requirements of this enclosure.[5]

The licensee shall notify the U.S. Nuclear Regulatory Commission (NRC) of any desired change in reviewing officials, in compliance with C.1 of the subject Order. The NRC will determine if the individual nominated as the new reviewing official may have access to Safeguards Information (SGI) based on a previously obtained or new criminal history check and, therefore, will be permitted to serve as the licensee's reviewing official.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, licensees shall, using an appropriate method listed in Title 10 of the *Code of Federal Regulations*(10 CFR) Part 73, ''Physical Protection of Plants and Materials,'' Section 4, ''Communications,'' submit one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) to the NRC's Division of Facilities and Security, Mail Stop TWFN–03B40B, or, where practicable, other fingerprint records for each individual seeking access to SGI, to the Director of the Division of Facilities and Security, marked to the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing to the Office of Information Services, U.S. Nuclear Regulatory Commission, Region III, Attn: Deborah Hersey, Mailstop: Region III—DRP, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352, or by calling 630–829–9565 or sending email to *Forms.Resource@nrc.gov.* Practicable alternative formats are set forth in 10 CFR 73.4, ''Communications.'' The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards because of illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the Federal Bureau of Investigations (FBI) returns the initial submission because the fingerprint impressions cannot be classified. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment made payable to the NRC. (For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at 301–415–7513.) Combined payment for multiple applications is acceptable. The application fee (currently $26.00) is the sum of the user fee that the FBI charges for each fingerprint card or other fingerprint record that the NRC submits on behalf of a licensee and an NRC processing fee, which covers administrative costs associated with the NRC's handling of licensee fingerprint submissions. The Commission will

[5] As used herein, ''licensee'' means any licensee or other person who is required to conduct fingerprinting in accordance with these requirements.

directly notify licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

Right To Correct and Complete Information

Before any final adverse determination, the licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for 1 year from the date of the notification. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update the alleged deficiency, or explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information or direct challenge to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation, Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged data. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information that agency supplies. The licensee must give at least 10 days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available to that individual for his or her review. The licensee may make a final SGI access determination based on the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the licensee shall give the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

Protection of Information

(1) Each licensee who obtains a criminal history record on an individual under this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

(2) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to Safeguards Information (SGI). No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know claim.

(3) The personal information obtained on an individual from a criminal history record check may be transferred to another licensee if the licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his or her file, and the current licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

(4) The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

(5) The licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for 3 years after termination of employment or determination of access to SGI (whether access was approved or denied). After the required 3 years, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

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SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9635; 34–72948/August 29, 2014]

Order Making Fiscal Year 2015 Annual Adjustments to Registration Fee Rates

I. Background

The Commission collects fees under various provisions of the securities laws. Section 6(b) of the Securities Act of 1933 (''Securities Act'') requires the Commission to collect fees from issuers on the registration of securities.[1] Section 13(e) of the Securities Exchange Act of 1934 (''Exchange Act'') requires the Commission to collect fees on specified repurchases of securities.[2] Section 14(g) of the Exchange Act requires the Commission to collect fees on proxy solicitations and statements in corporate control transactions.[3] These provisions require the Commission to make annual adjustments to the fee rates applicable under these provisions.

II. Fiscal Year 2015 Annual Adjustment to Fee Rates

Section 6(b)(2) of the Securities Act requires the Commission to make an annual adjustment to the fee rate applicable under Section 6(b).[4] The annual adjustment to the fee rate under Section 6(b) of the Securities Act also sets the annual adjustment to the fee rates under Sections 13(e) and 14(g) of the Exchange Act.[5]

Section 6(b)(2) sets forth the method for determining the annual adjustment to the fee rate under Section 6(b) for fiscal year 2015. Specifically, the Commission must adjust the fee rate under Section 6(b) to a ''rate that, when applied to the baseline estimate of the aggregate maximum offering prices for [fiscal year 2015], is reasonably likely to produce aggregate fee collections under [Section 6(b)] that are equal to the target fee collection amount for [fiscal year 2015].'' That is, the adjusted rate is determined by dividing the ''target fee collection amount'' for fiscal year 2015 by the ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2015.

Section 6(b)(6)(A) specifies that the ''target fee collection amount'' for fiscal year 2015 is $515,000,000. Section 6(b)(6)(B) defines the ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2015 as ''the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during [fiscal year 2015] as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget. . . .''

[1] 15 U.S.C. 77f(b).

[2] 15 U.S.C. 78m(e).

[3] 15 U.S.C. 78n(g).

[4] 15 U.S.C. 77f(b)(2). The annual adjustments are designed to adjust the fee rate in a given fiscal year so that, when applied to the aggregate maximum offering price at which securities are proposed to be offered for the fiscal year, it is reasonably likely to produce total fee collections under Section 6(b) equal to the ''target fee collection amount'' specified in Section 6(b)(6)(A) for that fiscal year.

[5] 15 U.S.C. 78m(e)(4) and 15 U.S.C. 78n(g)(4).

To make the baseline estimate of the aggregate maximum offering price for fiscal year 2015, the Commission used a methodology similar to that developed in consultation with the Congressional Budget Office (''CBO'') and Office of Management and Budget (''OMB'') to project the aggregate offering price for purposes of the fiscal years 2011 through 2014 annual adjustments.[6] Using this methodology, the Commission determines the ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2015 to be $4,433,900,707,058.[7] Based on this estimate, the Commission calculates the fee rate for fiscal 2015 to be $116.20 per million. This adjusted fee rate applies to Section 6(b) of the Securities Act, as well as to Sections 13(e) and 14(g) of the Exchange Act.

III. Effective Dates of the Annual Adjustments

The fiscal year 2015 annual adjustments to the fee rates applicable under Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act will be effective on October 1, 2014.[8]

IV. Conclusion

Accordingly, pursuant to Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act,[9]

It is hereby ordered that the fee rates applicable under Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act shall be $116.20 per million effective on October 1, 2014.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

Appendix A

Congress has established a target amount of monies to be collected from fees charged to issuers based on the value of their registrations. This appendix provides the formula for determining such fees, which the Commission adjusts annually. Congress has mandated that the Commission determine these fees based on the ''aggregate maximum offering prices,'' which measures the aggregate dollar amount of securities registered with the Commission over the course of the year. In order to maximize the likelihood that the amount of monies targeted by Congress will be collected, the fee rate must be set to reflect projected aggregate maximum offering prices. As a percentage, the fee rate equals the ratio of the target amounts of monies to the projected aggregate maximum offering prices.

For 2015, the Commission has estimated the aggregate maximum offering prices by projecting forward the trend established in the previous decade. More specifically, an ARIMA model was used to forecast the value of the aggregate maximum offering prices for months subsequent to July 2014, the last month for which the Commission has data on the aggregate maximum offering prices.

The following sections describe this process in detail.

A. Baseline Estimate of the Aggregate Maximum Offering Prices for Fiscal Year 2015.

First, calculate the aggregate maximum offering prices (AMOP) for each month in the sample (July 2004–July 2014). Next, calculate the percentage change in the AMOP from month to month.

Model the monthly percentage change in AMOP as a first order moving average process. The moving average approach allows one to model the effect that an exceptionally high (or low) observation of AMOP tends to be followed by a more ''typical'' value of AMOP.

Use the estimated moving average model to forecast the monthly percent change in AMOP. These percent changes can then be applied to obtain forecasts of the total dollar value of registrations. The following is a more formal (mathematical) description of the procedure:

1. Begin with the monthly data for AMOP. The sample spans ten years, from July 2004 to July 2014.

2. Divide each month's AMOP (column C) by the number of trading days in that month (column B) to obtain the average daily AMOP (AAMOP, column D).

3. For each month t, the natural logarithm of AAMOP is reported in column E.

4. Calculate the change in log(AAMOP) from the previous month as $\Delta_t = \log(AAMOP_t) - \log(AAMOP_{t-1})$. This approximates the percentage change.

5. Estimate the first order moving average model $\Delta_t = \alpha + \beta e_{t-1} + e_t$, where e_t denotes the forecast error for month t. The forecast error is simply the difference between the one-month ahead forecast and the actual realization of Δ_t. The forecast error is expressed as $e_t = \Delta_t - \alpha - \beta e_{t-1}$. The model can be estimated using standard commercially available software. Using least squares, the estimated parameter values are $\alpha = 0.0005277$ and $\beta = -0.89215$.

6. For the month of August 2014 forecast $\Delta_{t = 8/12} = \alpha + \beta e_{t = 7/12}$. For all subsequent months, forecast $\Delta_t = \alpha$.

7. Calculate forecasts of log(AAMOP). For example, the forecast of log(AAMOP) for October 2014 is given by $FLAAMOP_{t = 10/12} = \log(AAMOP_{t = 7/12}) + \Delta_{t = 8/12} + \Delta_{t = 9/12} + \Delta_{t = 10/12}$.

8. Under the assumption that e_t is normally distributed, the n-step ahead forecast of AAMOP is given by $\exp(FLAAMOP_t + \sigma_n^2/2)$, where σ_n denotes the standard error of the n-step ahead forecast.

9. For October 2014, this gives a forecast AAMOP of $17.470 billion (Column I), and a forecast AMOP of $401.8 billion (Column J).

10. Iterate this process through September 2015 to obtain a baseline estimate of the aggregate maximum offering prices for fiscal year 2015 of $4,433,900,707,058.

B. Using the Forecasts From A To Calculate the New Fee Rate.

1. Using the data from Table A, estimate the aggregate maximum offering prices between 10/01/14 and 9/30/15 to be $4,433,900,707,058.

2. The rate necessary to collect the target $515,000,000 in fee revenues set by Congress is then calculated as: $515,000,000 ÷ $4,433,900,707,058 = 0.00011615.

3. Round the result to the seventh decimal point, yielding a rate of 0.0001162 (or $116.20 per million).

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[6] For the fiscal year 2011 estimate, the Commission used a ten-year series of monthly observations ending in March 2011. For fiscal years 2012–2015, the Commission used a ten-year series ending in July of the applicable year.

[7] Appendix A explains how we determined the ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2015 using our methodology, and then shows the arithmetical process of calculating the fiscal year 2015 annual adjustment based on that estimate. The appendix includes the data used by the Commission in making its ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2015.

[8] 15 U.S.C. 77f(b)(4), 15 U.S.C. 78m(e)(6) and 15 U.S.C. 78n(g)(6).

[9] 15 U.S.C. 77f(b), 78m(e) and 78n(g).

Table A. Estimation of baseline of aggregate maximum offering prices .

Fee rate calculation.

a. Baseline estimate of the aggregate maximum offering prices, 10/1/14 to 9/30/15 ($Millions)	4,433,901
b. Implied fee rate ($515 Million / a)	$116.20

Data

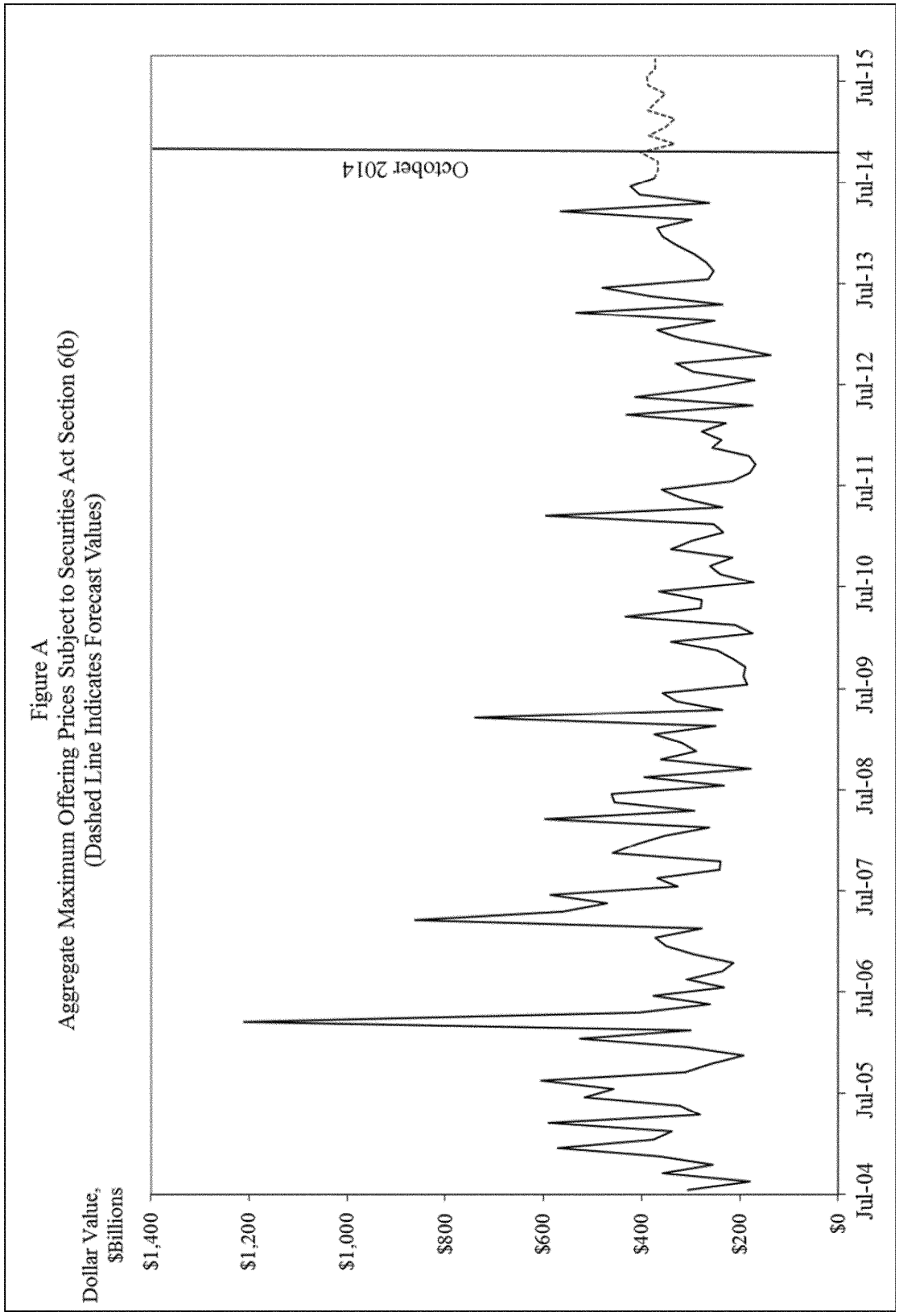
(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Jul-04	21	305,519	14,549	23.401					
Aug-04	22	179,688	8,168	22.823	-0.577				
Sep-04	21	357,007	17,000	23.556	0.733				
Oct-04	21	254,489	12,119	23.218	-0.338				
Nov-04	21	363,406	17,305	23.574	0.356				
Dec-04	22	570,918	25,951	23.979	0.405				
Jan-05	20	375,484	18,774	23.656	-0.324				
Feb-05	19	338,922	17,838	23.605	-0.051				
Mar-05	22	590,862	26,857	24.014	0.409				
Apr-05	21	282,018	13,429	23.321	-0.693				
May-05	21	323,652	15,412	23.458	0.138				
Jun-05	22	517,022	23,501	23.880	0.422				
Jul-05	20	457,487	22,874	23.853	-0.027				
Aug-05	23	605,534	26,328	23.994	0.141				
Sep-05	21	312,281	14,871	23.423	-0.571				
Oct-05	21	258,956	12,331	23.235	-0.187				
Nov-05	21	192,736	9,178	22.940	-0.295				
Dec-05	21	308,134	14,673	23.409	0.469				
Jan-06	20	526,550	26,328	23.994	0.585				
Feb-06	19	301,446	15,866	23.487	-0.506				
Mar-06	23	1,211,344	52,667	24.687	1.200				
Apr-06	19	407,345	21,439	23.788	-0.899				
May-06	22	260,121	11,824	23.193	-0.595				

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Jun-06	22	375,296	17,059	23.560	0.367				
Jul-06	20	232,654	11,633	23.177	-0.383				
Aug-06	23	310,050	13,480	23.325	0.147				
Sep-06	20	236,782	11,839	23.195	-0.130				
Oct-06	22	213,342	9,697	22.995	-0.200				
Nov-06	21	292,456	13,926	23.357	0.362				
Dec-06	20	349,512	17,476	23.584	0.227				
Jan-07	20	372,740	18,637	23.648	0.064				
Feb-07	19	278,753	14,671	23.409	-0.239				
Mar-07	22	862,786	39,218	24.392	0.983				
Apr-07	20	562,103	28,105	24.059	-0.333				
May-07	22	470,843	21,402	23.787	-0.272				
Jun-07	21	586,822	27,944	24.053	0.267				
Jul-07	21	326,612	15,553	23.468	-0.586				
Aug-07	23	369,172	16,051	23.499	0.032				
Sep-07	19	241,059	12,687	23.264	-0.235				
Oct-07	23	239,652	10,420	23.067	-0.197				
Nov-07	21	458,654	21,841	23.807	0.740				
Dec-07	20	410,200	20,510	23.744	-0.063				
Jan-08	21	354,433	16,878	23.549	-0.195				
Feb-08	20	263,410	13,171	23.301	-0.248				
Mar-08	20	596,923	29,846	24.119	0.818				
Apr-08	22	292,534	13,297	23.311	-0.809				
May-08	21	456,077	21,718	23.801	0.491				
Jun-08	21	461,087	21,957	23.812	0.011				
Jul-08	22	232,896	10,586	23.083	-0.730				
Aug-08	21	395,440	18,830	23.659	0.576				
Sep-08	21	177,636	8,459	22.858	-0.800				
Oct-08	23	360,494	15,674	23.475	0.617				

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Nov-08	19	288,911	15,206	23.445	-0.030				
Dec-08	22	319,584	14,527	23.399	-0.046				
Jan-09	20	375,065	18,753	23.655	0.255				
Feb-09	19	249,666	13,140	23.299	-0.356				
Mar-09	22	739,931	33,633	24.239	0.940				
Apr-09	21	235,914	11,234	23.142	-1.097				
May-09	20	329,522	16,476	23.525	0.383				
Jun-09	22	357,524	16,251	23.511	-0.014				
Jul-09	22	185,187	8,418	22.854	-0.658				
Aug-09	21	192,726	9,177	22.940	0.086				
Sep-09	21	189,224	9,011	22.922	-0.018				
Oct-09	22	215,720	9,805	23.006	0.085				
Nov-09	20	248,353	12,418	23.242	0.236				
Dec-09	22	340,464	15,476	23.463	0.220				
Jan-10	19	173,235	9,118	22.933	-0.529				
Feb-10	19	209,963	11,051	23.126	0.192				
Mar-10	23	432,934	18,823	23.658	0.533				
Apr-10	21	280,188	13,342	23.314	-0.344				
May-10	20	278,611	13,931	23.357	0.043				
Jun-10	22	364,251	16,557	23.530	0.173				
Jul-10	21	171,191	8,152	22.822	-0.709				
Aug-10	22	240,793	10,945	23.116	0.295				
Sep-10	21	260,783	12,418	23.242	0.126				
Oct-10	21	214,988	10,238	23.049	-0.193				
Nov-10	21	340,112	16,196	23.508	0.459				
Dec-10	22	297,992	13,545	23.329	-0.179				
Jan-11	20	233,668	11,683	23.181	-0.148				
Feb-11	19	252,785	13,304	23.311	0.130				
Mar-11	23	595,198	25,878	23.977	0.665				

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Apr-11	20	236,355	11,818	23.193	-0.784				
May-11	21	319,053	15,193	23.444	0.251				
Jun-11	22	359,727	16,351	23.518	0.073				
Jul-11	20	215,391	10,770	23.100	-0.418				
Aug-11	23	179,870	7,820	22.780	-0.320				
Sep-11	21	168,005	8,000	22.803	0.023				
Oct-11	21	181,452	8,641	22.880	0.077				
Nov-11	21	256,418	12,210	23.226	0.346				
Dec-11	21	237,652	11,317	23.150	-0.076				
Jan-12	20	276,965	13,848	23.351	0.202				
Feb-12	20	228,419	11,421	23.159	-0.193				
Mar-12	22	430,806	19,582	23.698	0.539				
Apr-12	20	173,626	8,681	22.884	-0.813				
May-12	22	414,122	18,824	23.658	0.774				
Jun-12	21	272,218	12,963	23.285	-0.373				
Jul-12	21	170,462	8,117	22.817	-0.468				
Aug-12	23	295,472	12,847	23.276	0.459				
Sep-12	19	331,295	17,437	23.582	0.305				
Oct-12	21	137,562	6,551	22.603	-0.979				
Nov-12	21	221,521	10,549	23.079	0.476				
Dec-12	20	321,602	16,080	23.501	0.422				
Jan-13	21	368,488	17,547	23.588	0.087				
Feb-13	19	252,148	13,271	23.309	-0.279				
Mar-13	20	533,440	26,672	24.007	0.698				
Apr-13	22	235,779	10,717	23.095	-0.912				
May-13	22	382,950	17,407	23.580	0.485				
Jun-13	20	480,624	24,031	23.903	0.322				
Jul-13	22	263,869	11,994	23.208	-0.695				
Aug-13	22	253,305	11,514	23.167	-0.041				

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Log (Change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP, in $Millions	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Sep-13	20	267,923	13,396	23.318	0.151				
Oct-13	23	293,847	12,776	23.271	-0.047				
Nov-13	20	326,257	16,313	23.515	0.244				
Dec-13	21	358,169	17,056	23.560	0.045				
Jan-14	21	369,067	17,575	23.590	0.030				
Feb-14	19	298,376	15,704	23.477	-0.113				
Mar-14	21	564,840	26,897	24.015	0.538				
Apr-14	21	263,401	12,543	23.252	-0.763				
May-14	21	403,700	19,224	23.679	0.427				
Jun-14	21	423,075	20,146	23.726	0.047				
Jul-14	22	373,811	16,991	23.556	-0.170				
Aug-14	21					23.515918	0.361	17,425	365,931
Sep-14	21					23.516446	0.363	17,448	366,403
Oct-14	23					23.516974	0.365	17,470	401,815
Nov-14	19					23.517502	0.368	17,493	332,362
Dec-14	22					23.518029	0.370	17,515	385,335
Jan-15	20					23.518557	0.372	17,538	350,756
Feb-15	19					23.519085	0.374	17,560	333,647
Mar-15	22					23.519612	0.376	17,583	386,826
Apr-15	21					23.520140	0.378	17,606	369,718
May-15	20					23.520668	0.380	17,628	352,566
Jun-15	22					23.521196	0.382	17,651	388,322
Jul-15	22					23.521723	0.384	17,674	388,822
Aug-15	21					23.522251	0.386	17,696	371,626
Sep-15	21					23.522779	0.388	17,719	372,105



BILLING CODE 8011–01–P

[FR Doc. 2014–21071 Filed 9–3–14; 8:45 am]

BILLING CODE 8011–01–C

SECURITIES AND EXCHANGE COMMISSION

Investment Company Act Release No. IC–31235; 812–14242; Monroe Capital Corporation, *et al.*; Notice of Application

August 28, 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 (the ''Act'') for an exemption from sections 18(a) and 61(a) of the Act.

Applicants: Monroe Capital Corporation (the ''Company''), Monroe Capital BDC Advisors, LLC (the ''Investment Adviser''), MCC SBIC GP, LLC (the ''General Partner''), and Monroe Capital Corporation SBIC, LP (''Monroe SBIC'').

Summary of the Application: The Company requests an order to permit it to adhere to a modified asset coverage requirement.

Filing Dates: The application was filed November 21, 2013, and amended on May 23, 2014.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 22, 2014 and should be accompanied by proof of service on the 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: Theodore L. Koenig, Monroe Capital Corporation, 311 South Wacker Drive, Suite 6400, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: Stephan N. Packs, Senior Counsel, at (202) 551–6853, or James M. Curtis, Branch Chief, at (202) 551–6825 (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 Company, a Maryland corporation, is an externally managed, non-diversified, closed-end management investment company that has elected to be regulated as a business development company (''BDC'') under the Act.[1] The Company's investment objective is to maximize the total return to its stockholders in the form of current income and capital appreciation through investments in senior, unitranche and junior secured debt and, to a lesser extent, unsecured subordinated debt and equity investments. The Investment Adviser, a Delaware limited liability company, is the investment adviser to the Company. The Investment Adviser is registered under the Investment Advisers Act of 1940.

2. Monroe SBIC, a Delaware limited partnership, is a small business investment company (''SBIC'') licensed by the Small Business Administration (''SBA'') to operate under the Small Business Investment Act of 1958 (''SBIA''). Monroe SBIC is excluded from the definition of investment company by section 3(c)(7) of the Act. The Company directly owns 99% of Monroe SBIC in the form of a limited partnership interest in Monroe SBIC. Since Monroe SBIC's inception, the General Partner, a Delaware limited liability company, has been the general partner of Monroe SBIC and owns 1% of Monroe SBIC in the form of a general partnership interest. The Company owns 100% of the General Partner's equity interests. As a result, the Company, directly or indirectly through the General Partner, wholly owns Monroe SBIC.

Applicants' Legal Analysis

1. The Company requests an exemption pursuant to section 6(c) of the Act from the provisions of sections 18(a) and 61(a) of the Act to permit it to adhere to a modified asset coverage requirement with respect to any direct or indirect wholly owned subsidiary of the Company that is licensed by the SBA to operate under the SBIA as a SBIC and relies on Section 3(c)(7) for an exemption from the definition of ''investment company'' under the 1940 Act (each, a ''SBIC Subsidiary'').[2] Applicants state that companies operating under the SBIA, such as the SBIC Subsidiary, will be subject to the SBA's substantial regulation of permissible leverage in their capital structure.

2. Section 18(a) of the Act prohibits a registered closed-end investment company from issuing any class of senior security or selling any such security of which it is the issuer unless the company complies with the asset coverage requirements set forth in that section. Section 61(a) of the Act makes section 18 applicable to a BDC, with certain modifications. Section 18(k) exempts an investment company operating as an SBIC from the asset coverage requirements for senior securities representing indebtedness that are contained in section 18(a)(1)(A) and (B).

3. Applicants state that the Company may be required to comply with the asset coverage requirements of section 18(a) (as modified by section 61(a)) on a consolidated basis because the Company may be deemed to be an indirect issuer of any class of senior security issued by Monroe SBIC or another SBIC Subsidiary. Applicants state that applying section 18(a) (as modified by section 61(a)) on a consolidated basis generally would require that the Company treat as its own all assets and any liabilities held directly either by itself, by Monroe SBIC, or by another SBIC Subsidiary. Accordingly, the Company requests an order under section 6(c) of the Act exempting the Company from the provisions of section 18(a) (as modified by section 61(a)), such that senior securities issued by each SBIC Subsidiary that would be excluded from the SBIC Subsidiary's asset coverage ratio by section 18(k) if it were itself a BDC would also be excluded from the Company's consolidated asset coverage ratio.

4. Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder 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

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in section 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] All existing entities that currently intend to rely on the order are named as applicants. Any newly formed SBIC Subsidiary that may rely on the order in the future will comply with the terms and condition of the order.

the Act. Applicants state that the requested relief satisfies the section 6(c) standard. Applicants contend that, because the SBIC Subsidiary would be entitled to rely on section 18(k) if it were a BDC itself, there is no policy reason to deny the benefit of that exemption to the Company.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

The Company shall not issue or sell any senior security, and the Company shall not cause or permit Monroe SBIC or any other SBIC Subsidiary to issue or sell any senior security of which the Company, Monroe SBIC or any other SBIC Subsidiary is the issuer except to the extent permitted by section 18 (as modified for BDCs by section 61) of the Act; provided that, immediately after the issuance or sale by any of the Company, Monroe SBIC or any other SBIC Subsidiary of any such senior security, the Company, individually and on a consolidated basis, shall have the asset coverage required by section 18(a) of the Act (as modified by section 61(a)). In determining whether the Company has the asset coverage on a consolidated basis required by section 18(a) of the Act (as modified by section 61(a)), any senior securities representing indebtedness of an SBIC Subsidiary if that SBIC Subsidiary has issued indebtedness that is held or guaranteed by the SBA shall not be considered senior securities and, for purposes of the definition of ''asset coverage'' in Section 18(h), shall be treated as indebtedness not represented by senior securities.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–21004 Filed 9–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72946; File No. SR–BYX–2014–019]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rules 11.9 of BATS Y-Exchange, Inc.

August 28, 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 26, 2014, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.9 to add certain optional price sliding functionality.

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.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently offers various forms of sliding which, in all cases, result in the re-pricing of an order to, or ranking and/or display of an order at, a price other than an order's limit price in order to comply with applicable securities laws and/or Exchange rules. Specifically, the Exchange currently offers price sliding to ensure compliance with Regulation NMS and Regulation SHO. Price sliding currently offered by the Exchange re-prices and displays an order upon entry and in certain cases again re-prices and re-displays an order at a more aggressive price one time if and when permissible (''single display-price sliding''), and optionally continually re-prices an order (''multiple display-price sliding'') based on changes in the national best bid (''NBB'') or national best offer (''NBO'', and together with the NBB, the ''NBBO''). The Exchange proposes to add another optional process, the Price Adjust process, as described below. Price Adjust in all contexts for which it is being proposed will have to be elected by a User [3] in order to be applied by the Exchange.

In contrast to display-price sliding, which is based solely on Protected Quotations [4] at equities markets other than the Exchange, Price Adjust would be based on Protected Quotations at external markets and at the Exchange. If the Exchange has a Protected Quotation that an incoming order to the Exchange locks or crosses then such order executes against the resting order, or, if the incoming order is a BATS Post Only Order or Partial Post Only at Limit Order, such order would be executed in accordance with Rules 11.9(c)(6) and (c)(7), respectively, or adjusted pursuant to the Price Adjust process, as described in further detail below. Because the Exchange will route orders to external markets with locking or crossing quotations, the Exchange notes that the Price Adjust process would only be applicable to non-routable orders, including BATS Only Orders, BATS Post Only Orders and Partial Post Only at Limit Orders. In turn, because BATS Only Orders will execute against locking or crossing interest on the Exchange (including both Protected Quotations as well as any non-displayed interest), the fact that Price Adjust would be based on Protected Quotations at the Exchange is only relevant for BATS Post Only Orders and Partial Post Only at Limit Orders.

With respect to price sliding offered to ensure compliance with Regulation NMS (''display-price sliding''), under the Exchange's current rules, if, at the time of entry, a non-routable order would cross a Protected Quotation displayed by another trading center the Exchange re-prices and ranks such order at the locking price, and displays such order at one minimum price variation below the NBO for bids and above the NBB for offers. Similarly, in the event a non-routable order that, at the time of entry, would lock a Protected Quotation displayed by another trading center, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined in BYX Rule 1.5(cc), a User is ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.''

[4] As defined in BYX Rule 1.5(t), a ''Protected Quotation'' is ''a quotation that is a Protected Bid or Protected Offer.'' In turn, the term ''Protected Bid'' or ''Protected Offer'' means ''a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.''

Exchange ranks such order at the locking price and displays the order at one minimum price variation below the NBO for bids and above the NBB for offers.

As proposed, under the Price Adjust process, an order eligible for display by the Exchange that, at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation of an external market or the Exchange will be ranked and displayed by the System at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the current NBB (for offers). Thus, in contrast to the display-price sliding process, the Price Adjust process would both rank and display an order at one minimum price variation below the current NBO or above the current NBB (rather than ranking an order at the locking price). Further, as noted above, the Price Adjust process would adjust the price of a BATS Post Only Order or Partial Post Only at Limit Order that would lock or cross an order displayed by the Exchange unless such order is permitted to remove liquidity as described in Rules 11.9(c)(6) and (c)(7), respectively, whereas the display-price sliding process would cancel an order back to the User unless it removed liquidity on entry.

The Exchange also proposes to state that in the event the NBBO changes [5] such that an order subject to Price Adjust would not lock or cross a Protected Quotation, the order will receive a new timestamp, and will be displayed at the price that originally locked the NBO (for bids) or NBB (for offers) on entry.

As an example of the Price Adjust process, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.13 per share. Assume the NBBO is $10.10 by $10.12. If the Exchange receives a non-routable bid to buy 100 shares at $10.12 per share the Exchange will rank and display the order to buy at $10.11 because displaying the bid at $10.12 would lock an external market's Protected Offer to sell for $10.12. If the NBO then moved to $10.13, the Exchange would un-slide the bid to buy and rank and display it at its limit price of $10.12.

As an example of an order executed while subject to the Price Adjust process before being un-slid by the Exchange, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.13 per share. Assume the NBBO is $10.10 by $10.12. If the Exchange receives a non-routable bid to buy 100 shares at $10.12 per share the Exchange will rank and display the order to buy at $10.11 because displaying the bid at $10.12 would lock an external market's Protected Offer to sell for $10.12. Assume next that the Exchange receives an offer to sell 100 shares at $10.11. The incoming order to sell will execute at $10.11 against the resting bid to buy 100 shares (originally priced at $10.12) that has been slid pursuant to the Price Adjust process. Thus, the order executes at a full penny per share better than if it were ranked at the locking price of $10.12 (buying for $10.11 rather than $10.12 per share).

Similarly, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.12 per share. Assume the NBBO is also $10.10 by $10.12. Assume the Exchange receives a BATS Post Only bid to buy 100 shares at $10.12 per share. The Exchange notes that under its current pricing structure, which pays a rebate to orders that remove liquidity and charges a fee to orders that add liquidity, the incoming bid to buy at $10.12 would remove liquidity pursuant to Rule 11.9(c)(6). However, if the Exchange has a different pricing structure that does not allow the incoming BATS Post Only Order to remove liquidity then the Exchange will rank and display the order to buy at $10.11 because displaying the bid at $10.12 would lock the Exchange's Protected Offer to sell for $10.12. If the NBO, including the Exchange's best offer, then moved to $10.13, the Exchange would un-slide the bid to buy and rank and display it at its limit price of $10.12.

The Exchange also proposes to state that all orders that are re-ranked and re-displayed pursuant to Price Adjust will retain their priority as compared to other orders subject to Price Adjust based upon the time such orders were initially received by the Exchange. Further, as proposed, following the initial ranking and display of an order subject to Price Adjust, an order will only be re-ranked and re-displayed to the extent it achieves a more aggressive price.

In order to offer multiple price sliding to Exchange Users that select Price Adjust, the Exchange proposes to make clear that the ranked and displayed prices of an order subject to Price Adjust may be adjusted once or multiple times depending upon the instructions of a User and changes to the prevailing NBBO. As is true for display-price sliding, multiple price sliding pursuant to Price Adjust would be optional and would have to be explicitly selected by a User before it will be applied. Orders subject to multiple price sliding for Price Adjust will be permitted to move all the way back to their most aggressive price, whereas orders subject to Price Adjust may not be adjusted to their most aggressive price, depending upon market conditions and the limit price of the order upon entry.

As an example of multiple price sliding for Price Adjust assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.14 per share. Assume the NBBO is $10.10 by $10.12. If the Exchange receives a non-routable bid to buy 100 shares at $10.13 per share, the Exchange would rank and display the order to buy at $10.11 because displaying the bid at $10.13 would cross an external market's Protected Offer to sell for $10.12. If the NBO then moved to $10.13, the Exchange would un-slide the bid to buy and rank and display it at $10.12. Under the proposed single Price Adjust functionality, the Exchange would not further adjust the ranked or displayed price following this un-slide. However, under multiple price sliding for Price Adjust if the NBO then moved to $10.14, the Exchange would un-slide the bid to buy and rank and display it at its full limit price of $10.13.

The Exchange currently offers display-price sliding functionality to avoid locking or crossing other markets' Protected Quotations, but does not price slide to avoid executions on the Exchange's order book (''BATS Book''). Specifically, when the Exchange receives an incoming order that could execute against resting displayed liquidity but an execution does not occur because such incoming order is designated as an order that will not remove liquidity (*i.e.,* a BATS Post Only Order),[6] then the Exchange will cancel

[5] The Exchange notes that it recently filed a proposal clarifying the methodology used by the Exchange to calculate the NBBO, including the data feeds used to calculate the NBBO as well as various types of feedback that update the Exchange's view of the NBBO, such as feedback from receipt of Intermarket Sweep Orders with a time-in-force of Day and feedback from the Exchange's routing broker-dealer, BATS Trading, Inc. *See* Securities Exchange Act Release No. 72687 (July 28, 2014), 79 FR 44926 (August 1, 2014) (SR–BYX–2014–012).

[6] The Exchange again notes that BATS Post Only Orders are permitted to remove liquidity from the BATS Book if the value of price improvement associated with such execution equals or exceeds the sum of fees charged for such execution and the

Continued

the incoming order. As noted above, the Exchange proposes to make clear in the description of Price Adjust that any display-eligible BATS Post Only Order that locks or crosses a Protected Quotation displayed by the Exchange upon entry will be executed as set forth in Rule 11.9(c)(6) or adjusted pursuant to the Price Adjust process. Similarly, the Exchange proposes to make clear that any display-eligible Partial Post Only at Limit Order that locks or crosses a Protected Quotation displayed by the Exchange upon entry will be executed as set forth in Rule 11.9(c)(7) or adjusted pursuant to the Price Adjust process. The Exchange reiterates that in contrast to the proposed operation of Price Adjust, the existing display-price sliding process would instead cancel BATS Post Only orders and BATS Partial Post Only at Limit orders that would lock or cross a Protected Quotation displayed by the Exchange to the extent such orders are not executed on entry.

The Exchange currently applies display-price sliding to Non-Displayed Orders that cross Protected Quotations of external markets. The Exchange proposes language that makes clear that this functionality will apply to all orders for which a User has selected either display-price sliding or Price Adjust. The proposed rule states that Non-Displayed Orders that are subject to display-price sliding or Price Adjust are ranked at the locking price on entry. The proposed description also makes clear that price sliding for Non-Displayed Orders is functionally equivalent to the handling of displayable orders except that such orders will not have a displayed price and will not be re-priced again unless such orders cross a Protected Quotation of an external market (*i.e.,* such orders are not un-slid). Other than updating the language of the rule to reflect that Non-Displayed Orders for which a User has selected Price Adjust will be handled in the same way as orders subject to display-price sliding, the Exchange is not proposing to change its handling of Non-Displayed Orders.

As an example of the Exchange's handling of Non-Displayed Orders in the context of Price Adjust, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.13 per share. Assume the NBBO is $10.10 by $10.11. If the Exchange receives a Non-Displayed Order bid to buy 100 shares at $10.12 per share, the Exchange would re-price the order to a $10.11 bid to buy to avoid potentially trading through the $10.11 offer displayed as the NBO (*i.e.,* to ensure the Exchange will not allow the bid to trade at $10.12 per share). In the event the NBBO moved to $10.09 by $10.10, the Exchange would re-price the Non-Displayed bid to buy 100 shares to $10.10 per share. If the NBBO then moved to $10.10 by $10.11, the Non-Displayed bid would not be re-priced to $10.11, but would remain on the Exchange's order book at $10.10. This proposed handling is identical to handling of a Non-Displayed Order for which a User has selected display-price sliding.

The Exchange also proposes that in the event the NBBO changes such that display eligible orders subject to display-price sliding and Price Adjust would not lock or cross a Protected Quotation and are eligible to be displayed at a more aggressive price, the System will first display all orders subject to display-price sliding at their ranked price followed by orders subject to Price Adjust, which will be re-ranked and re-displayed as set forth above. The Exchange believes it is reasonable to un-slide orders subject to display-price sliding before it un-slides orders subject to Price Adjust because Price Adjust is a less aggressive form of price sliding than display-price sliding, in that an order submitted by a User that elects Price Adjust will be displayed and ranked at the same price rather than ranked at the locking price and displayed at a less aggressive price.

The Exchange also proposes to make clear that if a User elects to apply Price Adjust to an order submitted to the Exchange, price sliding will apply short sale price sliding in connection with the handling of the order by the Exchange. The Exchange does not propose to modify its short sale price sliding functionality.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'')[7] and further the objectives of Section 6(b)(5) of the Act[8] because they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[9] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

The Exchange believes that the proposed changes to offer Price Adjust are consistent with Section 6(b)(5) of the Act,[10] as well as Rule 610 of Regulation NMS[11] and Rule 201 of Regulation SHO.[12] The Exchange is not modifying the overall functionality of price sliding, which, to avoid locking or crossing quotations of other market centers or to comply with applicable short sale restrictions, displays orders at permissible prices while retaining a price at which the User is willing to buy or sell, in the event display at such price or an execution at such price becomes possible. Instead, the Exchange is making changes to adopt an optional form of price sliding, Price Adjust, which will rank orders at their displayed price rather than the locking price, as described above. Thus, while subject to Price Adjust sliding, an order is ranked at a less aggressive price, which may be preferable to certain Users that wish to provide liquidity but do not wish to cross the spread (*i.e.,* if buying, do not wish to trade at the NBO or if selling, do not wish to trade at the NBB). The Exchange believes it is reasonable to un-slide display-price sliding orders before it un-slides Price Adjust orders because Price Adjust is a less aggressive form of price sliding than display-price sliding, in that an order submitted by a User would be displayed and ranked at the same price rather than ranked at the locking price and displayed at a less aggressive price. Thus, because orders subject to display-price sliding are ranked at and subject to execution at higher prices when buying and lower prices when selling, the Exchange believes that such orders should be re-displayed before orders subject to Price Adjust orders in response to changes to the NBBO.

Rule 610(d) requires exchanges to establish, maintain, and enforce rules that require members reasonably to avoid ''[d]isplaying quotations that lock or cross any protected quotation in an NMS stock.''[13] Such rules must be

value of any rebate that would be provided if the order posted to the BATS Book and subsequently provided liquidity. *See* Rule 11.9(c)(6). Similarly, Partial Post Only at Limit Orders are permitted to remove price improving liquidity as well as a User-selected percentage of the remaining order at the limit price if, following such removal, the order can post at its limit price. *See* Rule 11.9(c)(7).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S. C. 78k-1(a)(1).

[10] *Id.*

[11] 17 CFR 242.610.

[12] 17 CFR 242.201.

[13] 17 CFR 242.610(d).

''reasonably designed to assure the reconciliation of locked or crossed quotations in an NMS stock,'' and must ''prohibit . . . members from engaging in a pattern or practice of displaying quotations that lock or cross any quotation in an NMS stock.'' [14] Thus, the Price Adjust process proposed by the Exchange will assist Users by displaying orders at permissible prices. Similarly, Rule 201 of Regulation SHO [15] requires trading centers to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order at a price at or below the current NBB under certain circumstances. The Exchange's short sale price sliding will continue to operate the same for Users of Price Adjust as it does for Users that select the display-price sliding process offered by the Exchange.

As noted above, in contrast to display-price sliding, which is based solely on Protected Quotations at equities markets and options exchanges other than the Exchange, the proposed Price Adjust process would be based on Protected Quotations at external markets and at the Exchange. Thus, if the Exchange has a Protected Quotation that an incoming order to the Exchange locks or crosses then such order executes against the resting order, or, if the incoming order is a BATS Post Only Order or Partial Post Only at Limit Order, such order would be executed in accordance with Rules 11.9(c)(6) and (c)(7), respectively, or adjusted pursuant to the Price Adjust process. The Exchange believes that it is reasonable and consistent with the Act to apply the Price Adjust process to orders on entry that cannot executed or displayed at their limit price because this will contribute to additional displayed liquidity on the Exchange than if such orders were cancelled back to the User. Therefore, the Exchange believes the proposal to apply the Price Adjust process to orders that cannot be displayed because they would lock or cross displayed contra-side interest on the Exchange (and not just external markets) will promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange also reiterates that the proposed Price Adjust process will enable the System to avoid displaying a locking or crossing quotation in order to ensure compliance with Rule 610(d) of Regulation NMS. The Exchange again notes that under its current pricing structure, which pays a rebate to orders that remove liquidity and charges a fee to orders that add liquidity, this provision is currently inapplicable because even BATS Post Only Orders will remove on entry if it is in their economic best interest to do so, and thus, if there is locking or crossing interest on the Exchange's order book, such orders will remove liquidity rather than being subject to the Price Adjust process. However, in order to maintain a technology offering that is consistent with technology offered by its affiliates irrespective of fees,[16] the Exchange is proposing to implement Price Adjust as proposed.

The Exchange notes that similar functionality was recently proposed by the Exchange's affiliate, EDGX Exchange, Inc. and that the proposed rules are based on the Price Adjust functionality set forth in such proposal.[17]

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. The proposed rule change is being proposed as an additional option for Users that wish to utilize Exchange price sliding functionality and that the functionality is consistent with that offered by the Exchange today as well as affiliates and competitors of the Exchange. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–BYX–2014–019 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–BYX–2014–019. 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 at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–

[14] *Id.*

[15] 17 CFR 242.201.

[16] The Exchange notes that its affiliate, BATS Exchange, Inc. is simultaneously proposing to adopt the Price Adjust process.

[17] *See* Securities Exchange Act Release No. 72676 (July 25, 2014), 79 FR 44520 (July 31, 2014) (SR–EDGX–2014–18).

2014–019, and should be submitted on or before September 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–21003 Filed 9–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72942; File No. SR–NYSEArca–2014–75]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Amending NYSE Arca Equities Rules 7.6, 7.11, 7.16, 7.31, 7.34, 7.35, 7.37 and 7.65 to Eliminate Certain Order Types, Modifiers and Related References

August 28, 2014.

I. Introduction

On June 27, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') 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 to eliminate certain order types, modifiers and related references from the Exchange's rules. The proposed rule change was published for comment in the **Federal Register** on July 16, 2014.[3] The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange has proposed to amend NYSE Arca Equities Rules (''Rule(s)'') 7.6, 7.11, 7.16, 7.31, 7.34, 7.35, 7.37 and 7.65 to eliminate certain order types, modifiers and related references. The Exchange states that it is proposing these rule changes in order to streamline its rules and reduce complexity among its order type offerings.[4]

Working Orders. The Exchange has proposed to eliminate five types of working orders [5]—Passive Discretionary Orders, Discretion Limit Orders, Sweep Reserve Orders, Random Reserve Orders, and PL Select Orders—and to delete the definitions of these order types currently set forth in Rule 7.31(h), as well as references to these order types currently in Rules 7.11 and 7.37.[6] In addition, in connection with the proposed elimination of Passive Discretionary Orders and Sweep Reserve Orders, the Exchange has proposed not to accept certain combined orders that currently involve these order types, namely, the Passive Discretionary Reserve Order (a Passive Discretionary Order used in combination with a Reserve Order), Sweep Reserve with Discretion Order (a Sweep Reserve Order entered with a discretionary price), and Inside Limit Sweep Reserve Order (a Sweep Reserve Order entered with an inside limit price).[7]

Cross Orders. The Exchange has proposed to accept only one type of cross order—Cross Orders designated IOC—and to revise its rules accordingly. Currently, the Exchange defines a Cross Order in Rule 7.31(s), separately defines an IOC Cross Order in Rule 7.31(aa), and separately defines additional types of cross orders in other provisions of Rule 7.31. To effect the proposed change, the Exchange has proposed to consolidate Rule 7.31(aa) into Rule 7.31(s), thereby creating one provision that describes Cross Orders designated IOC, and to eliminate the additional types of cross orders currently available on the Exchange.[8] Rule 7.31(aa) would be Consolidated into Rule 7.31(s) by: (i) Adding the clause ''designated IOC'' to the definition of Cross Order in Rule 7.31(s), (ii) moving to Rule 7.31(s) from Rule 7.31(aa) text stating that Cross Orders that would lock or cross the PBBO or BBO will be cancelled,[9] and (iii) deleting Rule 7.31(aa).[10] The Exchange also has proposed to delete certain rule provisions that would be rendered moot or inapplicable by this proposed change.[11]

Additional Order Types and Rule Reference Deletions. In addition to the foregoing proposed changes with respect to working orders and cross orders, the Exchange has proposed to eliminate or limit the operation of five other order types. First, the Exchange has proposed to eliminate the Market to Limit (''MTL'') Order, and thus to delete Rule 7.31(rr), which currently sets forth the definition of this order type. Second, the Exchange has proposed to amend the definition of an Auction-Only Order in Rule 7.31(t) to provide that the Exchange will only accept the Auction-Only Orders specified therein, namely, Limit-on-Open Orders (''LOO Order''), Market-on-Open Orders (''MOO Order''), Limit-on-Close Orders (''LOC''), and Market-on-Close Orders (''MOC'').[12] Third, the Exchange proposes not to accept NOW Orders with a Reserve Modifier, and thus to amend the definition of a NOW Order in Rule 7.31(v) to provide that NOW Orders entered with a Reserve modifier will be rejected. Fourth, the Exchange proposes not to accept market orders with a NOW or IOC modifier, and thus to delete the reference to market orders in the definition of the IOC modifier in Rule 7.31(c)(3),[13] and to amend the definition of a NOW Order in Rule 7.31(v) to provide that NOW Orders entered with a Market modifier will be rejected. Lastly, the Exchange proposes to eliminate the use of a Fill or Kill (''FOK'') modifier with a Mid-Point Liquidity (''MPL'') Order, and thus to amend the definition of an MPL Order in Rule 7.31(h)(5) to provide that an

[18] 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. 72591 (July 10, 2014), 79 FR 41613 (''Notice'').

[4] *See* Notice, 79 FR at 41614.

[5] According to the Exchange, workings orders are orders with a conditional or undisplayed price and/or size. *Id.; see also* Rule 7.31(h).

[6] A more detailed description of these order types and the provisions of Rules 7.11, 7.31(h) and 7.37 that would be deleted is set forth in the Notice. *See* Notice, 79 FR at 41614; *see also* proposed Rules 7.11, 7.31(h) and 7.37.

[7] *See* Notice, 79 FR at 41614 n. 8 and 9.

[8] The additional types of cross orders currently available on the Exchange, and which would be eliminated under the proposal, are the Midpoint Cross Order (currently defined in Rule 7.31(y)), Post No Preference (''PNP'') Cross Order (currently defined in Rule 7.31(bb)), Cross-and-Post Order (currently defined in Rule 7.31(ff)), and Portfolio Crossing Service (''PCS'') Order (currently defined in Rule 7.31(ii)). The definitions of these cross order types currently set forth in Rule 7.31 would be deleted, as would references to certain of these cross order types currently set forth in Rules 7.34(g), 7.37(d) and 7.65. *Id.* at 41615.

[9] The terms ''PBBO'' and ''BBO'' are defined in Rules 1.1(h) and (dd), respectively.

[10] *See* Notice, 79 FR at 41614–15; *see also* proposed Rule 7.31(s).

[11] *See* Notice, 79 FR at 41615. Subparagraphs (1)–(6) of current Rule 7.31(s) describe Cross Order functionality that is applicable only when Cross Orders are not designated IOC, and thus, according to the Exchange, the proposal would render those subparagraphs moot. Similarly, the Exchange proposes to delete Rule 7.16(f)(v)(G) as that rule, which provides that short sale cross orders priced at or below the current national best bid will be rejected during a Short Sale Period (defined in Rule 7.16(f)(iv)), would be inapplicable because Cross Orders designated IOC cannot execute at or below the current national best bid. Further, by virtue of the proposed restriction of Cross Orders to those with an IOC designation, the Exchange has proposed to eliminate the Day Cross Order, and thus a Cross Order with a Day modifier would be rejected as a result of the proposal. *Id.*

[12] *See* Notice, 79 FR at 41615. The Exchange also proposes to replace the references in Rule 7.35 to Auction-Only Limit with LOO and to Auction-Only Market with MOO, and to delete the references to Auction Only Limit Orders in Rule 7.35(f)(3)(E). *Id.; see also* proposed Rule 7.35.

[13] As a result, the use of the IOC modifier would be limited to limit orders, and a market order entered with an IOC modifier would be rejected. *See* proposed Rule 7.31(c)(3); *see also* Notice, 79 FR at 41615.

MPL Order entered with a FOK modifier will be rejected.

Furthermore, the Exchange has proposed to delete commentary .04 to Rule 7.6, as the commentary provides an exception to Rule 7.6 (which governs trading differentials) for Midpoint Cross Orders, which would be eliminated as a result of the instant proposal, and for Midpoint Directed Fills, which were eliminated in a prior rule filing.[14] The Exchange also proposes to delete references to Cleanup Orders from Rules 7.34 and 7.35, as Cleanup Orders were eliminated in the same prior rule filing that eliminated Midpoint Directed Fills.[15]

The Exchange has proposed, due to the technology changes associated with this proposal, to announce via Trader Update the implementation date of the elimination of the order types under this proposal.[16]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The Commission notes that the instant proposal does not add any new functionality but instead reduces the number of order types and order type/modifier combinations that will be accepted by the Exchange, which should simplify to a degree the order type functionality available on the Exchange. The Commission believes that the proposed rule change should promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–NYSEArca–2014–75) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–20998 Filed 9–3–14; 8:45 am]

BILLING CODE 8011–01–P

[14] *See* Notice, 79 FR at 41615–16; *see also* Securities Exchange Act Release No. 71331 (January 16, 2014), 79 FR 3907 (January 23, 2014) (SR–NYSEArca–2013–92).

[15] *Id.*

[16] *See* Notice, 79 FR at 41616.

[17] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72943; File No. SR–MIAX–2014–45]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the MIAX Fee Schedule to Adopt Fees for MIAX PRIME

August 28, 2014.

Pursuant to the provisions of 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 August 15, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt transaction fees and rebates for Members that participate in the price improvement auction (''PRIME Auction'' or ''PRIME'') pursuant to Rule 515A.[3] The Exchange intends to implement the PRIME Auction mechanism August 8, 2014 and therefore proposes to add PRIME Auction transaction fees and rebates to the Fee Schedule so that such fees and rebates will be in place once the PRIME Auction mechanism is implemented.

PRIME is a process by which a Member may electronically submit for execution (''Auction'') an order it represents as agent (''Agency Order'') against principal interest and/or an Agency Order against solicited interest. The Agency Order is referred to as a PRIME Agency Order for purposes of the Fee Schedule. The Member that submits the PRIME Agency Order (the ''Initiating Member'') agrees to guarantee the execution of the PRIME Agency Order by submitting a contra-side order representing principal interest or solicited interest (''Contra-side Order'').[4] When the Exchange receives a properly designated Agency Order for Auction processing, a Request for Responses (''RFR'') detailing the option, side, size, and initiating price will be sent to all subscribers of the Exchange's data feeds. Members may submit responses to the RFR (specifying prices and sizes). RFR responses can be

[3] *See* Exchange Rule 515A. *See also* Securities Exchange Act Release Nos. 71640 (March 4, 2014), 79 FR 13334 (March 10, 2014) (SR–MIAX–2014–09) (''Notice''); 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014) (SR–MIAX–2014–09).

[4] The paired order submitted to PRIME that includes both the PRIME Agency Order and the Contra-side Order is referred to as the PRIME Order for purposes of the Fee Schedule.

either an Auction or Cancel (''AOC'') order or an AOC eQuote.[5]

As described above, there are three ways to participate in a PRIME Auction: (i) As an Agency Order, also known as a PRIME Agency Order; (ii) as the Contra-side Order guaranteeing the execution of the PRIME Order; and (iii) any RFR response in the form of an AOC order or AOC eQuote.

The Exchange proposes to charge the following transaction fees for participation in the PRIME Auction:

Types of market participants	PRIME Order		Responder to PRIME Auction	
	Per contract fee for agency order	Per contract fee for contra-side order	Per contract fee for penny Classes	Per contract fee for non-penny classes
Priority Customer	$0.00	$0.00	$0.45	$0.90
Public Customer That Is Not a Priority Customer	0.30	0.05	0.45	0.90
MIAX Market Maker	0.30	0.05	0.45	0.90
Non-MIAX Market Maker	0.30	0.05	0.45	0.90
Non-Member Broker-Dealer	0.30	0.05	0.45	0.90
Firm	0.30	0.05	0.45	0.90

The Exchange also proposes to adopt the following rebates to be paid to the Initiating Member for each PRIME Order contract that trades with a PRIME AOC Response:

Types of market participants	PRIME break-up	
	Per contract credit for penny classes	Per contract credit for non-penny classes
Priority Customer	$0.25	$0.60
Public Customer That Is Not a Priority Customer	0.25	0.60
MIAX Market Maker	0.25	0.60
Non-MIAX Market Maker	0.25	0.60
Non-Member Broker-Dealer	0.25	0.60
Firm	0.25	0.60

MIAX will apply the PRIME Break-up credit to the EEM that submitted the PRIME Order for contracts that are submitted to the PRIME Auction that trade with a PRIME AOC Response. The applicable fee for PRIME Orders will be applied to any contracts for which a credit is provided.[6] Transaction fees in mini-options will be 1/10th of the standard per contract fee or rebate shown above for the PRIME Auction. However, the Exchange will assess the standard transaction fees to a PRIME AOC Response if they execute against unrelated orders.

The Exchange proposes to amend the Priority Customer Rebate Program to provide that the Exchange will credit each Member $0.10 per contract credit for each Priority Customer order executed as a PRIME Agency Order. However, no rebates will be paid if the PRIME Agency Order executes against a Contra-side Order which is also a Priority Customer. The $0.10 per contract credit would be applied in lieu of the applicable credit that would otherwise apply to the transaction based on the volume thresholds or whether the options class was a MIAX Select Symbol. In addition, the Exchange proposes to exclude from the Priority Customer Rebate Program, and the corresponding volume calculation, orders that are executed as a Priority Customer-to-Priority Customer Order, PRIME AOC Response, and PRIME Contra-side Order.

The Exchange proposes to provide that transaction fees resulting from participation in a PRIME Auction as a PRIME AOC Response, or rebates from the PRIME Break-up credit, will not count towards the Monthly Firm Fee Cap. Transaction fees from Firm orders that participate in the PRIME Auction as a PRIME Agency Order or Contra-side Order will count towards the Monthly Firm Fee Cap.

Finally, the Exchange proposes to add text to clarify that PRIME Agency Order, Contra-side Order, or PRIME AOC Response executions will not result in the collection of marketing fees. Specifically, the Exchange will not assess a marketing fee to Market Makers for contracts executed as a PRIME Order or PRIME AOC Response in the PRIME Auction; unless, it executes against an unrelated order. Unrelated Market Maker orders or quotes that execute against the PRIME Order will still be subject to marketing fees.

The Exchange proposes to implement the new PRIME Auction transaction fees and rebates beginning August 8, 2014.[7]

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed fee structure for PRIME Auction transaction fees is reasonable, equitable and not unfairly discriminatory. The proposed fee

[5] *See* Exchange Rules 515A(a)(2)(i)(D), 516(b)(4), 517(a)(2)(ii).

[6] For example, BD1 submits a Firm PRIME Order into PRIME for 100 contracts in a penny options class. 60 contracts trade with MM1 AOC Response and 40 contracts trade with the Contra-side Order. The Exchange would assess the following transaction fees: (i) PRIME Agency Order, 100 contracts × $0.30 per contract, plus 60 × $0.25 break-up credit; (ii) Contra-side Order, 40 contracts × $0.05; and (iii) Responder, 60 contracts × $0.45.

[7] MIAX initially filed its fees for PRIME on August 6, 2014 (SR–MIAX–2014–43). On August 15, 2014, MIAX withdrew that filing and submitted this filing.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

structure is reasonably designed because it will incent market participants to send order flow to the Exchange in order to participate in the price improvement mechanism in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The Program is also reasonably designed because the proposed fees and rebates are within the range of fees and rebates assessed by other exchanges employing similar fee structures for price improvement mechanisms.[10] Other competing exchanges offer different fees and rebates for agency orders, contra-side order, and responders to the auction in a manner similar to the proposal.[11] Other competing exchanges also charge different rates for transactions in their price improvement mechanisms for customers versus their non-customers in a manner similar to the proposal.[12] As proposed, all applicable fees and rebates are within the range of fees and rebates for executions in price improvement mechanisms assessed by other exchanges employing similar fee structures for price improvement mechanisms.

The fee structure is reasonable, equitable, and not unfairly discriminatory because it will apply equally amongst all Priority Customer orders in each category of PRIME Auction participation and it will also apply equally amongst all non-Priority Customer orders in each category of PRIME Auction participation. All similarly situated orders for Priority Customers are subject to the same transaction fee and rebate schedule. All similarly situated orders for market participants that are not Priority Customers are subject to the same transaction fee and rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange believes that is equitable and not unfairly discriminatory that Priority Customers be charged lower fees in PRIME than other market participants. The exchanges in general have historically aimed to improve markets for investors and develop various features within market structure for customer benefit. The Exchange does not assess Priority Customers transactions fees because Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts 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.

Moreover, the Exchange believes that assessing all other market participants a higher transaction fee than Priority Customers for PRIME Order transactions is reasonable, equitable, and not unfairly discriminatory because these types of market participants are more sophisticated and have higher levels of order flow activity and system usage. This level of trading activity draws on a greater amount of system resources than that of Priority Customers, and thus, generates greater ongoing operational costs. Further, the Exchange believes that charging all market participants that are not Priority Customers the same fee for all [sic] [13] PRIME transactions is not unfairly discriminatory as the fees will apply to all these market participants equally.

The Exchange believes that it is reasonable for PRIME Orders to be assessed lower fees than those providing responses. Contra-side Orders guarantee the PRIME Agency Order, and are subject to market risk during the time period that the PRIME Agency Order is exposed to other market participants. The Exchange believes that the Contra-side Order acts as a critical role in the PRIME as their willingness to guarantee the PRIME Agency Order is the keystone to the PRIME Agency Order gaining the opportunity for price improvement.

The Exchange believes that it is equitable and not unfairly discriminatory to assess fees to responders to the PRIME and credit another participant to provide incentive for participants to submit order flow to PRIME. The Exchange believes that it is appropriate to provide incentives to market participants to direct orders to participate in PRIME. Further, the Exchange believes that the transaction fees for responding to the auction will not deter market participants from providing price improvement.

The Exchange believes that it is reasonable to assess lower transaction and credit rates to penny option classes than non-penny option classes. The Exchange believes that options which trade at these wider spreads merit offering greater inducement [sic] for market participants. In particular, within the PRIME, option classes that typically trade in minimum increments of $.05 or $.10 provide greater opportunity for market participants to offer price improvement. As such, the Exchange believes that the opportunity for additional price improvement provided by these wider spreads again merits offering greater incentive [sic] for market participants to increase the potential price improvement for customer orders in these transactions.

The Exchange believes that the proposed Priority Customer Rebate Program rebates for Priority Customer orders submitted into PRIME are fair, equitable and not unreasonably discriminatory. The rebate program is reasonably designed because it will incent providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to receive a credit in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The proposed rebate program is fair, equitable, and not unreasonably [sic] discriminatory because it will apply equally to all Priority Customer orders submitted as a PRIME Agency Order. All similarly situated Priority Customer orders are subject to the same rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. In addition, the Program is equitable and not unfairly discriminatory because, while only Priority Customer order flow qualifies for the rebate program, an increase in Priority Customer order flow will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. Market participants want to trade with Priority Customer order flow. To the extent Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger sized quotations in the effort to trade with such Priority Customer order flow. The resulting increased volume and liquidity will benefit those Members who receive the lower tier levels, or do not qualify for the Program at all, by providing more trading opportunities and tighter spreads.

The Exchange believes excluding Priority Customer-to-Priority Customer Orders, Priority Customer responses,

[10] *See e.g.,* NYSE Amex Options Fee Schedule, p. 7; International Securities Exchange LLC Schedule of Fees, p. 6; BOX Options Exchange Fee Schedule, p. 1.

[11] *Id.*

[12] *Id.*

[13] The Commission notes that non-Priority Customers are *not* charged the same fee for all transactions, but rather, the fee varies based on whether the transaction is in a penny or non-penny class and whether the non-Priority Customer was participating as a PRIME Agency Order, Contra-side Order, or a responder in the PRIME Auction.

contra-side orders, and Priority Customer-to-Priority Customer PRIME transactions from the number of options contracts executed on the Exchange by any Member for purposes of the volume thresholds and the rebate program is reasonable, equitable, and not unfairly discriminatory because participating Members could otherwise game the rebate program and volume thresholds by executing excess volumes in these types of transactions in which no transaction fees are charged on the Exchange. Further, the Exchange believes that excluding these PRIME transactions from the volume thresholds is reasonable, equitable, and not unfairly discriminatory because the volume thresholds and rebate program was established prior to the introduction of the PRIME Auction based on non-auction transaction fee and volume calculations. In contrast, the Exchange proposes to target new volume to the Exchange to compete with electronic price improvement mechanisms on other exchanges. The Exchange believes that the new rebate for Priority Customer agency orders in the PRIME Auction is reasonably designed to incentivize additional retail customer order flow to the PRIME Auction. The Exchange further believes that subjecting Priority Customer-to-Priority Customer Orders to the same treatment as Priority Customer-to-Priority Customer PRIME transactions is reasonable and not unfairly discriminatory because these transactions are substantially similar; as such, they should be subject to similar fees. Participating Members could otherwise game the rebate program and volume thresholds by executing excess volumes in these types of transactions in which no transaction fees are charged on the Exchange.

The Exchange believes that specifying that transaction fees for responses and the break-up credit will not count towards the Monthly Firm Fee Cap is reasonable and not unfairly discriminatory because the fee cap was established prior to the introduction of the PRIME Auction based on non-auction transaction fee and volume calculations. With the PRIME Auction, the Exchange proposes to target new volume to the Exchange to compete with electronic price improvement mechanisms available on other exchanges. Any transaction fees and volume that would be executed as part of the PRIME Action was not factored into the creation of the Exchange's previous Monthly Firm Fee Cap. As such, the Exchange believes that it is reasonable to exclude responses and the break-up credit that will result from the PRIME Auction from this cap, because market participants would not be using the new PRIME Auction in order to meet the Monthly Firm Fee Cap.

The Exchange believes that specifying that PRIME Order executions are not subject to marketing fees is reasonable, equitable and not unfairly discriminatory. The Exchange is seeking to encourage all participants, including Market Makers, to send PRIME Orders and to respond to PRIME Auction RFR messages; the Exchange believes that collecting marketing fees from Market Makers may discourage such participation. By encouraging as many participants as possible to respond, the Exchange believes that it will lead to greater opportunities for price improvement for all PRIME Orders, not just those entered on behalf of customers. For these reasons, the Exchange believes that excluding PRIME Orders and responses from the marketing fees is reasonable, equitable and not unfairly discriminatory. The Exchange believes that it is equitable and not unfairly discriminatory to continue to charge a marketing fee if an unrelated order executes in the PRIME, because that unrelated order is not subject to the specialized fee structure for PRIME that is designed to incentivize participation. The market participant receives the benefit of a PRIME execution and would already expect to be charged a marketing fee that is no different than the fee the market participant was expecting to pay trading against unrelated orders outside the auction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change will enhance the competiveness of the Exchange relative to other exchanges that offer their own electronic crossing mechanism. The Exchange believes that the proposed fees and rebates for participation in the PRIME Auction are not going to have an impact on intra-market competition based on the total cost for participants to transact as respondents to the Auction as compared to the cost for participants to engage in non-Auction electronic transactions on the Exchange. As noted above, the Exchange believes that the proposed pricing for the PRIME Auction is comparable to that of other exchanges offering similar electronic price improvement mechanisms, and the Exchange believes that, based on experience with electronic price improvement crossing mechanisms on other markets, market participants understand that the price-improving benefits offered by the Auction justify and offset the transaction costs associated with Auction. To the extent that there is a difference between non-Auction transactions and Auction transactions, the Exchange does not believe this difference will cause participants to refrain from responding to Auctions. In addition, the Exchange does not believe that the proposed transaction fees and credits burden competition by creating a disparity of transaction fees between the PRIME Order and the transaction fees a responder pays would result in certain participants being unable to compete with the Contra-side Order. The Exchange expects to see robust competition within the PRIME Auction, despite the apparent differences in non-Auction versus Auction responses. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it establishes a fee structure in a manner that encourages market participants to direct their order flow, to provide liquidity, and to attract additional transaction volume to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2014–45 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–MIAX–2014–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–45, and should be submitted on or before September 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–20999 Filed 9–3–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72944; File No. SR–ICC–2014–08]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Related to ICC's Authority to Use Guaranty Fund and House Initial Margin as an Internal Liquidity Resource

August 28, 2014.

I. Introduction

On June 24, 2014, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICC–2014–08 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on July 14, 2014.[3] The Commission did not receive comments on the proposed rule change. For the reasons described below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC has stated that the principal purpose of the proposed rule change is to formalize ICC's Liquidity Risk Management Framework, including its comprehensive liquidity monitoring program, and, through proposed changes to two sections of ICC's Rulebook, to clarify ICC's authority to use, and to provide details as to how ICC would use, Guaranty Fund and House Initial Margin as an internal liquidity resource.

ICC's proposed Liquidity Risk Management Framework includes a discussion of all resources available to ICC and the order in which ICC would use available liquidity resources, if necessary, when managing one or more Clearing Participant defaults. The liquidity waterfall classifies available liquidity resources on any given day into four levels. Level One includes the House Initial Margin and Guaranty Fund cash deposits of the defaulting Clearing Participant. Level Two includes Guaranty Fund cash deposits of: (i) ICC; and (ii) non-defaulting Clearing Participants. Level Three includes House Initial Margin cash deposits of the non-defaulting Clearing Participants. Level Four includes ICC's committed credit facility to access additional cash, and contemplates the establishment of other committed facilities to convert U.S. Treasuries to USD cash.

In addition, the Liquidity Risk Management Framework describes: (i) The methodology used by ICC to estimate its minimum day-of-default available liquidity resources based on its liquidity risk management model; (ii) historical analysis based on back testing considerations; and (iii) forward-looking analysis based on stress testing. The Liquidity Risk Management Framework also provides for governance concerning ICC's liquidity testing, amending the liquidity program and the procedure for additional risk measures to be taken, as necessary, based upon testing results.

Proposed new Rule 402(j) addresses ICC's use of any Clearing Participant's House Initial Margin as a liquidity resource in connection with a Clearing Participant's default. ICC states that under this rule, ICC may use a Clearing Participant's cash, securities or other property constituting Initial Margin for its House account to support liquidity arrangements relating to ICC's payment obligations. Such liquidity arrangements would include borrowing, repurchase transactions, exchange of Initial Margin for other assets or similar transactions, under which equivalent value is provided for such Initial Margin and such equivalent value will be held as Initial Margin and used or applied by ICC solely for the purposes for which Initial Margin in the House Account may be used. ICC states that any use of House Initial Margin may be used in a manner consistent with ICC's liquidity policies and applicable law. Additionally, ICC states that in connection with a Clearing Participant's default, ICC will be able to exchange cash that is House Initial Margin for the equivalent value of securities or cash of a different currency.

Proposed new Rule 802(f)(iv) addresses ICC's authority to pledge assets in the Guaranty Fund to secure loans made to the clearing house, including for purposes of default management, or to transfer such assets to counterparties under repurchase transactions or similar transactions. ICC states that the proceeds of such

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78(s)(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–72556 (July 8, 2014), 79 FR 40796 (July 14, 2014) (SR–ICC–2014–08).

borrowings or repurchase transactions may be used in accordance with ICC's authority to use Guaranty Fund assets under ICC's current rules. Additionally, ICC states that, in connection with a Clearing Participant's default, ICC will be able to exchange cash in the Guaranty Fund for the equivalent value of securities or cash of a different currency.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act[5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative 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.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder applicable to ICC. The proposed Liquidity Risk Management Framework would formalize ICC's liquidity management program, including the description of ICC's liquidity resources, the order of use of such resources, and the methodology for testing the sufficiency of these resources. In addition, proposed Rules 402(j) and 802(f)(iv) would permit ICC to use, and provide details as to how ICC would use, margin and Guaranty Fund assets to support ICC's liquidity obligations. The Commission believes the proposed rule change is reasonably designed to allow ICC to manage its liquidity needs in the event of one or more Clearing Participant defaults and, therefore, promotes the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and assures the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[7]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[8] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–ICC–2014–08) be, and hereby is, approved.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–21001 Filed 9–3–14; 8:45 am]

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[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78s(b)(2).

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72945; File No. SR–BATS–2014–038]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rules 11.9 and 21.1 of BATS Exchange, Inc.

August 28, 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 26, 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 Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.9 to add certain functionality to the Exchange's cash equities trading platform (''BATS Equities''). Consistent with its practice of offering similar functionality for the Exchange's equity options trading platform (''BATS Options'') as it does for BATS Equities, the Exchange proposes to amend Rule 21.1 to add similar functionality to BATS Options.

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.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently offers various forms of sliding which, in all cases, result in the re-pricing of an order to, or ranking and/or display of an order at, a price other than an order's limit price in order to comply with applicable securities laws and/or Exchange rules. Specifically, the Exchange currently offers price sliding to ensure compliance with Regulation NMS and Regulation SHO for BATS Equities, as well as price sliding for BATS Options to ensure compliance rules analogous to Regulation NMS adopted by the Exchange and other options exchanges. Price sliding currently offered by the Exchange re-prices and displays an order upon entry and in certain cases again re-prices and re-displays an order at a more aggressive price one time if and when permissible (''single display-price sliding''), and optionally continually re-prices an order (''multiple display-price sliding'') based on changes in the national best bid (''NBB'') or national best offer (''NBO'', and together with the NBB, the ''NBBO''). The Exchange proposes to add another optional process, the Price Adjust process, as described below. Price Adjust in all contexts for which it is being proposed will have to be

[1] 15 U.S.C. 78s(b)(1).

elected by a User [3] in order to be applied by the Exchange.

In contrast to display-price sliding, which is based solely on Protected Quotations [4] at equities markets and options exchanges other than the Exchange, Price Adjust would be based on Protected Quotations at external markets and at the Exchange. If the Exchange has a Protected Quotation that an incoming order to the Exchange locks or crosses then such order executes against the resting order, or, if the incoming order is a BATS Post Only Order or Partial Post Only at Limit Order, such order would be executed in accordance with Rules 11.9(c)(6) and (c)(7), respectively, or adjusted pursuant to the Price Adjust process, as described in further detail below. Because the Exchange will route orders to external markets with locking or crossing quotations, the Exchange notes that the Price Adjust process would only be applicable to non-routable orders, including BATS Only Orders, BATS Post Only Orders and Partial Post Only at Limit Orders. In turn, because BATS Only Orders will execute against locking or crossing interest on the Exchange (including both Protected Quotations as well as any non-displayed interest), the fact that Price Adjust would be based on Protected Quotations at the Exchange is only relevant for BATS Post Only Orders and Partial Post Only at Limit Orders.

BATS Equities—Price Adjust

With respect to price sliding offered to ensure compliance with Regulation NMS (''display-price sliding''), under the Exchange's current rules for BATS Equities, if, at the time of entry, a non-routable order would cross a Protected Quotation displayed by another trading center the Exchange re-prices and ranks such order at the locking price, and displays such order at one minimum price variation below the NBO for bids and above the NBB for offers. Similarly, in the event a non-routable order that, at the time of entry, would lock a Protected Quotation displayed by another trading center, the Exchange ranks such order at the locking price and displays the order at one minimum price variation below the NBO for bids and above the NBB for offers.

As proposed, under the Price Adjust process, an order eligible for display by the Exchange that, at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation of an external market or the Exchange will be ranked and displayed by the System at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the current NBB (for offers). Thus, in contrast to the display-price sliding process, the Price Adjust process would both rank and display an order at one minimum price variation below the current NBO or above the current NBB (rather than ranking an order at the locking price). Further, as noted above, the Price Adjust process would adjust the price of a BATS Post Only Order or Partial Post Only at Limit Order that would lock or cross an order displayed by the Exchange unless such order is permitted to remove liquidity as described in Rules 11.9(c)(6) and (c)(7), respectively, whereas the display-price sliding process would cancel an order back to the User unless it removed liquidity on entry.

The Exchange also proposes to state that in the event the NBBO changes [5] such that an order subject to Price Adjust would not lock or cross a Protected Quotation, the order will receive a new timestamp, and will be displayed at the price that originally locked the NBO (for bids) or NBB (for offers) on entry.

As an example of the Price Adjust process, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.13 per share. Assume the NBBO is $10.10 by $10.12. If the Exchange receives a non-routable bid to buy 100 shares at $10.12 per share the Exchange will rank and display the order to buy at $10.11 because displaying the bid at $10.12 would lock an external market's Protected Offer to sell for $10.12. If the NBO then moved to $10.13, the Exchange would un-slide the bid to buy and rank and display it at its limit price of $10.12.

As an example of an order executed while subject to the Price Adjust process before being un-slid by the Exchange, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.13 per share. Assume the NBBO is $10.10 by $10.12. If the Exchange receives a non-routable bid to buy 100 shares at $10.12 per share the Exchange will rank and display the order to buy at $10.11 because displaying the bid at $10.12 would lock an external market's Protected Offer to sell for $10.12. Assume next that the Exchange receives an offer to sell 100 shares at $10.11. The incoming order to sell will execute at $10.11 against the resting bid to buy 100 shares (originally priced at $10.12) that has been slid pursuant to the Price Adjust process. Thus, the order executes at a full penny per share better than if it were ranked at the locking price of $10.12 (buying for $10.11 rather than $10.12 per share).

Similarly, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.12 per share. Assume the NBBO is also $10.10 by $10.12. If the Exchange receives a BATS Post Only bid to buy 100 shares at $10.12 per share the Exchange will rank and display the order to buy at $10.11 because displaying the bid at $10.12 would lock the Exchange's Protected Offer to sell for $10.12 and the order would not remove liquidity pursuant to Rule 11.9(c)(6). If the NBO, including the Exchange's best offer, then moved to $10.13, the Exchange would un-slide the bid to buy and rank and display it at its limit price of $10.12.

The Exchange also proposes to state that all orders that are re-ranked and re-displayed pursuant to Price Adjust will retain their priority as compared to other orders subject to Price Adjust based upon the time such orders were initially received by the Exchange. Further, as proposed, following the

[3] As defined in BATS Rule 1.5(cc), a User is ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.''

[4] As defined in BATS Rule 1.5(t), applicable to BATS Equities, a ''Protected Quotation'' is ''a quotation that is a Protected Bid or Protected Offer.'' In turn, the term ''Protected Bid'' or ''Protected Offer'' means ''a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.'' As defined in BATS Rule 27.1, applicable to BATS Options, a ''Protected Quotation'' is ''a Protected Bid or Protected Offer.'' In turn, the term ''Protected Bid'' or ''Protected Offer'' means ''a Bid or Offer in an options series, respectively, that: (A) Is disseminated pursuant to the OPRA Plan; and (B) Is the Best Bid or Best Offer, respectively, displayed by an Eligible Exchange.'' An ''Eligible Exchange'' is defined in Rule 27.1 as means ''a national securities exchange registered with the SEC in accordance with Section 6(a) of the Exchange Act that: (a) Is a Participant Exchange in OCC (as that term is defined in Section VII of the OCC by-laws); (b) is a party to the OPRA Plan (as that term is described in Section I of the OPRA Plan); and (c) if the national securities exchange chooses not to become a party to this Plan, is a participant in another plan approved by the Commission providing for comparable Trade-Through and Locked and Crossed Market protection.''

[5] The Exchange notes that it recently filed a proposal clarifying the methodology used by the Exchange to calculate the NBBO, including the data feeds used to calculate the NBBO as well as various types of feedback that update the Exchange's view of the NBBO, such as feedback from receipt of Intermarket Sweep Orders with a time-in-force of Day and feedback from the Exchange's routing broker-dealer, BATS Trading, Inc. *See* Securities Exchange Act Release No. 72685 (July 28, 2014), 79 FR 44889 (August 1, 2014) (SR–BATS–2014–029).

initial ranking and display of an order subject to Price Adjust, an order will only be re-ranked and re-displayed to the extent it achieves a more aggressive price.

In order to offer multiple price sliding to Exchange Users that select Price Adjust, the Exchange proposes to make clear that the ranked and displayed prices of an order subject to Price Adjust may be adjusted once or multiple times depending upon the instructions of a User and changes to the prevailing NBBO. As is true for display-price sliding, multiple price sliding pursuant to Price Adjust would be optional and would have to be explicitly selected by a User before it will be applied. Orders subject to multiple price sliding for Price Adjust will be permitted to move all the way back to their most aggressive price, whereas orders subject to Price Adjust may not be adjusted to their most aggressive price, depending upon market conditions and the limit price of the order upon entry.

As an example of multiple price sliding for Price Adjust assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.14 per share. Assume the NBBO is $10.10 by $10.12. If the Exchange receives a non-routable bid to buy 100 shares at $10.13 per share, the Exchange would rank and display the order to buy at $10.11 because displaying the bid at $10.13 would cross an external market's Protected Offer to sell for $10.12. If the NBO then moved to $10.13, the Exchange would un-slide the bid to buy and rank and display it at $10.12. Under the proposed single Price Adjust functionality, the Exchange would not further adjust the ranked or displayed price following this un-slide. However, under multiple price sliding for Price Adjust if the NBO then moved to $10.14, the Exchange would un-slide the bid to buy and rank and display it at its full limit price of $10.13.

The Exchange currently offers display-price sliding functionality to avoid locking or crossing other markets' Protected Quotations, but does not price slide to avoid executions on the Exchange's order book (''BATS Book''). Specifically, when the Exchange receives an incoming order that could execute against resting displayed liquidity but an execution does not occur because such incoming order is designated as an order that will not remove liquidity (*i.e.,* a BATS Post Only Order),[6] then the Exchange will cancel the incoming order. As noted above, the Exchange proposes to make clear in the description of Price Adjust that any display-eligible BATS Post Only Order that locks or crosses a Protected Quotation displayed by the Exchange upon entry will be executed as set forth in Rule 11.9(c)(6) or adjusted pursuant to the Price Adjust process. Similarly, the Exchange proposes to make clear that any display-eligible Partial Post Only at Limit Order that locks or crosses a Protected Quotation displayed by the Exchange upon entry will be executed as set forth in Rule 11.9(c)(7) or adjusted pursuant to the Price Adjust process. The Exchange reiterates that in contrast to the proposed operation of Price Adjust, the existing display-price sliding process would instead cancel BATS Post Only orders and BATS Partial Post Only at Limit orders that would lock or cross a Protected Quotation displayed by the Exchange to the extent such orders are not executed on entry.

The Exchange currently applies display-price sliding to Non-Displayed Orders that cross Protected Quotations of external markets. The Exchange proposes language that makes clear that this functionality will apply to all orders for which a User has selected either display-price sliding or Price Adjust. The proposed rule states that Non-Displayed Orders that are subject to display-price sliding or Price Adjust are ranked at the locking price on entry. The proposed description also makes clear that price sliding for Non-Displayed Orders is functionally equivalent to the handling of displayable orders except that such orders will not have a displayed price and will not be re-priced again unless such orders cross a Protected Quotation of an external market (*i.e.,* such orders are not un-slid). Other than updating the language of the rule to reflect that Non-Displayed Orders for which a User has selected Price Adjust will be handled in the same way as orders subject to display-price sliding, the Exchange is not proposing to change its handling of Non-Displayed Orders.

As an example of the Exchange's handling of Non-Displayed Orders in the context of Price Adjust, assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share and a posted and displayed offer to sell 100 shares at $10.13 per share. Assume the NBBO is $10.10 by $10.11. If the Exchange receives a Non-Displayed Order bid to buy 100 shares at $10.12 per share, the Exchange would re-price the order to a $10.11 bid to buy to avoid potentially trading through the $10.11 offer displayed as the NBO (*i.e.,* to ensure the Exchange will not allow the bid to trade at $10.12 per share). In the event the NBBO moved to $10.09 by $10.10, the Exchange would re-price the Non-Displayed bid to buy 100 shares to $10.10 per share. If the NBBO then moved to $10.10 by $10.11, the Non-Displayed bid would not be re-priced to $10.11, but would remain on the Exchange's order book at $10.10. This proposed handling is identical to handling of a Non-Displayed Order for which a User has selected display-price sliding.

The Exchange also proposes that in the event the NBBO changes such that display eligible orders subject to display-price sliding and Price Adjust would not lock or cross a Protected Quotation and are eligible to be displayed at a more aggressive price, the System will first display all orders subject to display-price sliding at their ranked price followed by orders subject to Price Adjust, which will be re-ranked and re-displayed as set forth above. The Exchange believes it is reasonable to un-slide orders subject to display-price sliding before it un-slides orders subject to Price Adjust because Price Adjust is a less aggressive form of price sliding than display-price sliding, in that an order submitted by a User that elects Price Adjust will be displayed and ranked at the same price rather than ranked at the locking price and displayed at a less aggressive price.

The Exchange also proposes to make clear that if a User elects to apply Price Adjust to an order submitted to BATS Equities, price sliding will apply short sale price sliding in connection with the handling of the order by the Exchange. The Exchange does not propose to modify its short sale price sliding functionality.

BATS Options—Price Adjust

In order to maintain consistency between analogous processes offered by BATS Equities and BATS Options, the Exchange proposes to modify the rules of BATS Options to conform to the changes described above related to Price Adjust.

BATS Options currently offers display-price sliding (including multiple display-price sliding) offered

[6] The Exchange again notes that BATS Post Only Orders are permitted to remove liquidity from the BATS Book if the value of price improvement associated with such execution equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the order posted to the BATS Book and subsequently provided liquidity. *See* Rule 11.9(c)(6). Similarly, Partial Post Only at Limit Orders are permitted to remove price improving liquidity as well as a User-selected percentage of the remaining order at the limit price if, following such removal, the order can post at its limit price. *See* Rule 11.9(c)(7).

to ensure compliance with locked and crossed market rules relevant to participation on BATS Options. The proposed Price Adjust functionality for BATS Options is similar to the proposed functionality for BATS Equities, with the exception of language related to non-displayed orders. BATS Options does not have non-displayed orders, and thus, has omitted language regarding Price Adjust functionality applicable to non-displayed orders.

As drafted, Rules 21.1(i) and 21.1(j) are identical to the description of display-price sliding set forth in proposed Rule 11.9 and described above with the exception of minor references necessary due to the difference between rules applicable to BATS Equities and BATS Options and the omission of certain rule text specific to non-displayed orders, which are applicable to BATS Equities only. Further, the examples set forth above are equally applicable to the operation of Price Adjust on BATS Options as they are to the operation of Price Adjust on BATS Equities.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'') [7] and further the objectives of Section 6(b)(5) of the Act [8] because they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [9] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed changes to offer Price Adjust are consistent with Section 6(b)(5) of the Act,[10] as well as Rule 610 of Regulation NMS [11] and Rule 201 of Regulation SHO.[12] The Exchange is not modifying the overall functionality of price sliding, which, to avoid locking or crossing quotations of other market centers or to comply with applicable short sale restrictions, displays orders at permissible prices while retaining a price at which the User is willing to buy or sell, in the event display at such price or an execution at such price becomes possible. Instead, the Exchange is making changes to adopt an optional form of price sliding, Price Adjust, which will rank orders at their displayed price rather than the locking price, as described above. Thus, while subject to Price Adjust sliding, an order is ranked at a less aggressive price, which may be preferable to certain Users that wish to provide liquidity but do not wish to cross the spread (*i.e.,* if buying, do not wish to trade at the NBO or if selling, do not wish to trade at the NBB). The Exchange believes it is reasonable to un-slide display-price sliding orders before it un-slides Price Adjust orders because Price Adjust is a less aggressive form of price sliding than display-price sliding, in that an order submitted by a User would be displayed and ranked at the same price rather than ranked at the locking price and displayed at a less aggressive price. Thus, because orders subject to display-price sliding are ranked at and subject to execution at higher prices when buying and lower prices when selling, the Exchange believes that such orders should be re-displayed before orders subject to Price Adjust orders in response to changes to the NBBO.

Rule 610(d) requires exchanges to establish, maintain, and enforce rules that require members reasonably to avoid ''[d]isplaying quotations that lock or cross any protected quotation in an NMS stock.'' [13] Such rules must be ''reasonably designed to assure the reconciliation of locked or crossed quotations in an NMS stock,'' and must ''prohibit . . . members from engaging in a pattern or practice of displaying quotations that lock or cross any quotation in an NMS stock.'' [14] Thus, the Price Adjust process proposed by the Exchange, including the functionality proposed for BATS Options, will assist Users by displaying orders at permissible prices. Similarly, Rule 201 of Regulation SHO [15] requires trading centers to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order at a price at or below the current NBB under certain circumstances. The Exchange's short sale price sliding will continue to operate the same for Users of Price Adjust as it does for Users that select the display-price sliding process offered by the Exchange.

As noted above, in contrast to display-price sliding, which is based solely on Protected Quotations at equities markets and options exchanges other than the Exchange, the proposed Price Adjust process would be based on Protected Quotations at external markets and at the Exchange. Thus, if the Exchange has a Protected Quotation that an incoming order to the Exchange locks or crosses then such order executes against the resting order, or, if the incoming order is a BATS Post Only Order or Partial Post Only at Limit Order, such order would be executed in accordance with Rules 11.9(c)(6) and (c)(7), respectively, or adjusted pursuant to the Price Adjust process. The Exchange believes that it is reasonable and consistent with the Act to apply the Price Adjust process to orders on entry that cannot executed or displayed at their limit price because this will contribute to additional displayed liquidity on the Exchange than if such orders were cancelled back to the User. Therefore, the Exchange believes the proposal to apply the Price Adjust process to orders that cannot be displayed because they would lock or cross displayed contra-side interest on the Exchange (and not just external markets) will promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange also reiterates that the proposed Price Adjust process will enable the System to avoid displaying a locking or crossing quotation in order to ensure compliance with Rule 610(d) of Regulation NMS.

The Exchange notes that similar functionality was recently proposed by the Exchange's affiliate, EDGX Exchange, Inc. and that the proposed rules are based on the Price Adjust functionality set forth in such proposal.[16]

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. The proposed rule change is being proposed as an additional option for Users that wish to utilize Exchange price sliding functionality and that the functionality is consistent with that offered by the Exchange today as well as affiliates and

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1(a)(1).

[10] *Id.*

[11] 17 CFR 242.610.

[12] 17 CFR 242.201.

[13] 17 CFR 242.610(d).

[14] *Id.*

[15] 17 CFR 242.201.

[16] *See* Securities Exchange Act Release No. 72676 (July 25, 2014), 79 FR 44520 (July 31, 2014) (SR–EDGX–2014–18).

competitors of the Exchange. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2014–038 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–2014–038. 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 at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2014–038, and should be submitted on or before September 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–21002 Filed 9–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72941; File No. SR–ICC–2014–14]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change to Add Rules Related to the Clearing of Standard Western European Sovereign CDS Contracts

August 28, 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 August 25, 2014, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to adopt new rules that will provide the basis for ICC to clear additional credit default swap contracts. Specifically, ICC is proposing to amend Chapter 26 of its rules to add Subchapter 26I and to amend the ICC Risk Management Framework to provide for the clearance of Standard Western European Sovereign CDS contracts, specifically the Republic of Ireland, the Italian Republic, the Portuguese Republic, and the Kingdom of Spain (collectively, the ''SWES Contracts''). The proposed change is dependent on the approval and implementation of the proposed rule change contained in ICC–2014–11 and therefore, the text of the proposed rule change in Exhibit 5 should be read in conjunction with the text of the proposed rule change in Exhibit 5 to ICC–2014–11.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ICC has identified SWES Contracts as products that have become increasingly important for market participants to utilize for risk management. ICC believes that clearance of SWES Contracts will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible.

SWES Contracts have similar terms to the Standard North American Corporate Single Name CDS contracts (''SNAC Contracts'') currently cleared by ICC and governed by Subchapter 26B of the ICC Rules, the Standard Emerging Sovereign CDS contracts (''SES Contracts'') currently cleared by ICC and governed by Subchapter 26D of the ICC Rules, and the Standard European Corporate Single

[17] 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. 34–72701 (Jul. 29, 2014), 79 FR 45565 (Aug. 5, 2014) (SR–ICC–2014–11). The text of the proposed rule change for rule filing SR–ICC–2014–11 can also be found on ICC's Web site at *https://www.theice.com/clear-credit/regulation.*

Name CDS contracts (''SDEC Contracts'') currently cleared at ICC and governed by Subchapter 26G of the ICC Rules. Accordingly, the proposed rules found in Subchapter 26I largely mirror the ICC Rules for SNAC Contracts in Subchapter 26B, SES Contracts in Subchapter 26D, and SDEC Contracts in Subchapter 26G, with certain modifications that reflect differences in terms and market conventions between those contracts and SWES Contracts. SWES Contracts will be denominated in United States Dollars.

The proposed rules set forth in Subchapter 26I 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''). ICC has a rule filing currently pending with the Commission consisting of proposed amendments to the ICC Rules to incorporate references to the 2014 ISDA Definitions (ICC–2014–11).[4] This filing has a planned effective date, consistent with the industry implementation date of the 2014 ISDA Definitions, on September 22, 2014. The 2014 ISDA Definitions will be applicable to SWES Contracts cleared by ICC, and, as such, references to the 2014 ISDA Definitions are utilized throughout the SWES Contracts-related rules found in Subchapter 26I. Thus, approval and implementation of clearing SWES Contracts is dependent on the approval and implementation of the proposed rule change contained in ICC–2014–11 and therefore, the text of the proposed rule change in Exhibit 5 should be read in conjunction with the text of the proposed rule change in Exhibit 5 to ICC–2014–11.[5] ICC will not implement the 2014 ISDA Definitions-related rule changes until regulatory approval is received and until the industry implementation date of September 22, 2014. Similarly, ICC will not begin clearing SWES Contracts until the later of receipt of regulatory approval or the industry implementation date of September 22, 2014. SWES Contracts will only be offered on the 2014 ISDA Definitions.

Rule 26I–102 (Definitions) sets forth the definitions used for the SWES Contracts. An ''Eligible SWES Reference Entity'' is defined as ''each particular Reference Entity included in the List of Eligible SWES Reference Entities,'' which is a list maintained, updated and published from time to time by ICC containing certain specified information with respect to each reference entity. If ICC determines to add or remove additional SWES Contracts from the List of Eligible SWES Reference Entities, it will seek approval from the Commission for such contracts (or for a class of product including such contracts) by a subsequent filing. The remaining definitions are substantially the same as the definitions found in Subchapters 26B, 26D, and 26G of the ICC Rules, other than certain conforming changes.

ICC Rules 26I–203 (Restriction on Activity), 26I–206 (Notices Required of Participants with respect to SWES Contracts), 26I–303 (SWES Contract Adjustments), 26I–309 (Acceptance of SWES Contracts by ICE Clear Credit), 26I–315 (Terms of the Cleared SWES Contract), 26I–316 (Relevant Physical Settlement Matrix Updates), 26I–502 (Specified Actions), and 26I–616 (Contract Modification) reflect or incorporate the basic contract specifications for SWES Contracts and are substantially the same as under Subchapters 26B, 26D, and 26G of the ICC Rulebook.

Clearing SWES Contracts will not require any changes to ICC's operational procedures, as the SWES Contracts operate similarly to the Standard Emerging European and Middle Eastern Sovereign Single Names, currently cleared by ICC. The addition of SWES Contracts to ICC's product offering requires risk specific changes to the ICC Risk Management Framework, which are described below.

ICC's Risk Management Framework has been revised to incorporate additional model features designed to generalize the currently established Specific Wrong Way Risk (''SWWR'') Initial Margin (''IM'') requirement. The proposed changes to the ICC Risk Management Framework generalize the SWWR relative to General Wrong Way Risk (''GWWR''). This generalization of Wrong Way Risk (''WWR'') is introduced to account for additional risk present in CDS instruments whose reference entities exhibit a high level of correlation with those Clearing Participants clearing the relevant name, or with an entity that is guaranteed by, or affiliated with, those Clearing Participants. To this effect, the offering of SWES Contracts introduces potential GWWR in the form of country/region of domicile WWR. Examples of GWWR related to SWES include but are not limited to a CP selling protection on its country of domicile, or a European domiciled Clearing Participant selling protection on European sovereign reference entities. To address such risks, an additional Jump To Default Risk (''JTDR'') requirement is established.

Accordingly, the Risk Management Framework contains revisions to the calculation of the portfolio JTDR requirement. Specifically, the calculations have been updated to incorporate the concept of WWR as described below in reference to the quantitative and qualitative approaches. These revisions will have no material impact on the size of the Guaranty Fund.

ICC's proposed changes adopt a combination of qualitative and quantitative approaches to capture GWWR. Under the revised ICC Risk Management Framework, an additional contribution to the JTDR requirement will be required when Clearing Participants sell protection on SWES reference entities exhibiting a high degree of association with itself (quantitative approach) or by virtue of selling protection on its country of domicile (qualitative approach). For the qualitative case, ICC will require full collateralization of the additional Jump To Default (''JTD'') loss. In determining a Clearing Participants' country of domicile for purposes of the qualitative determination, ICC refers to the International Organization for Standardization (''ISO'') country code for the issuer's ultimate parent country of risk. The ISO methodology considers management location, country of primary listing, country of revenue and reporting currency of the issuer.

The quantitative approach applies to the additional risk arising from Clearing Participants selling protection on SWES reference entities, other than the Clearing Participant's country of domicile, on which the Clearing Participant's domicile has a high degree of correlation. If the additional SWES JTD losses and the dependence levels breach specific threshold amounts, additional GWWR collateralization will be required. The additional collateralization is a function of the level of correlation between the Clearing Participants and the SWES reference entities and will become more conservative as the level of correlation increases.

As a result of these enhancements to the ICC Risk Management Framework, Rule 26D–309 (Acceptance of SES Contracts by ICE Clear Credit), part (c) has been revised to remove language which prohibits the acceptance of Trades for clearance and settlement if at the time of submission or acceptance of the Trade or at the time of novation the Participant submitting the Trade is domiciled in the country of the Eligible Standard Emerging Sovereign (''SES'') Reference Entity for such SES contract. The new GWWR methodology will

[4] *Id.*

[5] *Id.*

apply to all sovereign contracts cleared by ICC, including SES contracts.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act[6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. These contracts are similar to the SNAC, SES, and SDEC Contracts currently cleared by ICC, and the SWES Contracts will be cleared pursuant to ICC's existing clearing arrangements and related financial safeguards, protections and risk management procedures, except as described herein. The addition of SWES Contracts will allow market participants an increased ability to manage risk. ICC believes that acceptance of the new contracts, on the terms and conditions set out in the ICC Rules, is consistent with the prompt and accurate clearance of and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[7] ICC performed a comprehensive risk analysis related to the clearing of SWES Contracts and identified the introduction of GWWR as a new risk and accommodated for this risk in the ICC Risk Management Framework, as discussed herein. ICC identified no additional risk or systemic risk concerns introduced by clearing SWES Contracts, not accounted for by ICC's existing risk management procedures. As such, clearing the new SWES Contracts is consistent with the requirement of promoting and protecting the public interest in Section 17A(b)(3)(F).[8]

Clearing of the additional SWES Contracts will also satisfy the requirements of Rule 17Ad–22.[9] In particular, in terms of financial resources, ICC will apply its existing margin methodology to the additional contracts, with enhancements to address General Wrong Way Risk discussed above. ICC believes that this model will provide sufficient margin to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17Ad–22(b)(2).[10] In addition, ICC believes its Guaranty Fund, under its existing methodology, will, together with the required margin, provide sufficient financial resources to support the clearing of the additional contracts consistent with the requirements of Rule 17Ad–22(b)(3).[11] ICC also believes that its existing operational and managerial resources will be sufficient for clearing of the additional contracts, consistent with the requirements of Rule 17Ad–22(d)(4),[12] as the new contracts are substantially the same from an operational perspective as existing contracts. Similarly, ICC will use its existing settlement procedures and account structures for the new contracts, consistent with the requirements of Rule 17Ad–22(d)(5), (12) and (15)[13] as to the finality and accuracy of its daily settlement process and avoidance of the risk to ICC of settlement failures. ICC determined to accept the SWES contracts for clearing in accordance with its governance process, which included review of the contracts and related risk management considerations (and the enhancements to the margin methodology for General Wrong Way Risk discussed herein) by the ICC Risk Committee and approval by its Board. These governance arrangements are consistent with the requirements of Rule 17Ad–22(d)(8).[14] Finally, ICC will apply its existing default management policies and procedures for the SWES contracts. ICC believes that these procedures allow for it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of clearing member insolvencies or defaults in respect of the additional single names, in accordance with Rule 17Ad–22(d)(11).[15]

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed GWWR methodology and the additional JTDR will apply uniformly to all ICC Clearing Participants, as applicable. The SWES Contracts will be available for clearing to all ICC Clearing Participants. The clearing of SWES Contracts by ICC does not preclude the offering of this product for clearing by other market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICC–2014–14 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–ICC–2014–14. 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

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Id.*

[8] *Id.*

[9] 17 CFR 240.17Ad–22.

[10] 17 CFR 240.17Ad–22(b)(2).

[11] 17 CFR 240.17Ad–22(b)(3).

[12] 17 CFR 240.17Ad–22(d)(4).

[13] 17 CFR 240.17Ad–22(d)(5), (12) and (15).

[14] 17 CFR 240.17Ad–22(d)(8).

[15] 17 CFR 240.17Ad–22(d)(11).

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2014–14 and should be submitted on or before September 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–20997 Filed 9–3–14; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14097 and #14098]

Utah Disaster #UT–00033

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Utah dated 08/27/2014.

Incident: Storms and Flash Flooding.

Incident Period: 08/04/2014 through 08/05/2014.

Effective Date: 08/27/2014.

Physical Loan Application Deadline Date: 10/27/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 05/27/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Carbon

Contiguous Counties:

Utah: Duchesne, Emery, Sanpete, Uintah, Utah.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125
Homeowners Without Credit Available Elsewhere	2.063
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14097 6 and for economic injury is 14098 0.

The State which received an EIDL Declaration # is Utah.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

Dated: August 27, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–21015 Filed 9–3–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Agricultural Aircraft Operator Certificate Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 12, 2014, vol. 79, no. 113, page 33797. Standards have been established for the certification of agricultural aircraft. The information collected shows applicant compliance and eligibility for certification by FAA.

DATES: Written comments should be submitted by October 6, 2014.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0049.

Title: Agricultural Aircraft Operator Certificate Application.

Form Numbers: FAA Form 8710–3.

Type of Review: Renewal of an information collection.

Background: 14 CFR part 137 prescribes requirements for issuing agricultural aircraft operator certificates and for appropriate operating rules. The information on FAA Form 8710–3, Agricultural Aircraft Operator Certificate Application, is required from applicants who wish to be issued a commercial or private agricultural aircraft operator certificate. Aviation Safety Inspectors in FAA Flight Standards District Offices (FSDO) review the submitted information to determine certificate eligibility.

Respondents: Approximately 2,950 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1.3 hours.

Estimated Total Annual Burden: 10,275 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's

[16] 17 CFR 200.30–3(a)(12).

performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on August 28, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–21084 Filed 9–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: FAA Entry Point Filing Form—International Registry

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 12, 2014, vol. 79, no. 113, page 33798. The respondents supply information through the AC 8050–135 to the FAA Civil Aviation Registry's Aircraft Registration Branch in order to obtain an authorization code for access to the International Registry.

DATES: Written comments should be submitted by October 6, 2014.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0697.

Title: FAA Entry Point Filing Form—International Registry.

Form Numbers: FAA Form 8050–135.

Type of Review: Renewal of an information collection.

Background: The information collected is necessary to obtain an authorization code for transmission of information to the International Registry. To transmit certain types of interests or prospective interests to the International Registry, interested parties must file a completed FAA Entry Point Filing Form—International Registry, AC Form 8050–135, with the FAA Civil Aviation Registry. Upon receipt of the completed form, the FAA Civil Aviation Registry will issue the unique authorization code.

Respondents: Approximately 8,750 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden: 4,375 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on August 28, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–21082 Filed 9–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the obligation of Federal-aid funds for 50 State projects involving the purchase or retrofit of vehicles or vehicle components on the condition that they be assembled in the U.S.

DATES: The effective date of the waiver is September 5, 2014.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, 202–366–1562, or via email at *gerald.yakowenko@dot.gov*. For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, 202–366–1373, or via email at *jomar.maldonado@dot.gov*. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at *http://www.archives.gov* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Background

This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the obligation of Federal-aid funds for 50 State projects involving the purchase or retrofit of vehicles (including sedans, vans, pickups, Sports Utility Vehicles (SUV), trucks, buses, street sweepers) or vehicle components (such as exhaust controls and auxiliary power units) on the condition that they be assembled in the U.S. The waiver would apply to approximately 820 vehicles. The requests, available at *http://www.fhwa.dot.gov/construction/contracts/cmaq140722.cfm,* are incorporated by reference into this notice. The purposes of these projects include the improvement of air quality (Congestion Mitigation and Air Quality Improvement Program projects), implementation of the National Bridge and Tunnel Inventory and Inspection Program, and the implementation of the FHWA's Recreational Trails Program.

Title 23, Code of Federal Regulations, section 635.410 requires that steel or iron materials (including protective coatings) that will be permanently incorporated in a Federal-aid project must be manufactured in the U.S. For FHWA, this means that all the processes that modified the chemical content,

physical shape or size, or final finish of the material (from initial melting and mixing, continuing through the bending and coating) occurred in the U.S. The statute and regulations create a process for granting waivers from the Buy America requirements when its application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. In 1983, the FHWA determined that it was both in the public interest and consistent with the legislative intent to waive Buy America for manufactured products other than steel manufactured products. However, FHWA's national waiver for manufactured products does not apply to the requests in this notice because they involve predominately steel and iron manufactured products. The FHWA's Buy America requirements do not have special provisions for applying Buy America to ''rolling stock'' such as vehicles or vehicle components (see 49 U.S.C. 5323(j)(2)(C), 49 CFR 661.11, and 49 U.S.C. 24405(a)(2)(C) for examples of Buy America rolling stock provisions for other DOT agencies).

Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers that produce the vehicles and vehicle components identified in this notice in such a way that their steel and iron elements are manufactured domestically. The FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet the requirement that steel and iron materials be manufactured domestically. Vehicles were not the types of products that were initially envisioned to meet FHWA Buy America requirements. In today's global industry, vehicles are assembled with iron and steel components that are manufactured all over the world. The FHWA is not aware of any domestically produced vehicle on the market that meets the FHWA's Buy America requirement to have all its iron and steel be manufactured exclusively in the U.S. For example, the Chevrolet Volt, which was identified by many commenters in a November 21, 2011, **Federal Register** Notice (76 FR 72027) as a car that is made in the U.S., is comprised of only 45 percent of U.S. and Canadian content according to the National Highway Traffic Safety Administration's Part 583 American Automobile Labeling Act Report Web page (*http://www.nhtsa.gov/Laws+&+Regulations/Part+583+American+Automobile+Labeling+Act+(AALA)+Reports*). Moreover, there is no indication of how much of this 45 percent content is U.S.-manufactured (from initial melting and mixing) iron and steel content.

In accordance with Division A, section 122 of the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. 112–284), FHWA published a notice of intent to issue a waiver on its Web site at (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=98*) on July 23. The FHWA received three comments in response to the publication. All three commenters supported granting a waiver.

Based on FHWA's conclusion that there are no domestic manufacturers that can produce the vehicles and vehicle components identified in this notice in such a way that steel and iron materials are manufactured domestically, and after consideration of the comments received, FHWA finds that application of the FHWA's Buy America requirements to these products is inconsistent with the public interest (23 U.S.C. 313(b)(1) and 23 CFR 635.410(c)(2)(i)). However, FHWA believes that it is in the public interest and consistent with the Buy America requirements to impose the condition that the vehicles and the vehicle components be assembled in the U.S. Requiring final assembly to be performed in the U.S. is consistent with past guidance to the FHWA Division Offices on manufactured products (see Memorandum on Buy America Policy Response, Dec. 22, 1997, *http://www.fhwa.dot.gov/programadmin/contracts/122297.cfm*). A waiver of the Buy America requirement without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement. Moreover, in today's economic environment, the Buy America requirement is especially significant in that it will ensure that Federal Highway Trust Fund dollars are used to support and create jobs in the U.S. This approach is similar to the partial waivers previously given for various vehicle projects. Thus, so long as the final assembly of the 50 vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, street sweepers, and tractors) and vehicle components (such as exhaust controls and auxiliary power units) occurs in the U.S., applicants to this waiver request may proceed to purchase these vehicles and equipment consistent with the Buy America requirement.

In accordance with the provisions of section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Technical Corrections Act of 2008 (Pub. L. 110–244), FHWA is providing this notice of its finding that a public interest waiver of Buy America requirements is appropriate on the condition that the vehicles and vehicle components identified in the notice be assembled in the U.S. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's Web site via the link provided to the waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: August 27, 2014.

Gregory G. Nadeau,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2014–21022 Filed 9–3–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Transit-Oriented Development Planning Pilot Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Availability (NOFA): Solicitation of Project Proposals for the Pilot Program for Transit-Oriented Development Planning.

SUMMARY: The Federal Transit Administration (FTA) announces the availability of $19.98 million of Fiscal Year (FY) 2013 and FY 2014 funds under the Pilot Program for Transit-Oriented Development (TOD) Planning as authorized under Section 20005(b) of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, July 6, 2012. The program augments FTA's Fixed Guideway Capital Investment Grants (CIG) Program by supporting comprehensive planning associated with new fixed guideway and core capacity improvement projects that will help the projects develop information to address the CIG Program's evaluation criteria and thus be more competitive for that program's funding.

This notice solicits proposals to compete for FY 2013 and FY 2014 funding under the Pilot Program for TOD Planning and may include additional funds made available under future appropriations. It outlines the process to apply for funding, identifies FTA's priorities for these discretionary funds, and establishes the criteria FTA will use to identify meritorious projects for funding. This announcement is available on the FTA Web site at:

http://www.fta.dot.gov. FTA may announce final selections on the Web site and in the **Federal Register**. Additionally, a synopsis of this funding opportunity will be posted in the FIND module of the government-wide electronic grants (GRANTS.GOV) Web site at *http://www.grants.gov.*

DATES: Complete proposals for Pilot Program for TOD Planning funding must be submitted by 11:59 p.m. EDT November 3, 2014. All proposals must be submitted electronically through the GRANTS.GOV APPLY function. Any agency intending to apply should initiate the process of registering on the GRANTS.GOV site immediately to ensure completion of registration before the submission deadline. Instructions for applying can be found on FTA's Web site at *http://www.fta.dot.gov/TODPilot* and in the ''FIND'' module of GRANTS.GOV.

FOR FURTHER INFORMATION CONTACT: For program-specific questions, please contact Benjamin Owen, Office of Planning and Environment, (202) 366–5602, email: *Benjamin.Owen@dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

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A. FTA Pilot Program for TOD Planning Overview

1. Authority

MAP–21 authorizes FTA to make grants for eligible projects under the Pilot Program for TOD Planning on a competitive basis subject to the terms and conditions outlined in. The $19.98 million available consists of $9.98 million from the Consolidated and Further Continuing Appropriations Act, 2013, and $10 million from the Consolidated Appropriations Act, 2014. FTA intends to award both years' funding to selected applicants responding to this NOFA and may include additional funds made available under future appropriations.

2. Policy Priorities

Through this program, FTA intends to fund comprehensive planning work, including for TOD, that would likely otherwise not occur without Federal support and is conducted in conjunction with the development of transit capital investments that will seek funding from the CIG Program. FTA is seeking comprehensive planning projects covering an entire transit capital project corridor, rather than proposals that involve planning for individual station areas or only a small section of the corridor. FTA is also prioritizing applications in corridors with significant challenges related to TOD planning, low levels of existing development, or where the cost of the planning work to overcome the challenges exceeds what might be readily available locally. Lastly, FTA is seeking planning efforts that include strategies to support housing affordability and address residential and commercial displacement that can sometimes occur when transit capital projects are implemented.

This program will support two priorities of the U.S. Department of Transportation. It will assist the Department with creating Ladders of Opportunity for all Americans by assisting local project sponsors with planning improved access to employment, health care, education, and housing. The program will also promote public-private partnerships by requiring private sector participation.

Congress enacted the Pilot Program for TOD Planning to leverage the significant investments in transit projects FTA is making through its CIG Program. Therefore, FTA is requiring that proposed planning activities be associated with a capital transit project that is currently or soon will be in the Project Development or Engineering phase of the CIG Program (see section C, subsection 1 of this notice for more detail on this requirement).

To ensure any proposed planning work results in concrete, specific deliverables and outcomes, FTA is requiring that transit project sponsors partner with entities with land use planning authority in the transit project corridor to conduct the planning work. FTA will assess the strength of these partnerships in its evaluation of applications.

FTA has been considering the strength of local land use plans and policies in fostering TOD in its evaluation of capital investments projects for nearly two decades, over which time the practice of TOD planning and implementation in the United States has advanced significantly. Most local jurisdictions now develop station-area TOD plans in conjunction with the planning for transit capital investments, and several regions have funding tools to encourage TOD. With few exceptions, these advances in TOD practice have been locally funded and FTA's direct involvement has been limited. Thus, the goal of this program is to further TOD planning by addressing barriers to its implementation and ensuring concrete performance outcomes and measures.

B. Program Description and Purpose

The Pilot Program for TOD Planning helps support FTA's mission of improving public transportation for America's communities by providing funding to local communities to integrate land use and transportation planning with a transit capital investment that will seek funding through the CIG Program. The Pilot Program is not intended to simply support planning that maintains or increases development adjacent to transit. Instead, the Pilot Program is intended to fund comprehensive planning that supports economic development, ridership, multimodal connectivity and accessibility, increased transit access for pedestrian and bicycle traffic, and mixed-use development near transit stations, thus developing information that addresses the CIG Program's evaluation criteria and increasing the competitiveness of the project for that program's funding. The program also encourages identification of infrastructure needs and engagement with the private sector.

C. Program Information

1. Eligible Transit Projects

Any comprehensive planning work proposed for funding under the Pilot Program for TOD Planning must be associated with an eligible transit capital project. To be eligible, the transit capital project must be a New Starts, Core Capacity or fixed-guideway Small Starts project as defined under the CIG Program (e.g., in Section 5309(a) of title 49, United States Code), and be either:

i. In the Project Development or Engineering phase of the New Starts or Core Capacity process, or in the Project Development phase of the Small Starts process by the date the application to the Pilot Program for TOD Planning is submitted; or

ii. Expected to enter New Starts, Small Starts or Core Capacity Project

Development in the near future, as evidenced by the transit project sponsor having already initiated the environmental review activities under the National Environmental Policy Act (NEPA) prior to the publication date of this NOFA.

2. Eligible Applicants

Eligible applicants under this program must be existing direct recipients of FTA grants as of the publication date of this NOFA. An applicant must either be the project sponsor of an eligible transit capital project as defined in the previous subsection or an entity with land use planning authority in an eligible transit capital project corridor. Except in cases where an applicant is both the sponsor of an eligible transit project and has land use authority in at least a portion of the transit project corridor, the application for Pilot Program for TOD Planning funds must include sufficient evidence of a partnership between the transit project sponsor and at least one entity in the project corridor with land use planning authority. Sufficient evidence may include a memorandum of agreement or letter of intent signed by all parties that describes the parties' roles and responsibilities in the proposed comprehensive planning project. Only one application per transit capital project corridor may be submitted to FTA. Multiple applications submitted for a single transit capital project corridor indicate to FTA that partnerships are not in place and FTA will reject all of the applications.

3. Eligible Activities

Applications for funding under the Pilot Program for TOD Planning must describe how the planning work proposed addresses all six aspects of the general authority stipulated in Section 20005(b)(2) of MAP–21:

(A) Enhances economic development, ridership, and other goals established during the project development and engineering processes;

(B) facilitates multimodal connectivity and accessibility;

(C) increases access to transit hubs for pedestrian and bicycle traffic;

(D) enables mixed-use development;

(E) identifies infrastructure needs associated with the eligible project; and

(F) includes private sector participation.

Applications should describe the anticipated final deliverables that will result from the planning work. Examples of final deliverables may include, but are not restricted to, the following:

i. A comprehensive plan report that includes corridor development policies and station development plans, a proposed timeline, and recommended financing strategies for these plans;

ii. A strategic plan report that includes corridor specific planning strategies and program recommendations to support comprehensive planning;

iii. Revised TOD-focused zoning codes and/or resolutions;

iv. A report evaluating and recommending tools to encourage TOD implementation such as land banking, value capture, and development financing;

v. An analysis of the effects of gentrification due to transit capital project implementation and recommendations to reduce these effects;

vi. An analysis of efforts to promote multimodal access to transit stations and to improve connectivity of disadvantaged populations to essential services;

vii. Policies to encourage TOD; and/or

viii. Local or regional resolutions to implement TOD plans and/or establish TOD funding mechanisms.

4. Ineligible Activities

Applications should not include the following activities, which include activities that are targeted to only a single location rather than the comprehensive corridor-focused TOD planning study desired by FTA:

i. TOD planning work in a single transit capital project station area;

ii. Transit project development activities that would be reimbursable through the CIG Program under a Full Funding Grant Agreement (FFGA) or a Small Starts Grant Agreement (SSGA), such as the design and engineering of stations and other facilities, environmental analyses needed for the transit capital project, or costs associated with specific joint development activities;

iii. Capital projects, such as land acquisition, construction, and utility relocation; and

iv. Site- or parcel-specific planning, such as the design of individual structures.

5. Cost Sharing or Matching and Award Amount

The maximum Federal funding share is 80 percent.

6. Eligible Sources of Match

The application must describe the cost of the planning effort proposed and identify the funding sources necessary to complete the work, including the amount of Pilot Program for TOD Planning funds being requested. The applicant must describe each source of the local match and identify whether the funds from each source are committed or planned. For funds identified as committed, the application must include documentation of the funding commitments such as a letter, resolution, adopted budget, etc. Transportation Development Credits (formerly referred to as Toll Revenue Credits) may not be used to satisfy the local match requirement.

D. Proposal Submission Process

Project proposals must be submitted electronically through *http://www.GRANTS.GOV* by 11:59 p.m. November 3, 2014. Mail and fax submissions will not be accepted. Proposals should include only a completed SF 424 Mandatory form (downloaded from GRANTS.GOV) and the following attachments to the completed SF 424:

—A completed Applicant and Proposal Profile supplemental form for the Pilot Program for Transit-Oriented Development Planning (supplemental form) found on the FTA Web site at *http://www.fta.dot.gov/TODPilot.* The supplemental form provides a consistent format for proposers to respond to the criteria outlined in this NOFA and takes the place of a free-form written application. Supplemental forms for other FTA funding programs will not be accepted;

—Documentation of a partnership between the transit project sponsor and an entity in the project corridor with land use planning authority to conduct the planning work, if the applicant does not have both of these responsibilities; and

—Documentation of any funding commitments for the proposed planning work.

FTA will not consider any further attachments in its evaluation of applications, including any narrative that does not fit within the supplemental form's length limit. The total length of the completed supplemental form and documentation of partnerships and funding commitments should be no more than 15 pages.

Within 24–48 hours after submitting an electronic application, the applicant should receive three email messages from GRANTS.GOV: (1) Confirmation of successful transmission to GRANTS.GOV, (2) confirmation of successful validation by GRANTS.GOV

and (3) confirmation of successful validation by FTA. If confirmations of successful validation are not received and a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

Any addenda that FTA releases on the application process will be posted at *http://www.fta.dot.gov/TODPilot.* Important: FTA urges proposers to submit their applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline. GRANTS.GOV scheduled maintenance and outage times are announced on the GRANTS.GOV Web site at *http://www.GRANTS.GOV.* Deadlines will not be extended due to scheduled maintenance or outages.

Proposers are encouraged to begin registration process on the GRANTS.GOV site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered proposers may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in GRANTS.GOV by the AOR to make submissions. Instructions on the GRANTS.GOV registration process are listed in Appendix A.

Information such as proposer name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF 424 form and supplemental form. Proposers must fill in all fields unless stated otherwise on the forms. Proposers should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the federal and local amounts specified are consistent. The information listed in sections E and F of this NOFA MUST be included on the SF 424 and supplemental forms for all requests for Pilot Program for TOD Planning funding.

E. Applicant Information

1. Name of the lead applicant and, if applicable, the specific co-sponsors submitting the application.

2. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number.

3. Contact information including: Contact name, title, address, congressional district, fax and phone number, and email address if available.

4. Name of person(s) authorized to apply on behalf of the system (attach a signed transmittal letter) must accompany the proposal.

F. Proposal Content

Proposals should include only a completed SF 424 Mandatory form and the following attachments to the completed SF 424:

—A supplemental form as described in Section D of this NOFA that has been completed and validated using the ''Validate Form'' button. The supplemental form prompts applicants for all required information about the proposed planning work (listed below), includes fields for responses and takes the place of a free-form written application;

—Documentation of a partnership between the transit project sponsor and an entity in the project corridor with land use planning authority to conduct the planning work, if the applicant does not have both of these responsibilities; and

—Documentation of any funding commitments for the proposed planning work.

FTA will not consider any additional materials submitted by applicants in its evaluation of proposals. The total length of the completed supplemental form and documentation of partnerships and funding commitments should be no more than 15 pages.

The supplemental form will prompt applicants to address the following items:

1. Identify the project title and project scope to be funded, including anticipated final deliverables.

2. Identify an eligible transit project that meets the requirements of section C, subsection 1 of this notice.

3. Provide evidence of a partnership between the transit project sponsor and at least one agency with land use authority in the transit capital project corridor, per section C, subsection 2 of this notice.

4. Address the six aspects of general authority under MAP–21 Section 20005(b)(2).

5. Address each evaluation criterion separately, demonstrating how the project responds to each criterion as described in section G.

6. Provide a line-item budget for the total planning effort, with enough detail to indicate the various key components of the project.

7. Identify the Federal amount requested.

8. Document the matching funds, including amount and source of the match (may include local or private sector financial participation in the project). Describe whether the matching funds are committed or planned, and include documentation of the commitments.

9. Address whether other Federal funds have been sought or received for the project.

10. Provide a project time-line, including significant milestones such as the dates anticipated to incorporate the planning work effort into the region's metropolitan transportation plan and transportation improvement program, and to complete all of the proposed planning work within the maximum period of performance.

11. Describe how the planning work advances goals of the region's metropolitan transportation plan.

12. Propose performance criteria for the implementation of the planning work.

13. Identify possible impediments to the planning work and its implementation, and how the work will address them.

G. Evaluation Criteria

FTA will evaluate proposals that include all components identified in section F of this notice according to the following four criteria:

1. Demonstrated Need

FTA will evaluate each project to determine the need for funding based on the following factors:

i. Barriers to TOD in the corridor and how the proposed work will overcome them;

ii. How the proposed work will advance TOD implementation in the corridor and region;

iii. Justification as to why Federal funds are needed for the proposed work; and

iv. Extent to which the transit project corridor could benefit from TOD planning, as evidenced by current corridor population and employment, and by the extent of ongoing TOD development activity in the corridor, if any.

2. Strength of the Work Plan, Schedule and Process

FTA will evaluate the strength of the work plan, schedule and process included in an application based on the following factors:

i. Extent to which the schedule contains sufficient detail, identifies all steps needed to implement to work proposed, and is achievable;

ii. The proportion of the corridor covered by the work plan;

iii. Extent of partnerships, including with non-public sector entities;

iv. The partnerships' technical capability to develop and implement the plans, based on FTA's assessment of the applicant's description of the policy formation, implementation, and financial roles of the partners, and the roles and responsibilities of proposed staff;

v. Whether the performance measures identified in the application relate to the goals of the planning work;

vi. The extent to which the application demonstrates efforts to address gentrification and displacement;

vii. The extent to which the application demonstrates a commitment to connecting disadvantaged populations to essential services;

viii. Whether the proposed work will examine innovative financial tools such as value capture; and

ix. Whether the application demonstrates leveraging other Federal grants that would support the proposed work plan.

3. Likelihood of Transit Project Implementation

Under this factor, FTA will consider how far along the transit capital project is in the CIG Program process. Planning studies in a corridor where the transit capital project is in the Engineering phase or the Project Development phase will be given a higher score by FTA. Planning studies in a corridor where the transit capital project is not yet in the CIG Program but is expected to soon enter as demonstrated by the initiation of the environmental review process will be given a lower rating under this factor by FTA. FTA will also consider whether the project is currently in the region's fiscally constrained long range transportation plan.

4. Funding Commitments

FTA will assess the status of local matching funds for the planning work. Applications demonstrating that matching funds for the proposed planning work are committed will receive higher ratings from FTA on this factor. Proposed planning projects for which matching funding sources have been identified, but are not yet committed, will be given lower ratings under this factor by FTA.

H. Review and Selection Process

A technical evaluation committee consisting of FTA staff will perform a primarily qualitative evaluation according to the criteria described above. FTA will assign greatest emphasis to the Demonstrated Need and Strength of the Work Plan, Schedule and Process criteria. Each complete, eligible application will receive a rating of Highly Recommended, Recommended or Not Recommended depending on its performance against the criteria. Applications that are complete but not eligible will not be rated. FTA may seek clarification from any applicant about any statement in its application that FTA finds ambiguous, and/or to request additional documentation to be considered during the evaluation process to clarify information contained within the application.

After a thorough evaluation of all eligible proposals, the technical evaluation committee will provide selection recommendations to the FTA Administrator. The FTA Administrator will determine the final list of project selections, and the amount of funding for each project. Geographic diversity and the applicant's receipt of other FTA discretionary funding may be considered in FTA's award decisions. FTA expects to announce the selected projects and notify successful proposers during fall 2014.

I. Award Information

FTA intends to fund as many meritorious TOD planning efforts as possible. Only proposals from eligible recipients for eligible activities will be considered for funding. FTA anticipates minimum grant awards of $250,000 and maximum grant awards of $2,000,000. The maximum period of performance allowed for the work covered by the award is 24 months.

J. Award Administration

1. Award Notices

FTA will not extend pre-award authority for selected projects prior to grant awards. Local funds must be committed and grants awarded within eight months of funding announcements.

2. Administrative and National Policy Requirements

i. Grant Requirements

If selected, awardees will apply for a grant through FTA's electronic grants management system and adhere to the customary FTA grant requirements of the Section 5307 Urbanized Area Formula Grant program, including those of FTA Circular 9030.1E, Circular 5010.1D, and the labor protections of 49 U.S.C. Section 5333(b). All discretionary grants, regardless of award amount, will be subject to the Congressional Notification and release process. Technical assistance regarding these requirements is available from each FTA regional office.

ii. Planning

FTA encourages proposers to notify the appropriate State Departments of Transportation and MPOs in areas likely to be served by the project funds made available under these initiatives and programs. Selected projects must be incorporated into the long-range plans and transportation improvement programs of States and metropolitan areas before they are eligible for FTA funding.

iii. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

iv. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone Reports in FTA's electronic grants management system on a quarterly basis. Awardees must also submit copies of the deliverables identified in the work plan to FTA at the corresponding milestones.

FTA is in the process of seeking Office of Management and Budget (OMB) approval for the collection of data under this NOFA, as required per the Paperwork Reduction Act of 1995. Awardees will not be required to respond to the reporting and recordkeeping requirements in the NOFA until notification of OMB approval has been published in the **Federal Register**.

K. Technical Assistance and Other Program Information

This program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C.

Complete applications must be submitted through GRANTS.GOV by 11:59 p.m. EDT November 3, 2014. Contact information for FTA's regional offices can be found on FTA's Web site at *www.fta.dot.gov.*

Therese W. McMillan,

Acting Administrator.

APPENDIX A

Registering in SAM and GRANTS.GOV

Registration in Brief

Registration takes approximately 3–5 business days, but allow 4 weeks for completion of all steps.

STEP 1: Obtain DUNS Number

Same day. If requested by phone (1–866–705–5711) DUNS is provided immediately. If your organization does not have one, you will need to go to the Dun & Bradstreet Web site at *http://fedgov.dnb.com/webform [EXIT Disclaimer]* to obtain the number. **Information for Foreign Registrants. *Webform requests take 1–2 business days.*

STEP 2: Register with SAM

Three to five business days or up to two weeks. If you already have a TIN, your SAM registration will take 3–5 business days to process. If you are applying for an EIN please allow up to 2 weeks. Ensure that your organization is registered with the System for Award Management (SAM) at *System for Award Management (SAM).* If your organization is not, an authorizing official of your organization must register.

STEP 3: Username & Password

Same day. Complete your AOR (Authorized Organization Representative) profile on Grants.gov and create your username and password. You will need to use your organization's DUNS Number to complete this step. *https://apply07.grants.gov/apply/OrcRegister.*

STEP 4: AOR Authorization

*Same day. The E-Business Point of Contact (E-Biz POC) at your organization must login to Grants.gov to confirm you as an Authorized Organization Representative (AOR). Please note that there can be more than one AOR for your organization. In some cases the E-Biz POC is also the AOR for an organization. **Time depends on responsiveness of your E-Biz POC.*

STEP 5: TRACK AOR STATUS

At any time, you can track your AOR status by logging in with your username and password. Login as an Applicant (enter your username & password you obtained in Step 3) using the following link: *applicant_profile.jsp*

[FR Doc. 2014–21057 Filed 9–3–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0117]

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 October 6, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0117. 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

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 25, 2014.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. 2014–21034 Filed 9–3–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1121X; Docket No. AB 733X]

Coltsville Terminal Company, Inc.—Abandonment Exemption—in Berkshire County, Mass.; Housatonic Railroad Company, Inc.—Discontinuance of Service Exemption—in Berkshire County, Mass.

Coltsville Terminal Company, Inc. (CTC) and Housatonic Railroad

Company, Inc. (HRRC) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for CTC to abandon, and for HRRC to discontinue service over, 1.91 miles of rail line between milepost QBY–0.59 and milepost QBY–2.50 in the City of Pittsfield, Berkshire County, Mass. (the Line). The Line traverses United States Postal Service Zip Code 01201.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; (3) no formal complaint has been filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line and no such complaint is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on October 4, 2014, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 15, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 24, 2014, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representative: John D. Heffner, Strasburger & Price, LLP, 1025 Connecticut Avenue NW., Suite 717, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 9, 2014. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CTC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CTC's filing of a notice of consummation by September 4, 2015, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: August 28, 2014.

By the Board, Joseph Dettmar, Acting Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–20972 Filed 9–3–14; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 552 (Sub-No. 18)]

Railroad Revenue Adequacy—2013 Determination

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Decision.

SUMMARY: On September 2, 2014, the Board served a decision announcing the 2013 revenue adequacy determinations for the Nation's Class I railroads. Five carriers, BNSF Railway Company, Grand Trunk Corporation, Norfolk Southern Combined Railroad Subsidiaries, Soo Line Corporation and Union Pacific Railroad Company, were found to be revenue adequate.

DATES: *Effective Date:* This decision is effective on September 2, 2014.

FOR FURTHER INFORMATION CONTACT: Paul Aguiar, (202) 245–0323. Assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board is required to make an annual determination of railroad revenue adequacy. A railroad is considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment (ROI) equal to at least the current cost of capital for the railroad industry for 2013, determined to be 11.32% in Railroad Cost of Capital—2013, EP 558 (Sub-No. 17) (STB served July 31, 2014). This revenue adequacy standard was applied to each Class I railroad. Five carriers, BNSF Railway Company, Grand Trunk Corporation, Norfolk Southern Combined Railroad Subsidiaries, Soo Line Corporation and Union Pacific Railroad Company, were found to be revenue adequate for 2013.

The decision in this proceeding is posted on the Board's Web site at *www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: August 29, 2014.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–21042 Filed 9–3–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8864

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8864, Biodiesel Fuels Credit.

DATES: Written comments should be received on or before November 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Biodiesel Fuels Credit.

OMB Number: 1545–1924.

Form Number: 8864.

Abstract: The American Jobs Creation Act of 2004, section 302, added new code section 40A, credit for biodiesel used as a fuel. Form 8864 has been developed to allow taxpayers to compute the biodiesel fuels credit. Section 38(b)(17) allows the biodiesel credit to be taken as a credit against income tax for businesses that sell or use biodiesel mixed with other fuels or sold as straight biodiesel.

Current Actions: There are no changes being made to Form 8864 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 26.

Estimated Time per Respondent: 11 hrs., 56 mins.

Estimated Total Annual Burden Hours: 310.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–21066 Filed 9–3–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection requirements related to ten or more employer plans.

DATES: Written comments should be received on or before November 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Ten or More Employer Plan Compliance Information.

OMB Number: 1545–1795.

Regulation Project Number: T.D. 9079

Abstract: This document contains final regulations that provide rules regarding requirements for a welfare benefit fund that is part of a 10 or more employer plan. The regulations affect employers that provide welfare benefits to employees through a plan to which more than one employer contributes.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit or not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time per Response: 25 hrs.

Estimated Total Burden Hours: 2,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–21072 Filed 9–3–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Burden Relating to Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the burden related to existing final regulations, TD 8700, Mark to Market for Dealers in Securities (§§ 1.475(b)–4, and 1.475(c)–1).

DATES: Written comments should be received on or before November 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Mark to Market for Dealers in Securities.

OMB Number: 1545–1496.

Regulation Project Number: TD 8700.

Abstract: Under section 1.475(b)–4, the information required to be recorded is required by the IRS to determine whether exemption from mark-to-market treatment is properly claimed, and will be used to make that determination upon audit of taxpayers' books and records. Also, under section 1.475(c)–1(a)(3)(iii), the information is necessary for the Service to determine whether a consolidated group has elected to disregard inter-member transactions in determining a member's status as a dealer in securities.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,400.

Estimated Time per Respondents: 52 minutes.

Estimated Total Annual Burden Hours: 2,950.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–21067 Filed 9–3–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041–N

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning Form 1041–N, U.S. Income Tax Return for Electing Alaska Native Settlement Trusts.

DATES: Written comments should be received on or before November 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Electing Alaska Native Settlement Trusts.

OMB Number: 1545–1776.

Form Number: 1041–N.

Abstract: An Alaska Native Settlement Trust (ANST) may elect under section 646 to have the special income tax treatment of that section apply to the trust and its beneficiaries. This one-time election is made by filing Form 1041–N which is used by the ANST to report its income, etc., and to compute and pay any income tax. Form

1041–N is also used for the special information reporting requirements that apply to ANSTs.

Current Actions: Editorial changes were made to the form which increased the burden by 5 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time per Respondent: 34 hrs.

Estimated Total Annual Burden Hours: 685.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–21064 Filed 9–3–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection requirements related to Certain Asset Transfers to a Tax Exempt Entity.

DATES: Written comments should be received on or before November 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for copies of this regulation should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Certain Asset Transfers to a Tax-Exempt Entity.

OMB Number: 1545–1633.

Regulation Project Number: T.D. 8802.

Abstract: The written representation requested from a tax-exempt entity in regulations section 1.337(d)–4(b)(1)(A) concerns its plans to use assets received from a taxable corporation in a taxable unrelated trade or business. The taxable corporation is not taxable on gain if the assets are used in a taxable unrelated trade or business.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, business or other for-profit organizations.

Estimated Number of Respondents: 25.

Estimated Time Per Respondent: 5 hrs.

Estimated Total Annual Burden Hours: 125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–21074 Filed 9–3–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is

soliciting comments concerning, accounting for long-term contracts.

DATES: Written comments should be received on or before November 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Accounting for Long-Term Contracts.

OMB Number: 1545–1650.

Regulation Project Number: TD 8929.

Abstract: The regulation requires the Commissioner to be notified of a taxpayer's decision to sever or aggregate one or more long-term contracts under the regulations. The statement is needed so the Commissioner can determine whether the taxpayer properly severed or aggregated its contract(s). The regulations affect any taxpayer that manufactures or constructs property under long-term contracts.

Current Actions: There are no changes to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50,000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 12,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 18, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–21050 Filed 9–3–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection related to Limitations on Corporate Net Operating Loss.

DATES: Written comments should be received on or before November 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Limitations on Corporate Net Operating Loss.

OMB Number: 1545–1381.

Regulation Project Number: T.D. 8546.

Abstract: This document contains final income tax regulations providing rules for allocating net operating loss or taxable income, and net capital loss or gain, within the taxable year in which a loss corporation has an ownership change under section 382 of the Internal Revenue Code of 1986. These regulations permit the loss corporation to elect to allocate these amounts between the period ending on the change date and the period beginning on the day after the change date as if its books were closed on the change date.

Current Actions: There is no change to this regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time per Respondent: 0.1 hours.

Estimated Total Annual Burden Hours: 200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 19, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–21070 Filed 9–3–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0618]

Proposed Information Collection (Application by Insured Terminally Ill Person for Accelerated Benefit); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on the information needed to process accelerated death benefit payment.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 3, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0618'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application by Insured Terminally Ill Person for Accelerated Benefit (38 CFR 9.14(e).

OMB Control Number: 2900–0618.

Type of Review: Revision of a currently approved collection.

Abstract: An insured person who is terminally ill may request a portion of the face value of his or her Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI) prior to death. If the insured would like to receive a portion of the SGLI or VGLI he or she must submit a Servicemembers' and Veterans' Group Life Insurance Accelerated Benefits Option application. The application must include a medical prognosis by a physician stating the life expectancy of the insured person and a statement by the insured on the amount of accelerated benefit he or she choose to receive. The application is obtainable by writing to the Office of Servicemembers' Group Life Insurance ABO Claim Processing, 290 West Mt. Pleasant Avenue, Livingston, NJ 07039, or calling 1800–419–1473 or downloading the application via the internet at *www.insurance.va.gov.*

Affected Public: Individuals or households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden Per Respondent: 12 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 200.

Dated: August 28, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–20927 Filed 9–3–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 38 U.S.C. App. 2 that a meeting of the Advisory Committee on Homeless Veterans will be held September 23–25, 2014. On September 23–24, the Committee will meet at the American GI Forum, National Outreach Program, Inc., at 611 N. Flores, Suite 200, San Antonio, TX, from 8:00 a.m. to 5:00 p.m. On September 25, the Committee will meet at the American GI Forum, National Outreach Program, Inc., at 611 N. Flores, Suite 200, San Antonio, TX, from 8:00 a.m. to 12:00 p.m. The meeting will be open to the public.

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an on-going assessment of the effectiveness of the policies, organizational structures, and services of VA in assisting homeless Veterans. The Committee shall assemble and review information related to the needs of homeless Veterans and provide advice on the most appropriate means of providing assistance to that subset of the Veteran population. The Committee will make recommendations to the Secretary regarding such activities.

On September 23, the agenda will include briefings from officials from VA and other agencies regarding services for homeless Veterans. On September 24–25, officials from VA and other agencies will provide additional briefings regarding services for homeless Veterans. The Committee will then discuss topics for its upcoming annual report and recommendations to the Secretary of Veterans Affairs.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments on issues affecting homeless Veterans for review by the Committee to Ms. Lisa Pape, Designated Federal Officer, VHA Homeless Programs Office (10NC1), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or email to *Lisa.Pape2@va.gov.*

Members of the public who wish to attend should contact Sharon Lien of the Veterans Health Administration, Homeless Programs Office no later than September 10, 2014, at *Sharon.Lien@va.gov* or (202) 632–8590 and provide their name, professional affiliation, address, and phone number. Advanced notification is required for admission to the meeting. Attendees who require reasonable accommodation should submit their requests by September 5, 2014.

Dated: August 29, 2014.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–21069 Filed 9–3–14; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

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Part II

Farm Credit Administration

12 CFR Parts 607, 614, 615, et al.
Regulatory Capital Rules: Regulatory Capital, Implementation of Tier 1/Tier 2 Framework; Proposed Rule

FARM CREDIT ADMINISTRATION

12 CFR Parts 607, 614, 615, 620 and 628

RIN 3052–AC81

Regulatory Capital Rules: Regulatory Capital, Implementation of Tier 1/Tier 2 Framework

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA or we) is seeking comments on this proposed rule that would revise our regulatory capital requirements for Farm Credit System (System) institutions to include tier 1 and tier 2 risk-based capital ratio requirements (replacing core surplus and total surplus requirements), a tier 1 leverage requirement (replacing a net collateral requirement for System banks), a capital conservation buffer, revised risk weightings, and additional public disclosure requirements. The revisions to the risk weightings would include alternatives to the use of credit ratings, as required by section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

DATES: You may send us comments by January 2, 2015.

ADDRESSES: For accuracy and efficiency reasons, please submit comments by email or through the FCA's Web site. We do not accept comments submitted by facsimile (fax), as faxes are difficult for us to process in compliance with section 508 of the Rehabilitation Act. Please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *reg-comm@fca.gov*.
- *FCA Web site: http://www.fca.gov*. Select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Submitting a Comment.''
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or from our Web site at *http://www.fca.gov*. Once you are in the Web site, select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Reading Submitted Public Comments.'' We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT: J.C. Floyd, Senior Capital Markets Specialist and FCA Examiner, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (720) 213–0924, TTY (703) 883–4056; or Rebecca S. Orlich, Senior Counsel, or Jennifer A. Cohn, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

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Addendum: Discussion of This Proposed Rule

I. Introduction

A. Objectives of Proposed Rule

The FCA's objectives in proposing this rule are:

- To modernize capital requirements while ensuring that institutions continue to hold enough regulatory capital to fulfill their mission as a Government-sponsored enterprise (GSE);
- To ensure that the System's capital requirements are comparable to the Basel III framework and the standardized approach that the Federal banking regulatory agencies have adopted, but also to ensure that the rules take into account the cooperative structure and the organization of the System;
- To make System regulatory capital requirements more transparent; and
- To meet the requirements of section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

B. Overview of Proposed Rule

The FCA is seeking public comment on a proposed rule that would revise our capital requirements governing System banks,[1] System associations, Farm Credit Leasing Services Corporation, and any other FCA-chartered institution the FCA determines should be subject to this rule (collectively, System institutions). The proposed rule, where appropriate, is comparable to the capital rules adopted in October 2013 and April 2014 by the Federal banking regulatory agencies [2] for the banking organizations they regulate.[3] Those rules follow the Basel Committee on Banking Supervision's (BCBS or Basel Committee) document entitled ''Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems'' (Basel III), including subsequent changes to the BCBS's capital standards and BCBS consultative papers, and our proposed rule follows Basel III as appropriate for cooperatives.[4]

The FCA believes this proposed rule would improve the quality and quantity of System institutions' capital and enhance risk sensitivity in calculating risk-weighted assets. It would also provide a more transparent picture of System institutions' capital to the investment-banking sector, which could facilitate System institutions' securities offerings to third-party investors. In addition, to comply with section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act),[5] we propose alternatives to credit ratings for calculating risk-weighted assets for certain exposures that are currently based on the ratings of nationally recognized statistical rating organizations (NRSROs).

After the worldwide financial crisis that began in the past decade, the BCBS issued Basel III and has continued to issue additional standards, with the goal of strengthening the capital of financial organizations. The capital rules recently adopted by the Federal banking regulatory agencies reflect Basel III as well as aspects of Basel II and other BCBS standards. The provisions of the banking agencies' rules that are not specifically included in the Basel III framework are generally consistent with the goals of the framework.

The FCA's proposed rule is comparable to the standardized approach rules of the Federal banking regulatory agencies to the extent appropriate for the System's cooperative structure and status as a GSE with a mission to provide a dependable source of credit and related services for agriculture and rural America. Like the banking agencies' rules, the FCA's proposed rule incorporates key aspects of the Basel III tier 1 and tier 2 framework and includes a leverage ratio as well as a capital conservation buffer to enhance the resilience of System institutions. The capital conservation buffer would be phased in over 3 years, but we are not proposing to incorporate any of the other transition periods in Basel III and the Federal regulatory banking agencies' rules.

The proposed rule would impose some new patronage and redemption restrictions, including FCA prior approvals, on System institutions in order to ensure the stability and permanence of the capital includable in the tier 1 and tier 2 capital ratios, especially regarding the equities held by the cooperative members of the institutions (common cooperative equities). The proposed rule would also require additional recordkeeping and disclosures by System institutions. We believe that the benefits to the System of these proposed rules would more than outweigh the restrictions and additional responsibilities we would require.

The FCA also proposes changes to its risk-based capital rules for determining risk-weighted assets—that is, the calculation of the denominator of a System institution's risk-based capital ratios. This proposed rule would eliminate the credit ratings of NRSROs from risk-weights for certain exposures, consistent with section 939A of the Dodd-Frank Act. As an alternative, FCA proposes to include methodologies for determining risk-weighted assets for exposures to sovereigns, foreign banks, and public sector entities, securitization

[1] For purposes of this preamble and proposed part 628, as well as some of the regulations in which we are proposing conforming changes and other existing regulations, the term ''System bank'' includes Farm Credit Banks, agricultural credit banks, and banks for cooperatives. It has the same meaning as Farm Credit bank, which is defined in § 619.9140 and which would continue to be used in some of the regulations in which we are proposing conforming changes as well as in other existing regulations. The Farm Credit Act of 1971, as amended (Farm Credit Act), uses the term ''System bank'' in a number of its provisions.

[2] The Federal regulatory banking agencies are the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the Federal Deposit Insurance Corporation (FDIC).

[3] 78 FR 62018 (October 11, 2013) (final rule of the OCC and the FRB); 79 FR 20754 (April 14, 2014) (final rule of the FDIC).

[4] Basel III was published in December 2010 and revised in June 2011. The text is available at *http://www.bis.org/publ/bcbs189.htm*. The BCBS was established in 1974 by central banks with bank supervisory authorities in major industrial countries. The BCBS develops banking guidelines and recommends them for adoption by member countries and others. BCBS documents are available at *http://www.bis.org*. The FCA does not have representation on the Basel Committee, as do the Federal banking regulatory agencies, and is not required by law to follow the Basel standards.

[5] Pub. L. 111–203, 124 Stat. 1376 (2010).

exposures, and counterparty credit risk. The rule includes new risk weights for cleared transactions, guarantees including credit derivatives, collateralized financial transactions, unsettled transactions, and securitization exposures. In addition, there are proposed new disclosure requirements for all System banks related to regulatory capital instruments.

We generally do not propose risk weightings for exposures that System institutions have no authority to acquire.[6] In some but not all cases, we discuss in this preamble this variance from the rules of the Federal banking regulatory agencies. In addition, we do not propose risk weightings for certain exposures that are both complex and unlikely; in the unlikely event that a System institution did acquire such an exposure, we would address it on a case-by-case basis using the reservation of authority that we propose. We generally discuss these exposures in this preamble.

We remind System institutions that the presence of a particular risk weighting does not itself provide authority for a System institution to have an exposure to that asset or item. System authorities to acquire exposures are contained in other provisions of our regulations and in the Farm Credit Act.

We are not proposing to adopt the ''advanced approaches'' regulatory capital rules because no System institution has the volume of assets or foreign exposures that would subject it to those approaches if it were regulated by a Federal banking regulatory agency.[7] We also do not propose the market risk requirements, because no System institution has significant exposure to market risk, and we propose to require all System institutions to exclude Accumulated Other Comprehensive Income (AOCI) from regulatory capital.

We propose to place the tier 1 and tier 2 risk-weighted and leverage capital requirements in a new part 628 of FCA regulations in Title 12 of the Code of Federal Regulations. We would rescind the risk-weighting provisions in subpart H of part 615 and the core surplus, total surplus, and net collateral requirements in subpart K of part 615. We would retain in part 615 the requirements for the numerator of the permanent capital ratio, a measure that is mandated by the Farm Credit Act, but the risk weightings for the denominator of the permanent capital ratio would be the risk weightings in new part 628. We also propose conforming changes in several other FCA regulations.

In this proposed rule, we have used the general format and the section and paragraph numbering system of the Federal banking regulatory agencies' rules to the extent possible. In many cases, we have retained the numbering system by reserving sections and paragraphs where we are not proposing parallel provisions. We have done so in order to facilitate the comparison of the proposal with the banking agencies' rules.

C. List of Questions Asked and Comments Requested in This Preamble

We welcome comments on every aspect of this proposed regulation, but there are certain areas where we are specifically seeking comment. We ask specific questions in these areas throughout this preamble, but for the convenience of commenters we provide below a list all of our specific questions and requests for comment. We also ask generally for comments that suggest how we could simplify the rule while retaining the improved capital framework that is our goal.

(1) Alternatives to Including Common Cooperative Equities in CET1 or Tier 2 Capital

We seek comment on using alternative terms or conditions that FCA could apply to common cooperative equities. Is a 10-year revolvement cycle long enough to reduce the expectation of redemption and increase the permanence of such equity instruments so that they may be included in CET1 capital?

(2) Capital Treatment of MSAs

We seek comment on whether FCA should risk weight MSAs at 100 percent or require deduction of MSAs from CET1, as we propose to do for non-mortgage servicing rights. At the present time, FCA does not consider any type of servicing asset material to a System institution's or the System's consolidated balance sheet.

(3) Accounting for Defined Benefit Pension Fund Assets

Given System institutions' differing methods of reporting defined benefit pension fund assets, what is the best way to require adjustments for defined benefit pension fund assets in the CET1 capital computation?

(4) Third-Party Capital Limits

We seek comment on alternative third-party limits to ensure that System institutions remain capitalized primarily by their member borrowers.

(5) Risk-Weighting—Exposures to OFIs

We seek comment on our proposed capital treatment of exposures to OFIs. Specifically, what factors or other information would be relevant if we consider assigning an intermediate risk-weight to a System institution's exposure to an OFI, recognizing that the same exposure to the same OFI would receive a 100-percent risk weight from a banking organization regulated by a Federal banking regulatory agency?

(6) Risk-Weighting—Exposures to Certain Electrical Cooperative Assets

We seek comment as to whether we should retain this risk weighting [for exposures to certain electrical cooperative assets], being mindful of the Dodd-Frank Act section 939A requirement that we must eliminate the credit rating criteria.

(7) Credit Conversion Factors for Off-Balance Sheet Items—Exposure Amount of a System Bank's Commitment to an Association

We invite comment on this determination [regarding our determination of the exposure amount of a System bank's commitment to an association].

(8) System Institution Acting as Clearing Member

We invite comment as to whether we should adopt such provisions [contemplating that System institutions would act as clearing members].

(9) Collateralized Transactions—Own Estimate of Haircuts

We seek comment on whether we should adopt a regulation that would permit the use of an institution's own estimates.

(10) Exposures to Asset-Backed Commercial Paper (ABCP) Programs

We seek comment as to whether we should include provisions in our risk-based capital rules regarding ABCP programs that are comparable to those adopted by the Federal banking regulatory agencies.

(11) Disclosures

We invite comment on the appropriate application of these proposed disclosure requirements to System banks.

[6] However, we do propose risk weighting for exposures that System institutions are not permitted to acquire under their investment authorities, because such exposures could be acquired through foreclosure on collateral or similar transactions.

[7] In general, the advanced approaches rule applies to banks with consolidated total assets of at least $250 billion or with foreign exposures of $10 billion or more. Only two System institutions have total assets in excess of $50 billion, and foreign exposures are negligible.

D. Key Provisions of the Proposed Rule

TABLE 1—SUMMARY OF KEY PROVISIONS OF THE TIER 1/TIER 2 CAPITAL ITEMS AND STANDARDIZED APPROACH RISK WEIGHTS

Minimum capital ratios	Proposed treatment
Tier 1/Tier 2—Capital Items	
Common equity tier 1 (CET1) capital ratio (§ 628.10)	A minimum requirement of 4.5 percent.
Tier 1 capital ratio (§ 628.10)	A minimum requirement of 6.0 percent.
Total capital ratio (§ 628.10)	A minimum requirement of 8.0 percent.
Tier 1 Leverage ratio (§ 628.10)	A minimum tier 1 leverage ratio requirement of 5.0 percent of which at least 1.5 percent must consist of unallocated retained earnings and unallocated retained earnings equivalents. Applies to all System institutions.
Components of Capital and Eligibility Criteria for Regulatory Capital Instruments (§§ 628.20, 628.21, and 628.22).	Describes the eligibility criteria for regulatory capital instruments and adds certain adjustments to and deductions from regulatory capital, including increased deductions for mortgage servicing assets (MSAs) and deferred tax assets (DTAs).
Capital Conservation Buffer (§ 628.11)	A 2.5-percent capital conservation buffer of CET1 capital above the minimum risk-based capital requirements, which must be maintained to avoid restrictions on capital distributions and certain discretionary bonus payments.
Risk-Weighted Assets—Standardized Approach	
Credit exposures to:	Remains unchanged from existing regulations:
U.S. government and its agencies	0 percent.
U.S. depository institutions and credit unions (including those that are OFIs).	20 percent.
U.S. public sector entities, such as states and municipalities	20 percent—general obligations. 50 percent—revenue obligations.
Cash	0 percent.
Cash items in the process of collection	20 percent.
Exposures to other System institutions that are not deducted from capital.	100 percent.
Assets not specifically assigned to a risk weight category and not deducted from capital (§ 628.32).	100 percent.
Exposures to certain supranational entities and multilateral development banks (§ 628.32).	Risk weight reduced from 20 percent to 0 percent.
Exposures to Government-sponsored enterprises (§ 628.32)	Risk weight for preferred stock increased from 20 percent to 100 percent. Risk weight for all other exposures (except equity exposures, which are discussed below) remains at 20 percent.
Credit exposures to:	Introduces a risk-sensitive treatment using the Country Risk Classification measure produced by the Organization for Economic Cooperation and Development instead of determining risk weight based on OECD membership status.
Foreign sovereigns.	
Foreign banks.	
Foreign public sector entities (§ 628.32)	
Corporate exposures (§ 628.32)	Assigns a 100-percent risk weight to corporate exposures, including exposures to OFIs that do not satisfy the criteria for a 20-percent risk weight and agricultural borrowers.
Residential mortgage exposures (§ 628.32)	50 percent for first lien residential mortgage exposures that satisfy specified underwriting criteria. 100 percent otherwise.
High volatility commercial real estate exposures (§ 628.32)	Introduces a 150-percent risk weight for certain credit facilities that finance the acquisition, development, or construction of real property.
Past due exposures (§ 628.32)	Introduces a 150-percent risk weight for exposures that are past due, unless they are residential mortgage exposures or they are guaranteed or secured by financial collateral.
Off-balance Sheet Items (§ 628.33)	Certain credit conversion factors (CCF) revised, including the CCF for short-term commitments that are not unconditionally cancellable, which is increased from 0 percent to 20 percent.
OTC Derivative Contracts (does not include cleared transactions) (§ 628.34).	Modifies derivative matrix table slightly. Recognizes credit risk mitigation of collateralized OTC derivative contracts.
Cleared Transactions (§ 628.35)	Provides preferential capital requirements for cleared derivative and repo-style transactions (as compared to requirements for non-cleared transactions) with central counterparties that meet specified standards.
Guarantees and Credit Derivatives (§ 628.36)	Provides a more comprehensive recognition of guarantees.
Collateralized Transactions (§ 628.37)	Recognizes financial collateral.
Unsettled Transactions (§ 628.38)	Risk weight depends on number of business days past settlement date.
Securitization Exposures (§§ 628.41, 628.42, 628.43, 628.44, and 628.45).	Replaces the ratings-based approach with either the standardized supervisory formula approach (SSFA) or the gross-up approach for determining a securitization exposure's risk weight based on the underlying assets and exposure's relative position in the securitization's structure.

TABLE 1—SUMMARY OF KEY PROVISIONS OF THE TIER 1/TIER 2 CAPITAL ITEMS AND STANDARDIZED APPROACH RISK WEIGHTS—Continued

Minimum capital ratios	Proposed treatment
Equity exposures (§§ 628.51, 628.52, and 628.53)	Establishes a more risk-sensitive treatment for equity exposures.
Disclosure Requirements (§§ 628.61, 628.62, and 628.63)	Establishes qualitative and quantitative disclosure requirements, including regarding regulatory capital instruments, for all System banks.
Existing FCA Regulatory Capital	
Minimum Capital Ratios:	
Permanent capital ratio (§§ 615.5201 and 615.5205)	Numerator calculation remains unchanged, but risk weights (denominator) are revised as described in this proposal.
Total surplus ratio (§§ 615.5301(i) and 615.5330(a))	Eliminated.
Core surplus ratio (§§ 615.5301(b) and 615.5330(b))	Eliminated.
Net collateral Ratio (banks only) (§§ 615.5301(d) and 615.5335)	Eliminated.

E. The History and Cooperative Structure of the Farm Credit System

The System is a federally chartered network of four banks and 78 associations that are borrower-owned lending cooperatives, as well as their related service organizations.[8] Cooperatives are organizations that are owned and controlled by their members who use the cooperatives' products or services. The mission of the System is to provide sound and dependable credit to its member borrowers, who are American farmers, ranchers, producers or harvesters of aquatic products, their cooperatives, and certain farm-related businesses and rural utility cooperatives. The System was created by Congress in 1916 as a farm real estate lender and was the first GSE; in subsequent years, Congress expanded the System to include production credit, cooperative, rural housing, and other types of lending. The System's enabling statute is the Farm Credit Act.[9]

System associations are direct retail lenders; Farm Credit Banks (FCBs) are primarily wholesale lenders to the associations, and the agricultural credit bank (CoBank or ACB) makes retail loans to cooperatives as well as wholesale loans to affiliated associations. Each System bank has a district, or lending territory, which includes the territories of the affiliated associations that it funds; CoBank, in addition, lends to cooperatives nationwide. There are generally two types of associations: Agricultural credit associations (ACAs) and Federal land credit associations (FLCAs). In general, ACAs make short, intermediate, and long-term operating loans, real estate mortgage loans, and rural housing loans.[10] FLCAs make only long-term real estate mortgage and rural housing loans.

The System banks own the Federal Farm Credit Banks Funding Corporation (Funding Corporation), which is the fiscal agent for the banks and is responsible for issuing and marketing System-wide debt securities in domestic and global capital markets. The banks use the proceeds from the securities to fund their lending and other operations, and the banks are jointly and severally liable on the debt.

The FCA is the System's independent Federal regulator that examines and regulates System institutions for safety and soundness and mission compliance. The Farm Credit System Insurance Corporation (FCSIC) is an independent, U.S. Government-controlled corporation whose purpose is to ensure the timely payment of principal and interest on insured System-wide debt obligations issued on behalf of the System banks. The members of the FCA Board also serve as the members of the FCSIC Board. The FCSIC administers a $3.5 billion Insurance Fund and collects insurance premiums from System banks.

1. Capital Structure of System Institutions

A System institution's cooperative capital consists of member-borrower stock, allocated equities, and unallocated retained earnings. System institutions, like all businesses, need capital to absorb losses in times of financial adversity and provide a source of funds to stabilize earnings and finance growth. Capital also carries ownership rights of members, which reflect the System's cooperative nature. Members, both past and current, helped build almost all the capital of System institutions.[11]

Member stock and allocated equities are the common equity classes of System institutions. As discussed above, this proposed rule refers to member stock and allocated equity collectively as ''common cooperative equity.'' After the URE of an institution is depleted, all categories of common cooperative equities are subject to impairment before preferred stock and other non-cooperative equities of the institution are impaired. This impairment of common cooperative equities by category differs somewhat from the common stock of a joint-stock bank, whose common equities are all impaired on a pro rata basis. However, the FCA considers the impairment by category to be substantially the same, as the common cooperative equities protect other equities and obligations of the institution to the same extent common equities of a joint-stock bank protect non-common equities and obligations.

Table 2 compares the capital of System institutions, as cooperatives, and joint-stock companies.

[8] This is the System's structure as of December 31, 2013. The Federal Agricultural Mortgage Corporation (Farmer Mac), which is a federally chartered instrumentality, is also an institution in the System. The FCA has a separate set of capital regulations that apply to Farmer Mac, and this proposed rule does not pertain to Farmer Mac's regulations.

[9] 12 U.S.C. 2001–2279cc. The Act is available at *www.fca.gov* under ''FCA Handbook.''

[10] ACAs may have a production credit association subsidiary that makes short and intermediate-term loans and a FLCA subsidiary that makes long-term loans.

[11] A small amount of regulatory capital comes from the purchase by third-party investors of preferred stock and qualifying subordinated debt.

TABLE 2—CAPITAL INSTRUMENT COMPARISON

	System institution	Joint-stock company
Capital Stock	Preferred Stock (outside investors) Preferred Stock (member investors). Member-Borrower Stock and Participation Certificates Allocated Stock [1].	Preferred Stock (member investors) Common Stock.
Earned Net Worth	Allocated Surplus [1] Unallocated Retained Equity and URE equivalents.	Retained Earnings.

[1] Allocated equities include both stock and surplus. System banks generally allocate equity as stock, and System associations generally allocate equity as surplus. Allocated equities in this context may be redeemed at the discretion of the institution.

2. Member Stock—Association Level

A retail borrower of a System association or of the ACB is required to purchase voting stock or non-voting participation certificates (depending on the status of the borrower [12]) as a condition of obtaining a loan [13] and becoming a member of the institution. For purposes of this discussion, the FCA uses the term ''member stock'' to refer to both voting stock and participation certificates.

Member stock is redeemable at book value, not to exceed par, only at the discretion of the association's board of directors and subject to the association's compliance with capital adequacy requirements. When these requirements are met, associations routinely retire member stock within some timeframe after the member has repaid the loan. System associations are authorized to pay dividends on member stock but do not currently do so.

Currently, all associations set their member stock purchase requirements at the Farm Credit Act's minimum of the lesser of $1,000 or 2 percent of the loan amount,[14] regardless of the member's loan volume. Thus, while association stock purchased by borrowers embodies a key cooperative principle, it is not a significant source of association capital.

3. Member Stock—System Bank Level

By contrast, member stock purchased by associations in their affiliated System bank plays an important role in capitalizing System banks. Each System bank sets a ''required investment'' for its affiliated associations based on a percentage of each association's loan volume funded by the bank. System bank advances fund the stock purchases, and the associations' repayments of these advances reduce their retained earnings.[15] As an association's loan volume grows, the bank requires the association periodically to acquire additional stock to maintain the required stock investment. When an association's loan volume decreases, the bank either pays a return on what the bank deems ''excess'' stock through an interest credit or an increased patronage refund distribution, or the bank retires such stock. Tying the amount of the required investment to the amount of the loan results in each association's bearing the cost and risks of bank capital relative to the association's share of bank debt, but this practice also makes the stock less permanent because the bank routinely issues or redeems the stock.

The ACB's capitalization program sets a ''targeted investment'' for its members based on loan volume and allows its members to accumulate the targeted investment through the bank's payment of stock patronage refunds, or to purchase stock to fulfill the entire investment requirement. The ACB's affiliated associations have all chosen to meet the target through stock purchases rather than through accumulations of allocated equities.

4. Allocated Equities

As discussed above, some System institutions provide cooperative benefits to their borrowers by paying patronage refunds to their member borrowers based on net income. Patronage refunds may be paid in cash or allocated equities [16] (stock or surplus) or a combination of both. When institutions pay patronage refunds as allocated equity, they actually retain the allocated equity thus effectively increasing a borrower's equity investment in the institution. For tax purposes, a System institution that declares a patronage refund must provide the borrower with a written notice of allocation evidencing the amount paid in cash and the amount of allocated equity.[17] In this context, FCA is describing allocated equities that the institution determines are subject to redemption. Those allocated equities that an institution determines are not subject to redemption will be discussed later.

Allocated equities have certain rights and features in common with member stock. Allocated equities are redeemable at book value, not to exceed face value, only at a board's discretion and subject to compliance with regulatory and supervisory capital requirements.

5. Unallocated Retained Earnings (URE) and URE Equivalents

URE consists of current and retained earnings not allocated to a member or distributed through patronage refunds or dividends.[18] It is free from any specific ownership claim or expectation of allocation, and it absorbs losses before other forms of surplus and stock. For the past two decades, System associations have retained their earnings primarily in the form of URE. One distinction between URE and allocated equity is whether the institution provides a written notice of allocation to the borrower. If the System institution does not provide a written notice of allocation to the borrower, the equity is URE. However, many System institutions keep ''memo'' records so that URE may be attributed to a borrower if liquidation occurs.[19]

In a liquidation, current and past members may have a fixed and limited

[12] Only members engaged in agriculture and aquaculture may hold voting stock in associations. Except for the ACB, only System associations may hold voting stock in their affiliated bank. The ACB's voting members are its affiliated associations as well as its agricultural and rural utility cooperative borrowers. Other borrowers, such as rural homeowners who are not farmers and other financing institutions, buy participation certificates as a condition of getting a loan or service.

[13] A member may also purchase preferred stock as an investment in the association if the association offers such stock. Such preferred stock is not a common cooperative equity.

[14] Section 4.3A(c)(1)(E)(i) of the Act.

[15] System banks and associations' accounting systems and wire transfer systems are highly coordinated if not the same within districts; therefore, a reduction in retained earnings would be equivalent to cash repayment of an advance.

[16] The FCA uses the term ''allocated equity'' to mean patronage refunds retained as both allocated stock and allocated surplus.

[17] Under Subchapter T of the Internal Revenue Code, there are two types of allocated equities: Qualified and nonqualified. Their Federal income Tax treatment differs. *See* 26 U.S.C. 1381–1388.

[18] Under GAAP, a System institution may include allocated equity not subject to retirement in its URE.

[19] A limited amount of System URE stems from non-patronage sources and, under the bylaws of most System institutions, would be distributed at liquidation among past and present patrons.

claim on URE (except allocated equity not subject to retirement that is treated as URE under generally accepted accounting principles (GAAP)).

The FCA has considered certain nonqualified allocated equities to be the equivalent of URE when a System institution has provided a written notice of allocation to members stating the equities are not subject to redemption except upon liquidation or dissolution. To treat these nonqualified allocated equities as URE in the core surplus ratio, the FCA has required System institutions to adopt bylaw provisions that the nonqualified allocated equity cannot be:

- Redeemed other than in a liquidation or dissolution of the institution;
- Considered by the institution as satisfying any borrower requirement to capitalize the entity; and
- Offset against the specified borrower's loan in the event of a loan loss on the specified borrower's account.

F. The FCA's Current Capital Regulations

The FCA currently has three risk-based minimum capital standards: (1) A 3.5-percent core surplus ratio (CSR); (2) a 7-percent total surplus ratio (TSR); and (3) a 7-percent permanent capital ratio (PCR).[20] Congress added a definition of ''permanent capital'' to the Farm Credit Act in 1988 and required the FCA to adopt risk-based permanent capital standards for System institutions. The FCA adopted permanent capital regulations in 1988 and, in 1997, added core surplus and total surplus capital standards for banks and associations, as well as a non-risk-based net collateral ratio (NCR) for banks.[21] Since then, we have made only minor changes to these regulations.

Permanent capital is defined in the Farm Credit Act to include current earnings, unallocated and allocated earnings,[22] stock (other than stock retireable on repayment of the holder's loan or at the discretion of the holder, and certain stock issued before October 1988), surplus less allowance for loan losses (ALL), and other debt or equity instruments that the FCA determines appropriate to be considered permanent capital. Allocated equities shared by a bank and each affiliated association—that is, equities that a bank has allocated to an affiliated association—appear on the books of both institutions but can be counted in only one institution's permanent capital pursuant to a capital allotment agreement between the two institutions.

Core surplus is high-quality capital similar (but not identical) to Basel I's tier 1 capital and generally consists of URE, certain allocated surplus, and noncumulative perpetual preferred stock. In calculating core surplus, an association must deduct its net investment in its affiliated bank; the bank may not include in its core surplus the equities it has issued or distributed to its affiliated associations. At least 1.5 percent of the minimum 3.5-percent core surplus requirement must consist of URE and noncumulative perpetual preferred stock. We did not include equities held by one System institution in another institution because we wanted institutions to have sufficient high-quality capital on a standalone basis in the event the other System institution became severely weakened.

Total surplus generally contains most of the components of permanent capital but excludes stock held by members as a condition of obtaining a loan and certain other instruments that are routinely and frequently retired by institutions.

G. Prior FCA Advance Notices of Proposed Rulemaking (ANPRMs) on the Basel Capital Standards

In October 2007, the FCA published an advance notice of proposed rulemaking (ANPRM) on the risk weighting of assets—the denominator in our risk-based core surplus, total surplus, and permanent capital ratios—a possible leverage ratio, and a possible early intervention framework.[23] A comment letter we received in December 2008 from the Funding Corporation on behalf of the System focused primarily on the numerators of those regulatory capital ratios.[24] The System urged us to replace the core surplus and total surplus capital standards with a ''Tier 1/Tier 2'' capital framework consistent with the Basel Accord (Basel I and Basel II) and the other Federal banking regulatory agencies' guidelines. The comment letter stated that, ''because the System's growth has required the use of external equity capital, the System is in regular contact with the financial community, including rating agencies and investors. Obtaining capital at competitive terms, conditions, and rates requires these parties [to] understand the System's and individual institution's financial position, making consistency with approaches used by other regulators, rating agencies, and investment firms a requirement to enhance the capacity of the System to achieve its mission. For the System to achieve its mission, the System must be able to compete with other lenders. Therefore, FCA's capital regulations must result in a regulatory framework that provides for a level playing field, in addition to safe and sound operations.'' Furthermore, the System recommended that we replace our NCR, which is applicable only to banks, with a non-risk-based leverage ratio applicable to all System institutions.

In December 2009, the Basel Committee published a consultative document that proposed fundamental reforms to the current tier 1/tier 2 capital framework.[25] The Basel Committee's primary aims were to improve the banking sector's ability to absorb shocks arising from financial and economic stress, to mitigate spillover risk from the financial sector to the broader economy, and to increase bank transparency and disclosures. The FCA issued another ANPRM in July 2010 seeking comments on a tier 1/tier 2 regulatory capital structure that would be similar to the capital tiers delineated in the Basel consultative document and the then-existing guidelines of the Federal regulatory banking agencies. We received two comment letters, one from a System institution and one from a trade association on behalf of the System. Both commenters strongly supported the FCA's adoption of a capital framework that was as similar as possible to the capital guidelines of the Federal regulatory banking agencies as revised to implement the Basel III standards. In particular, they asserted that consistency of FCA capital requirements with those of the Federal regulatory banking agencies and transparency would allow investors, shareholders, and others to better understand the financial strength and risk-bearing capacity of the System. The FCA decided to delay issuing a proposed rule until the Basel Committee had issued its new framework and the Federal regulatory banking agencies had

[20] *See* 12 CFR 615.5201–615.5216 and 615.5301–615.5336.

[21] *See* 53 FR 39229 (October 6, 1988) and 63 FR 39229 (July 22, 1998).

[22] In this preamble, ''unallocated and allocated earnings'' would be equivalent to ''unallocated retained earnings and allocated equities''. Additionally ''surplus'' would be ''unallocated retained earnings''.

[23] 72 FR 61568 (October 31, 2007).

[24] Comment letter dated December 19, 2008, from Jamie Stewart, President and CEO, Funding Corporation, on behalf of the System.

[25] ''Basel Consultative Proposals to Strengthen the Resilience of the Banking Sector,'' December 17, 2009. The document is available at *http://www.bis.org/publ/bcbs164.htm.*

proposed rules to implement that framework.

After soliciting comments on its December 2009 consultative document, the Basel Committee issued the new Basel III capital standards in December 2010 (revised June 2011). In 2012, the Federal regulatory banking agencies issued proposed rules to implement those standards and adopted final rules in October 2013 and April 2014.

The FCA agrees generally with the System's position that a tier 1 and tier 2 regulatory capital framework comparable to Basel III and the Federal regulatory banking agencies' new rules would be beneficial to System institutions, their members, the investment community, and other interested parties. It would also facilitate the issuance of equities and subordinated debt to third-party investors. In addition, we believe it necessary and appropriate to update the denominator risk weightings that have been revised based on the lessons learned in the 2008 global financial crisis.

When we adopted the core surplus, total surplus and the net collateral ratios in 1997, transparency to the investment community was not a significant consideration because the capital in the System institutions was held by or generated by their members. The goal of those regulations was to ensure that each System institution built sufficient high-quality capital, especially URE and URE equivalents, to serve the needs of all qualifying eligible borrowers and to withstand downturns in the agricultural sector as well as adversities at other System institutions. The FCA continues to believe a significant amount of URE and URE equivalents is necessary to achieve and maintain that goal but also believes common cooperative equities may be included in the higher quality capital measures to a larger extent than they are included in our current regulations. This position is based on a number of factors, including the reduction of the member stock requirement at most institutions to the statutory minimum and the institutions' evolving allocated equity redemption practices.

Through the 1990s and to the present day, a strong agricultural economy together with sound business practices has enabled System institutions to build higher quality capital while at the same time growing the System's total assets from $64.8 billion in 1993 to $260.8 billion at the end of 2013.

II. Minimum Regulatory Capital Ratios, Additional Capital Requirements, and Overall Capital Adequacy

A. Minimum Risk-Based Capital Ratios and Other Regulatory Capital Provisions

The FCA is proposing the following minimum capital ratios: (1) A common cooperative equity tier 1 (CET1) capital ratio of 4.5 percent; (2) a tier 1 capital ratio of 6 percent; (3) a total capital ratio of 8 percent; and (4) a tier 1 capital leverage ratio of 5 percent, of which at least 1.5 percent must be composed of URE and URE equivalents. Tier 1 capital would equal the sum of CET1 and AT1 capital. Total capital would consist of CET1, AT1, and tier 2 capital. As noted above, the FCA's existing core surplus, total surplus, and net collateral requirements would be rescinded, but the minimum permanent capital requirements would be retained.

In addition, each System institution would be subject to a capital conservation buffer in excess of the risk-based capital requirements that would impose limitations on its capital distributions and certain discretionary bonuses, as described in section C below. The capital conservation buffer would not be considered a minimum capital requirement.

The FCA will continue to hold each System institution accountable to maintain sufficient capital commensurate with the level and nature of the risks to which it is exposed. This may require capital significantly above the minimum requirements, depending on the institution's activities and risk profile. Section D below describes the requirement for overall capital adequacy of System institutions and the supervisory assessment of an institution's capital adequacy.

Consistent with the FCA's authority under the Farm Credit Act and current capital regulations, proposed § 628.10(d) confirms FCA's authority to require an institution to hold a different amount of regulatory capital from what would otherwise be required under the proposal, if we determine that the institution's regulatory capital is not commensurate with its credit, operational, or other risks.

B. Leverage Ratio

The FCA is proposing a tier 1 leverage ratio for all System institutions of 5 percent, of which at least 1.5 percent of non-risk-weighted total assets must be URE and URE equivalents. This would replace the net collateral ratio requirement for System banks. System associations do not currently have a leverage ratio requirement. The proposed ratio differs from the Federal regulatory banking agencies' leverage ratio in two respects: There is no minimum URE and URE equivalents requirement in their leverage ratio, and their minimum requirement is 4 percent.

A leverage ratio constrains the build-up of leverage in the System, which the risk-based regime is not designed to do. It reinforces the risk-based requirements with a non-risk-based backstop—that is, if the computation of the risk-weighted assets does not accurately reflect the true underlying risk inherent in a System institution, the leverage ratio serves as a floor that prevents the institution from decreasing its capital below a certain percentage of total assets. Furthermore, it represents a standardized measure that can be used to make comparison among System institutions over time.

The 5-percent leverage ratio takes into consideration the fact that System institutions are financially and operationally interconnected, member-owned cooperatives, and monoline lenders that currently provide credit to approximately 41 percent of the United States agriculture sector. They have a business model and risk profile that are substantially different from traditional banking organizations.

The higher 5-percent leverage ratio also helps to ensure that System institutions continue to have sufficient systemic loss-absorbing capital to withstand a severely adverse economic event while continuing to provide a steady flow of credit to U.S. agriculture in view of the System's unique GSE mission.

For associations, the proposed 5-percent minimum leverage ratio would differ little from their proposed tier 1 risk-based capital requirement. Most associations' on-balance sheet assets are risk weighted at 100 percent, and the associations do not have significant off-balance sheet items. This is not the case for System banks, however. While System banks do have off-balance sheet items that would have to be risk weighted—especially unfunded commitments in this proposal—the banks also have a large portion of instruments in the 20-percent risk-weighting category, primarily the direct loans to their affiliated associations, and the 0-percent risk-weighting category. We believe it is important for System banks to hold enough capital to protect against risks other than credit risk (*e.g.* interest rate risk, liquidity risk, premium risk, operational risk, etc.).

The 1.5-percent minimum URE and URE equivalents requirement is similar in some respects to our current requirement that at least 1.5 percent of

an institution's core surplus must consist of URE and URE equivalents and noncumulative perpetual preferred stock. For associations, the great majority of which have not issued noncumulative perpetual preferred stock, compliance with the proposed 1.5-percent URE and URE equivalents requirement would differ little from the compliance with their existing 1.5 percent of core surplus requirement. By contrast, all banks have noncumulative perpetual preferred stock outstanding that is included in their 1.5-percent core surplus requirement but would not be included in the proposed 1.5-percent URE and URE equivalents minimum standard. The FCA believes that it is especially important for System banks to hold sufficient URE and URE equivalents to cushion the third-party and common cooperative equities that make up the rest of tier 1 capital. URE and URE equivalents, when depleted, do not result in losses to a System's institution's members. URE protects against the interconnected risk that exists between System banks and associations; it protects association members against association losses, associations against bank losses, and the System against financial contagion. We are proposing to make the URE and URE equivalents a part of the leverage ratio because a URE minimum tied to risk-adjusted assets may not be sufficient for the banks, which have a greater disparity between risk-adjusted assets and total assets.

C. Capital Conservation Buffer

Consistent with Basel III and the Federal regulatory banking agencies' rules, we are proposing a capital conservation buffer to enhance the resilience of System institutions throughout financial cycles. To avoid restrictions on cash payments for patronage, redemptions, and dividends (collectively, capital distributions) or discretionary executive bonuses, an institution's risk-weighted regulatory capital ratios would have to be at least 2.5 percent above the minimums when the buffer is fully phased in. The buffer would provide an incentive for institutions to hold capital well above the minimum required levels to ensure that they would meet the regulatory minimums even during stressful conditions.

The capital conservation buffer would consist of tier 1 capital and would be the lowest of the following risk-weighted measures:

- The institution's CET1 ratio minus its minimum CET1 ratio;
- The institution's tier 1 ratio minus its minimum tier 1 ratio; and
- The institution's total capital ratio minus its minimum total capital ratio.

If any of the institution's risk-weighted ratios were at or below the minimum required ratios, the institution's capital conservation buffer would be zero.

The maximum payout ratio would be the percentage of eligible retained income that a System institution would be allowed to pay out in capital distributions and discretionary bonuses during the current calendar quarter and would be determined by the amount of the capital conservation buffer held by the institution during the previous calendar quarter. Eligible retained income would be defined as the institution's net income as reported in its quarterly call reports to the FCA for the four calendar quarters preceding the current calendar quarter, net of any capital distributions, certain discretionary bonus payments, and associated tax effects not already reflected in net income.

A System institution's maximum payout amount for the current calendar quarter would be equal to its eligible retained income multiplied by the applicable maximum payout ratio in accordance with table 1 in § 628.11. An institution with a capital conservation buffer that is greater than 2.5 percent would not be subject to a maximum payout amount under this provision (although distributions without FCA prior approval may be restricted by other provisions in this proposed rule). If an institution's CET1, tier 1, or total capital ratio is 2.5 percent or less above the minimum ratio, the maximum payout ratio would also decline. The institution would remain subject to payout restrictions until it raises its capital conservation buffer above 2.5 percent. In addition, a System institution would not generally be able to make capital distributions or pay discretionary bonuses during the current calendar quarter if its eligible retained income is negative and its capital conservation buffer is less than 2.5 percent as of the end of the previous quarter.

The capital conservation buffer is divided into quartiles, with greater restrictions on capital distributions and discretionary bonus payments as the capital conservation buffer falls closer to 0 percent. When the buffer is fully phased in, payouts would be restricted to 60 percent of eligible retained income if the buffer is above 1.875 percent but at or below 2.5 percent. When the buffer is above 1.25 percent but less than or equal to 1.875 percent, the payout would be restricted to 40 percent of eligible retained income. When the buffer is above 0.625 percent but equal to or below 1.25 percent, the payout would be restricted to 20 percent of eligible retained income. A capital conservation buffer of 0.625 percent or below would result in a 0-percent payout.

The FCA proposes to define a capital distribution as:

- A reduction of tier 1 capital through the repurchase or redemption of a tier 1 capital instrument or by other means, unless the redeemed capital is replaced in the same quarter by tier 1 qualifying capital;
- A reduction of tier 2 capital through the repurchase, or redemption prior to maturity, of a tier 2 capital instrument or by other means, unless the redeemed capital is replaced in the same quarter by qualifying tier 1 or tier 2 capital;
- A dividend declaration or payment on any tier 1 capital instrument;
- A dividend declaration or interest payment on any tier 2 capital instrument if the institution has full discretion to suspend such payments permanently or temporarily without triggering an event of default;
- A cash patronage refund declaration or payment;
- A patronage refund declaration in the form of allocated equities that do not qualify as tier 1 or tier 2 capital; [26] or
- Any similar transaction that the FCA determines to be in substance a distribution of capital.[27]

The FCA proposes to define a discretionary bonus payment as a payment made to a senior officer of a System institution, where:

- The System institution retains discretion whether to pay the bonus and how much to pay until it awards the payment to the senior officer;
- The System institution determines the amount of the bonus without prior promise to, or agreement with, the senior officer; and
- The senior officer has no express or implied contractual right to the bonus payment.

The term ''senior officer'' is already defined in § 619.9310 as ''[t]he Chief Executive Officer, the Chief Operations Officer, the Chief Financial Officer, and the General Counsel, or persons in

[26] A patronage refund declaration or payment in the form of allocated equities that qualify as tier 1 capital is not a reduction in tier 1 capital. It is merely a reclassification from one tier 1 capital element into a different tier 1 capital element.

[27] We note that the Federal regulatory banking agencies replaced the term ''capital distribution'' with ''distribution'' in their final rule. We have decided to use the term ''capital distribution'' to avoid potential confusion with other types of distributions that do not meet the definition for purposes of applying the capital conservation buffer.

similar positions; and any other person responsible for a major policy-making function.'' [28]

The purpose of limiting restrictions on discretionary bonus payments to senior officers is to focus these measures on the individuals within an institution who could expose the institution to the greatest risk. We note that the institution may otherwise be subject to limitations on capital distributions under other provisions in this rule. In addition, we retain authority to approve a capital distribution or bonus payment if we determine that the payment would not be contrary to the purposes of the capital conservation buffer or the safety and soundness of the institution.

D. Supervisory Assessment of Overall Capital Adequacy

System institutions should have internal processes to assess capital adequacy that reflect a full understanding of risks and to ensure sufficient capital is held. Our supervisory assessment of capital adequacy must take account of the internal processes for capital adequacy, as well as risks and other factors that can affect an institution's financial condition, including the level and severity of problem assets and total surplus exposure to operational and interest rate risk. For this reason, a supervisory assessment of capital adequacy may differ significantly from conclusions that might be drawn solely from the level of the institution's risk-based capital ratios.

The FCA expects System institutions generally to operate with capital levels well above the minimum risk-based ratios and to hold capital commensurate with the level and nature of the exposed risk. For example, System institutions that are growing or that anticipate growth in the near future should maintain strong capital levels substantially above the minimums and should not allow significant diminution of financial strength below such levels to fund their growth. System institutions with high levels of risk are also expected to operate with capital well above the minimum levels. The supervisory assessment also evaluates the quality and trends in an institution's capital composition, including the share of common cooperative equities and URE and equivalents.

Section 628.10(d) of the proposal would maintain and reinforce these supervisory expectations by requiring that a System institution maintain capital commensurate with the level and nature of all risks to which it is exposed and that the institution have a process for assessing its overall capital adequacy in relation to its risk profile, as well as a comprehensive strategy for maintaining an appropriate level of capital.

The supervisory assessment may include such factors as whether the institution has merged recently, entered new activities, or introduced new products. It would also consider whether an institution is receiving special supervisory attention from FCA, has or is expected to have losses resulting in capital inadequacy, has significant exposure due to risks from concentrations in credit or nontraditional activities, or has significant exposure to interest rate risk, operational risk, or could be adversely affected by the activities or condition of an affiliated System institution.

The supervisory assessment would also evaluate the comprehensiveness and effectiveness of a System institution's capital as required by §§ 615.5200 and 618.8440 of existing FCA regulations. We are proposing to revise § 615.5200 to require the planning to include the new ratios in this proposed rule. An effective capital planning process would require a System institution to assess its risk exposures, develop strategies for mitigating those risks, and set capital adequacy goals relative to its risks, and prospective economic conditions. Evaluation of an institution's capital adequacy process would be commensurate with the institution's size, sophistication, and risk profile.

III. Definition of Capital

A. Capital Components and Eligibility Criteria for Regulatory Capital Instruments

1. Common Cooperative Equity Tier 1 (CET1) Capital

Under the proposed rule, a System institution's CET1 would be the sum of URE and common cooperative equities, minus the regulatory adjustments and deductions described in § 628.22. We have adapted the criteria for the common cooperative equities in accordance with footnote 12 of Basel III, which states that the criteria for non-joint stock companies, including mutuals and cooperatives, should take into account their legal structure and constitution.[29] The footnote provides that the CET1 criteria ''should preserve the quality of the instruments by requiring that they are deemed fully equivalent to common shares . . . as regards loss absorption and do not possess features which could cause the condition of the [non-joint stock] bank to be weakened as a going concern during periods of market stress.'' The Federal regulatory banking agencies' rules have decided to apply the same criteria to the mutual financial institutions they regulate and to their joint-stock banking organizations.

Basel III established 14 criteria a banking organization must meet to include an instrument in CET1 capital; the Federal regulatory banking agencies' rules have 13 criteria. These criteria are intended to ensure that the instrument will be available to absorb losses at the banking organization on a going-concern basis. Several of the criteria provide that the instrument must represent the most subordinated claim in liquidation, is entitled to a claim on residual assets proportional to its share of issued capital, and must take the first and proportionately greatest share of any losses as they occur.

Unlike joint-stock banks, System institutions have priorities of impairment among the various classes of member stock and allocated equities, and typically all current and former members are entitled to the residual assets, based on historic patronage, in a liquidation of the institution. However, all common cooperative equities are impaired and depleted before all other instruments. Therefore, we are replacing these criteria with criteria providing that the instrument must represent a claim subordinated to all other equities of an institution in a liquidation, and the holder receives payment only after all general creditors and debt holders are paid.

Another CET1 criterion of Basel III and the Federal regulatory banking agencies is that the banking organization does nothing to create an expectation at issuance that the instrument will be redeemed, nor do the statutory or contractual terms provide any feature that might give rise to such an expectation. In the System, institutions issue or distribute some common cooperative equities that are never retired and that do not give rise to redemption expectations by members. Other common cooperative equities, by contrast, are routinely and frequently redeemed. Through this practice, System institutions can create expectations on the part of their members that these purchased and allocated equities will be redeemed. Consequently, we believe that the

[28] The FCA considers this definition substantively identical to the definition of ''executive officer'' used in the Federal regulatory banking agencies' rules on the capital conservation buffer.

[29] Basel III framework footnote 12 to ''Criteria for classification as common shares for regulatory capital purposes''.

''expectation'' requirement of Basel III and the Federal regulatory banking agencies' rules could reasonably be interpreted to disallow common cooperative equities redeemed by System institutions from CET1. However, it is important for the current members of a cooperative to provide capital to the cooperative and for current and former members of the cooperative eventually to receive a return of their capital. Therefore, we have decided to recognize this key cooperative principle by including in CET1 purchased and allocated equities that meet the requirements described below.

The FCA is proposing to include in CET1 an amount of member stock equal to the minimum stock purchase requirement set forth in the Farm Credit Act. That minimum amount is the lesser of $1,000 or 2 percent of the member's loan or loans. The FCA has reviewed the 2013 regulatory technical standards of the European Banking Authority (EBA) regarding the standards for CET1 for cooperatives, mutuals, the other non-joint stock banks.[30] European cooperative banks do not issue allocated equities; therefore, the technical regulations have little application to the treatment of System institutions' allocated equities. However, we have adapted the EBA document's treatment of minimum required amounts of purchased cooperative equities to allow System institutions to include purchased member stock in their CET1.

Purchased member capital is routinely funded directly or indirectly by European cooperative banks, and the same is true for System institutions. The CET1 criteria for Basel III and the Federal regulatory banking agencies' rules do not permit joint-stock banks to include in CET1 any equities whose purchase is directly or indirectly funded by the bank. However, the EBA document permits cooperatives to include directly or indirectly funded member stock (called a subscription) if the amount of the subscription is not material, the purpose of the cooperative's loan to the member is not the purchase of an institution's capital instrument, and the member stock purchase is necessary in order for the beneficiary of the loan to become a member of the cooperative. The required minimum stock purchase requirements in System institutions mirror these characteristics.

[30] European Banking Authority, EBA Final Draft Regulatory Technical Standards on Own Funds [Part 1] Under Regulation (EU) No. 575/2013 Capital Requirements Regulation—CRR), Title II, ch. 1, art. 7.

Some countries in the European Union require the redemption of the member's subscription when the member pays off the loan. That is not the case with respect to System institutions. They may, but are not required to, redeem the member's required stock when a loan is paid. As a general matter, the FCA has not given favorable treatment to member stock in its capital regulations because of the widespread and routine redemptions of member stock when the member's loan is paid off. Notwithstanding these concerns, because the repayment of the member's loan reduces the level of assets that the System institution must capitalize and because of the similar characteristics with EBA provisions, we have determined that including an amount equal to the minimum stock purchase requirement appropriately recognizes the cooperative structure of the System and is acceptable from a safety and soundness standpoint. For this minimum amount of stock, the institution would not have to obtain the prior approval of the FCA before redeeming it and would not be required to keep it outstanding for a minimum period. In other words, the institution could redeem the member's minimum required stock according to its current redemption practices.

The FCA is also proposing to include other member-purchased common cooperative equities and allocated equities of System institutions that adopt a capitalization bylaw providing that the institution will not redeem the equities for at least 10 years (for CET1 capital) and for at least 5 years (for tier 2 capital) after issuance or distribution, will not offset such equities against a member's loan in default, and will not redeem the equities without the FCA's prior approval unless the redemption falls within the ''safe harbor'' provision described below.

System institutions typically have allocated equity revolvement periods ranging from 4 to 10 years, and perhaps longer, for their allocated equities. We believe allocated equities with shorter revolvement periods have higher member expectations of redemption than allocated equities that are held longer. Such expectations may put stress on System institutions to continue to redeem equities even when the institution's financial health is deteriorating. Institutions' boards of directors generally prefer to revolve allocated equities on a regular basis. This aids in the capital planning process and can help manage the revolvement expectations of the members. While the regularity of redemptions results in a rise in member expectations, we believe a longer revolvement period has the effect of moderating these expectations—that is, if a member is not expecting equities allocated in 2015 to be redeemed before 2025, the member is less likely to count on the cash redemption of those equities in the member's own capital planning. Therefore, we are retaining an ''expectation'' criterion similar to that in Basel III and the Federal regulatory banking agencies' rules, but we are providing that equities held by an institution for at least 10 years will not be considered to create an expectation. Cash payment of patronage refunds, dividends, and redemption of allocated equities normally are paid from current year net income, and an institution must ensure it generates sufficient net income to cover these expected cash outlays from capital. A shorter revolvement or redemption cycle places more strain than a longer revolvement or redemption cycle on an institution's ability to generate a return to stockholders and capitalize growth.

Under this proposal, all System institutions would be able to include an amount equal to the minimum stock purchase requirements of their members in CET1 capital, as well as purchased stock or allocated equities that the institution never retires. System institutions that have a member stock purchase requirement that is higher than the statutory minimum and that revolve allocated equities would be able to include all such equities in CET1 capital if they ensure that the purchased stock and allocated equities are not redeemed for at least 10 years. Member stock in excess of the statutory minimum and allocated equities that are retained for at least 5 years are includable in tier 2 capital; if retained for less than 5 years, such equities are not includable in tier 1 or tier 2.

a. Criteria

The FCA proposes to require that the common cooperative equities included in CET1 satisfy all the following criteria:

(1) The instrument is issued directly by the System institution and represents a claim subordinated to all preferred stock, all subordinated debt, and all liabilities in a receivership, insolvency, liquidation, or similar proceeding of the System institution;

(2) If the holder of the instrument is entitled to a claim on the residual assets of the System institution, the claim will be paid only after all general creditors, subordinated debt holders, and preferred stock claims have been satisfied in a receivership, insolvency, liquidation, or similar proceeding;

(3) The instrument has no maturity date, can be redeemed only at the discretion of the System institution and with the prior approval of FCA, and does not contain any term or feature that creates an incentive to redeem;

(4) The System institution did not create, through any action or communication, an expectation that it will buy back, cancel, revolve, or redeem the instrument, and the instrument does not include any term or feature that might give rise to such an expectation, except that the establishment of a revolvement period of 10 years or more, or the practice of revolving or redeeming the instrument no less than 10 years after issuance or allocation, will not be considered to create such an expectation;

(5) Any cash dividend payments on the instrument are paid out of the System institution's net income or unallocated retained earnings, and are not subject to a limit imposed by the contractual terms governing the instrument;

(6) The System institution has full discretion at all times to refrain from paying any dividends without triggering an event of default, a requirement to make a payment-in-kind, or an imposition of any other restrictions on the System institution;

(7) Dividend payments and other distributions related to the instrument may be paid only after all legal and contractual obligations of the System institution have been satisfied, including payments due on more senior claims;

(8) The holders of the instrument bear losses as they occur before any losses are borne by holders of preferred stock claims on the System institution and holders of any other claims with priority over common cooperative equity instruments in a receivership, insolvency, liquidation, or similar proceeding;

(9) The instrument is classified as equity under GAAP;

(10) The System institution, or an entity that the System institution controls, did not purchase or directly or indirectly fund the purchase of the instrument, except that where there is an obligation for a member of the institution to hold an instrument in order to receive a loan or service from the System institution, an amount of that loan equal to the minimum borrower stock requirement under section 4.3A of the Farm Credit Act will not be considered as a direct or indirect funding where:

(a) The purpose of the loan is not the purchase of capital instruments of the System institution providing the loan; and

(b) The purchase or acquisition of one or more member equities of the institution is necessary in order for the beneficiary of the loan to become a member of the System institution;

(11) The instrument is not secured, not covered by a guarantee of the System institution, and is not subject to any other arrangement that legally or economically enhances the seniority of the instrument;

(12) The instrument is issued in accordance with applicable laws and regulations and with the institution's capitalization bylaws;

(13) The instrument is reported on the System institution's regulatory financial statements separately from other capital instruments; and

(14) The System institution's capitalization bylaws provide that it will not redeem the instrument for a period of at least 10 years after issuance, or if allocated equities at least 10 years after allocation to a member, or reduce the original revolvement period to less than 10 years without the prior approval of the FCA, except that the minimum statutory borrower stock described under paragraph (b)(1)(x) of this section may be redeemed without a minimum period outstanding after issuance and without the prior approval of the FCA.

b. Accumulated Other Comprehensive Income (AOCI) and Minority Interests

The FCA is not proposing to include minority interests in CET1 or in any other component of regulatory capital because System institutions have few or no minority equity interests in unconsolidated subsidiaries.

The FCA is not proposing to include AOCI in CET1 capital, which is different from Basel III and the Federal banking regulatory agencies' final rules. As a result, we are proposing no adjustments to CET1 for AOCI.

Under the FCA's current risk-based capital rules, most of the components of AOCI included in GAAP equity are not included in a System institution's regulatory capital. Under GAAP, AOCI includes unrealized gains and losses on certain assets and liabilities that are not included in net income. AOCI includes unrealized gains and losses on available-for-sale (AFS) securities; ''other than temporary impairment on securities'' reported as held to maturity (HTM) that are not credit related; cumulative gains and losses on cash-flow hedges; foreign currency translation adjustments; and amounts attributed to defined benefit post retirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans.

The Federal banking regulatory agencies include in CET1 capital any net unrealized losses on AFS equity securities and any foreign currency translation adjustments. System institutions carry all equity investments in other System institutions at par or book value. Current investment regulations restrict equity investment outside the System. Therefore, it would be rare for a System institution to have any net unrealized losses or gains because of AFS equity securities. Only one System institution, CoBank, would have a need to hold foreign currency, and only in an amount to facilitate its lending activities. As a result, the FCA is not proposing to include any AOCI item in CET1 capital, as it does not believe AFS equity securities or foreign currency translation adjustments would ever be material to CET1 capital.

We note that, while the Federal regulatory banking agencies' proposed rule would have required all banking organizations to include most elements of AOCI in CET1 capital, the agencies' final rule permits banking organizations using the standardized approach to make a one-time election not to include most elements of AOCI in their regulatory capital. The preamble to the final rule states that the agencies received a significant number of comments expressing concern about the potential volatility of AOCI inclusion on a banking organization's capital and made other assertions about the negative effect the proposed treatment would have on an organization's ability to manage liquidity and interest rate risk. Under the FCA's proposed AOCI treatment, the exclusion of AOCI from CET1 capital would be comparable to the AOCI exclusions of the banking organizations that make an election not to include AOCI in their CET1 capital.

We seek comment on using alternative terms or conditions that FCA could apply to common cooperative equities. Is a 10-year revolvement cycle long enough to reduce the expectation of redemption and increase the permanence of such equity instruments so that they may be included in CET1 capital?

2. Additional Tier 1 (AT1) Capital

The proposed criteria for AT1 are comparable to Basel III and the Federal regulatory banking agencies' rules. AT1 would include primarily noncumulative perpetual preferred stock issued by System institutions and would be subject to certain adjustments and deductions. Qualifying instruments would primarily be stock issued by

System banks to third-party investors, though all System institutions have authority to issue such stock. AT1 would not include common cooperative equities.

a. Criteria

The criteria for inclusion in AT1 capital are:

(1) The instrument is issued and paid-in;

(2) The instrument is subordinated to general creditors and subordinated debt holders of the System institution in a receivership, insolvency, liquidation, or similar proceeding;

(3) The instrument is not secured, not covered by a guarantee of the System institution and not subject to any other arrangement that legally or economically enhances the seniority of the instrument;

(4) The instrument has no maturity date and does not contain a dividend step-up or any other term or feature that creates an incentive to redeem;

(5) If callable by its terms, the instrument may be called by the System institution only after a minimum of 5 years following issuance, except that the terms of the instrument may allow it to be called earlier than 5 years upon the occurrence of a regulatory event that precludes the instrument from being included in AT1 capital, or a tax event. In addition:

(a) The System institution must receive prior approval from FCA to exercise a call option on the instrument.

(b) The System institution does not create at issuance of the instrument, through any action or communication, an expectation that the call option will be exercised.

(c) Prior to exercising the call option, or immediately thereafter, the System institution must either: Replace the instrument to be called with an equal amount of instruments that meet the criteria for a CET1 or AT1 capital instrument; [31] or demonstrate to the satisfaction of FCA that following redemption, the System institution will continue to hold capital commensurate with its risk;

(6) Redemption or repurchase of the instrument requires prior approval from FCA;

(7) The System institution has full discretion at all times to cancel dividends or other distributions on the instrument without triggering an event of default, a requirement to make a payment-in-kind, or an imposition of other restrictions on the System institution except in relation to any distributions to holders of common cooperative equity instruments or other instruments that are *pari passu* with the instrument.

(8) Any distributions on the instrument are paid out of the System institution's net income, unallocated retained earnings, or surplus related to other AT1 capital instruments and are not subject to a limit imposed by the contractual terms governing the instrument;

(9) The instrument does not have a credit-sensitive feature, such as a dividend rate that is reset periodically based in whole or in part on the System institution's credit quality, but may have a dividend rate that is adjusted periodically independent of the System institution's credit quality, in relation to general market interest rates or similar adjustments;

(10) The paid-in amount is classified as equity under GAAP;

(11) The System institution did not purchase or directly or indirectly fund the purchase of the instrument;

(12) The instrument does not have any features that would limit or discourage additional issuance of capital by the System institution, such as provisions that require the System institution to compensate holders of the instrument if a new instrument is issued at a lower price during a specified timeframe; and

(13) The System institution's capitalization bylaws provide that it will not redeem the instrument without the prior approval of the FCA.

Notwithstanding the criteria for AT1 capital instruments referenced above, an instrument with terms that provide that the instrument may be called earlier than 5 years upon the occurrence of a rating agency event does not violate the minimum 5-year issuance requirement provided that the instrument was issued and included in a System institution's core surplus capital prior to the effective date of the final rule, and that such instrument satisfies all other criteria under this § 628.20(c).

b. FCA's Current Capital Regulations

Under the FCA's current regulatory capital regulations, the outstanding noncumulative perpetual preferred stock issued by System institutions to third parties is included in core surplus and is included in the minimum required 1.5 percent of core surplus that is other than allocated equities routinely redeemed. Such preferred stock would continue to receive favorable regulatory capital treatment in tier 1 capital. However, consistent with the objective of Basel III and the Federal regulatory banking agencies' rules that banking organizations' common equities comprise at least 4.5 percent of risk-based capital, the preferred stock would not be included in CET1.

3. Tier 2 Capital

The FCA proposes to include in tier 2 capital the sum of tier 2 capital instruments that satisfy the applicable criteria, plus ALL up to 1.25 percent of risk-weighted assets, less any applicable adjustments and deductions. The criteria are similar to those in Basel III and the Federal regulatory banking agencies' rules, except that common cooperative equities that are not includable in CET1 may be included in tier 2 if they meet the applicable criteria.

The criteria for instruments (plus related surplus) included in tier 2 capital are:

(1) The instrument is issued and paid-in, is a common cooperative equity, or is member equity purchased in accordance with § 628.20(d)(1)(viii) of the proposed rule;

(2) The instrument is subordinated to general creditors of the System institution;

(3) The instrument is not secured, not covered by a guarantee of the System institution and not subject to any other arrangement that legally or economically enhances the seniority of the instrument in relation to more senior claims;

(4) The instrument has a minimum original maturity of at least 5 years. At the beginning of each of the last 5 years of the life of the instrument, the amount that is eligible to be included in tier 2 capital is reduced by 20 percent of the original amount of the instrument (net of redemptions) and is excluded from regulatory capital when the remaining maturity is less than 1 year. In addition, the instrument must not have any terms or features that require, or create significant incentives for, the System institution to redeem the instrument prior to maturity; [32]

(5) The instrument, by its terms, may be called by the System institution only after a minimum of 5 years following issuance, except that the terms of the instrument may allow it to be called sooner upon the occurrence of an event that would preclude the instrument from being included in tier 2 capital, or a tax event. In addition:

(a) The System institution must receive the prior approval of FCA to exercise a call option on the instrument.

[31] Replacement can be concurrent with redemption of existing AT1 capital instruments.

[32] An instrument that by its terms automatically converts into a tier 1 capital instrument prior to 5 years after issuance complies with the 5-year maturity requirement of this criterion.

(b) The System institution does not create at issuance, through action or communication, an expectation the call option will be exercised.

(c) Prior to exercising the call option, or immediately thereafter, the System institution must either: Replace any amount called with an instrument that is of equal or higher quality regulatory capital under this section; [33] or demonstrate to the satisfaction of FCA that following redemption, the System institution would continue to hold an amount of capital that is commensurate with its risk;

(6) The holder of the instrument must have no contractual right to accelerate payment of principal, dividends, or interest on the instrument, except in the event of a receivership, insolvency, liquidation, or similar proceeding of the System institution;

(7) The instrument has no credit-sensitive feature, such as a dividend or interest rate that is reset periodically based in whole or in part on the System institution's credit standing, but may have a dividend rate that is adjusted periodically independent of the System institution's credit standing, in relation to general market interest rates or similar adjustments;

(8) The System institution has not purchased and has not directly or indirectly funded the purchase of the instrument, except that where common cooperative equity instruments are held by a member of the institution in connection with a loan, and the institution funds the acquisition of such instruments, that loan shall not be considered as a direct or indirect funding where:

(a) The purpose of the loan is not the purchase of capital instruments of the System institution providing the loan;

(b) The purchase or acquisition of one or more capital instruments of the institution is necessary in order for the beneficiary of the loan to become a member of the System institution; and

(c) The capital instruments are in excess of the statutory minimum stock purchase amount;

(9) Redemption of the instrument prior to maturity or repurchase is at the discretion of the System institution and requires the prior approval of the FCA; and

(10) If the instrument is a common cooperative equity, the System institution's capitalization bylaws provide that it will not, except with the prior approval of the FCA, redeem such equity included in tier 2 capital for a period of at least 5 years after allocating it to a member.

4. FCA Approval of Capital Elements

Proposed § 628.20(e) would require a System institution to obtain prior approval to include a new capital element in its CET1 capital, AT1 capital, or tier 2 capital unless the element is equivalent, in terms of capital quality and ability to absorb losses with respect to all material terms, to a regulatory element the FCA has already determined may be included in regulatory capital. After the FCA determines that an institution may include an element in regulatory capital, it will make its decision publicly available.

5. FCA Prior Approval Requirements for Cash Patronage, Dividends, and Redemptions; Safe Harbor

As described above, the proposed rule would require FCA prior approval for the redemption of equities included in tier 1 and tier 2, consistent with Basel III and the Federal regulatory banking agencies' rules. The proposed rule would also require FCA prior approval of cash dividends and cash patronage, which is not a requirement of the Basel III framework but is a requirement imposed by statute or regulation on the federally chartered banking organizations regulated by the Federal regulatory banking agencies. In § 628.20(f), we are also proposing a ''safe harbor'' to permit institutions to pay cash dividends and patronage and to redeem equities with ''deemed'' FCA prior approval if the payments are within the specified parameters.

Before a Federal savings association declares a dividend, it must send a notice, or application for approval, of the action to the Office of the Comptroller of the Currency (OCC). Whether OCC approval is required or a mere notice will suffice depends on a number of factors. For example, an application for approval is required if the proposed declaration (together with all other capital distributions) for the applicable calendar year exceeds the savings association's net income for the current year plus the retained net income for the 2 preceding years.[34] A national bank must obtain OCC approval to declare a dividend if the total amount of all common and preferred dividends, including the proposed dividend, declared in any current year exceeds the total of the national bank's net income of the current year to date, combined with the retained net income of the previous 2 years.[35]

The FCA's proposed rule would not require System institutions to obtain prior approval to retire member stock up to an amount equal to the Farm Credit Act's minimum member stock requirement of $1,000 or 2 percent of the loan, whichever is less. In addition, subject to any restrictions on cash payouts under the capital conservation buffer provision in § 628.11, the proposed safe harbor would provide that FCA prior approval is deemed to be granted for cash distributions to pay dividends, patronage, or revolvements and redemptions of common cooperative equities provided that:

- For revolvements or redemptions of common cooperative equities included in CET1 capital, such equities were issued or distributed at least 10 years ago;
- For revolvements or redemptions of common cooperative equities included in tier 2 capital, such equities were issued or distributed at least 5 years ago;
- After such cash distributions, the dollar amount of the System institution's CET1 capital equals or exceeds the dollar amount of CET1 capital on the same date in the previous calendar year; and
- After such cash distributions, the System institution continues to comply with all regulatory capital requirements and supervisory or enforcement actions.

System institutions do not generally have to obtain FCA prior approval before paying patronage or dividends or redeeming equities under current regulations, nor does the Farm Credit Act require prior approval. However, it is a fundamental principle of the regulatory capital requirements for U.S. banking organizations regulated by the Federal regulatory banking agencies. In order for the regulatory capital framework that applies to System institutions to be comparable to the regulatory capital framework that applies to U.S. banking organizations, we believe it is necessary to include these prior approval requirements in our proposed rule. We believe that, most of the time, most System institutions will be able to pay cash patronage and dividends and redeem equities to the same extent that they do currently.

B. Regulatory Adjustments and Deductions

1. Regulatory Deductions From CET1 Capital

Under the proposal, a System institution must deduct from CET1

[33] A System institution may replace tier 2 or tier 1 capital instruments concurrent with the redemption of existing tier 2 capital instruments.

[34] 12 CFR 163.140–163.46.

[35] 12 U.S.C. 60(b).

capital the items described in § 628.22 of the proposed rule. A System institution would exclude these deductions from its total risk-weighted assets and leverage exposure. These deductions are:

a. Goodwill and Other Intangibles (Other Than Mortgage Servicing Assets)

Consistent with Basel III and the Federal regulatory banking agencies' rules, the FCA proposes to exclude goodwill and other intangible assets from regulatory capital because of the uncertainty that a System institution may realize value from these assets under adverse financial conditions. An institution would deduct goodwill and ''non-mortgage'' servicing assets, net of associated deferred tax liabilities (DTLs), from CET1 capital. (The FCA's current capital regulations require goodwill to be deducted from regulatory capital.) While intangible assets include mortgage servicing assets (MSAs), the MSAs are subject to a different treatment from other intangible assets under Basel III and the Federal banking regulatory agencies' rules. In Basel III and the agencies' rules, the MSAs, along with two other items—significant investments in the common shares of unconsolidated financial institutions and deferred tax assets (DTAs) that arise from temporary differences—are given limited recognition in a banking organization's CET1, with recognition capped at 10 percent of CET1 for each item (*i.e.,* a ''threshold deduction'' of 10 percent). There is also a threshold deduction of 15 percent on the aggregate of the three items, and any included MSAs are risk weighted at 250 percent.

The FCA is not proposing to implement the threshold deductions for these three items. We believe that no System institution's MSAs would meet the 10- and 15-percent thresholds. The proposed rule would require System institutions to assign a risk weight to MSAs of 100 percent, as they do in current FCA regulations. Traditionally, System institutions follow the make-and-hold philosophy when it comes to its loan assets. As a result, only a few System institutions have sold loans to Farmer Mac or other parties for securitization. Should the levels of MSAs held by System institutions increase significantly in the future, the FCA may reconsider the appropriateness of this proposed treatment.

The FCA is not proposing the threshold deduction in Basel III and the Federal regulatory banking agencies' rules for investments in other financial institutions because it is proposing that System institutions deduct their investments in other System institutions from their regulatory capital, as described below. Other equity investments will be risk weighted according to § 628.51.

We do not believe DTAs that are risk weighted in this section would represent material items on a System institution's balance sheet because of System institutions' tax status. The FCBs and FLCAs are exempt from Federal, state, municipal, and local taxation.[36] Most other System institutions' net income arises from both non-taxable and taxable sources. The production and cooperative lending business lines are taxable, but the ACB and taxable System associations may reduce taxes by following Subchapter T provisions of the Internal Revenue Code. Therefore, we do not expect large amounts of DTAs and deferred tax liabilities (DTLs) on a System institution's balance sheet. Should the levels of DTAs held by System institutions increase significantly in the future, the FCA may reconsider the appropriateness of this proposed treatment.

We seek comment on whether FCA should risk weight MSAs at 100 percent or require deduction of MSAs from CET1, as we propose to do for non-mortgage servicing rights. At the present time, FCA does not consider any type of servicing asset material to a System institution's or the System's consolidated balance sheet.

b. Gain-on-Sale Associated With a Securitization Exposure

A System institution would deduct from CET1 capital any after-tax gain-on-sale associated with a securitization exposure. Under GAAP, any gain-on-sale from a traditional securitization would increase a System institution's CET1 capital. However, if a System institution received cash from the sale of the securitization exposure and the MSA, it would not deduct such amount from its CET1 capital. Any sale of loans to a securitization structure that creates a gain may include an MSA that also meets the proposed definition of ''gain-on-sale.'' A System institution must exclude any portion of a gain-on-sale reported as an MSA on FCA's Call Report.

c. Defined Benefit Pension Fund Net Assets

A System institution must deduct from CET1 capital a defined benefit pension fund asset (an overfunded pension), net of any associated DTLs, because of the uncertainty of realizing any of the value from such assets. This proposed rule recognizes under GAAP the amount of a defined benefit pension fund liabilities (an underfunded pension) on the balance sheet of the institution, would be the same amount included as CET1 capital. Therefore, a System institution must not increase its CET1 capital by the derecognition of these defined pension fund liabilities.

Currently, FCA regulations do not require the deduction of the defined benefit pension fund net assets in the regulatory capital calculations. Additionally, our call report does not collect defined benefit pension fund assets. To implement this regulation, FCA will develop a call report schedule and require each System institution to report its individual yearend transactions for defined benefit pension assets on their individual call report schedule. At this time, some System institutions report their yearend transactions for defined benefit pension assets on their institution-only shareholder reports. Others, however, collectively report their yearend transactions for defined benefit pension assets in the district-wide shareholder report.

Comparable to Basel III, a System institution would not be required to deduct defined benefit pension fund assets to which the System institution has unrestricted and unfettered access. In this case, the System institution would assign risk weights to such assets as if the institution directly owned them. Under this proposal, unrestricted and unfettered access would mean that an institution is not required to request and receive specific approval from pension beneficiaries each time it would access funds in the plan.

Any portion of the defined benefit pension fund net assets not deducted by an institution must be risk-weighted as if the System institution directly held a proportional ownership share of each exposure in the defined benefit pension fund. For example, assume that: (1) The institution has a defined benefit pension fund net asset of $10; and (2) the institution has unfettered and unrestricted access to the assets of the defined benefit pension fund. Also, assume that 20 percent of the defined benefit pension fund is risk-weighted at 100 percent and 80 percent is risk-weighted at 300 percent. The institution would risk weight $2 at 100 percent and $8 at 300 percent. This treatment would be consistent with the full look-through approach described in § 628.53(b) of the proposed rule.

[36] They are subject to taxes on real estate held to the same extent, according to its value, as other similar property held by other persons is taxed. *See* 12 U.S.C. 2023 and 2098.

Given System institutions' differing methods of reporting defined benefit pension fund assets, what is the best way to require adjustments for defined benefit pension fund assets in the CET1 capital computation?

d. A System Institution's Allocated Equity Investment in Another System Institution

The proposed rule would require a System institution to deduct any allocated equity investment in another System institution [37] from its CET1 capital pursuant to § 628.22(a). Later in this preamble, we will discuss deducting a System institution's purchased investment in another System institution using the corresponding deduction approach in § 628.22(c). Other equity exposures are covered in § 628.52.

The FCA is proposing a different equity elimination method from the Federal banking regulatory agencies' rules. We believe the method proposed is more conservative than the banking agencies' rules but is more appropriate for System institutions and is consistent with the principles of Basel III. It is also simpler to calculate. System associations, as members of a cooperative network, have equity investments in their affiliated banks. System institutions also have equity investments in other System institutions but few outside the System. As we have discussed earlier in the preamble, the investments that System institutions have in other System institutions are counted in their GAAP financial statements as equity of the issuing or allocating institution and as assets of the recipient institution. The FCA continues to believe, as we have stated numerous times previously, that equities should be counted in the regulatory capital of the institution that has control of the equities. The allocating institutions alone have discretion whether to allocate equities and when, if ever, to distribute those equities. Therefore, under this proposal, the allocating institutions would include in their CET1 capital the equities they have allocated to their members, provided those equities meet the criteria for inclusion in CET1 capital. The institutions that have received allocated equities from other institutions must deduct those equities from their CET1 capital.

Under the proposed rule, System institutions will be able to include allocated equities in CET1 capital that are excluded from core surplus under current regulations. The proposed deductions apply only to investments in other System institutions because, for the most part, our investment regulations restrict equity investments outside the System.

e. ''Haircut'' Deduction for Redemption of Equities Included in CET1 Capital Less Than 10 Years After Issuance or Allocation

Section 628.22(f) of the proposed rule would provide that, if a System institution redeems equities included in CET1 capital that the institution issued or allocated less than 10 years before, and the institution did not receive prior FCA approval, the institution must exclude 30 percent of the remaining purchased and allocated equities otherwise includable in CET1 capital. That amount must be excluded from CET1 for the next 3 years; during those 3 years the amount excluded from CET1 may be included in tier 2 capital if it otherwise qualifies for tier 2 capital. This haircut would not be imposed on allocated equities that are URE equivalents unless such equities redeemed without FCA approval were URE equivalents, nor would it be imposed for redemptions of a member's minimum borrower stock requirement.

The FCA is proposing this deduction to ensure proper management by System institutions of their members' expectations of redemption and also to ensure that institutions are vigilant in their recordkeeping of the issuance and allocation dates of CET1 capital. For most System institutions that redeem equities on a regular basis, the 10-year minimum retention requirement will result in a longer revolvement period, especially for allocated equities, and will likely require some member education about the longer period. It is important that members know they cannot reasonably expect redemption of the equities that their institution includes in CET1 capital in a shorter timeframe than 10 years.

2. The Corresponding Deduction Approach for Purchased Equities

Section 628.22(c) of this proposal incorporates the Basel III corresponding deduction approach for a System institution's purchased equity investment in another System institution. The corresponding deduction approach does not apply to allocated equity investments in another System institution. Under the proposal, a System institution would be required to deduct an amount from the same component of capital for which the underlying instrument would qualify as if the System institution had issued the instrument itself. If a System institution did not have a sufficient amount of the specific component of regulatory capital for the entire deduction, then it would deduct the remaining portion from the next higher (more subordinated) capital component. Should a System institution not have enough AT1 capital to satisfy the required deduction, the shortfall would be deducted from CET1 capital elements.

3. Netting of Deferred Tax Liabilities Against Deferred Tax Assets and Other Deductible Assets

In this proposed rule, FCA would simplify the netting of DTLs against DTAs and other deductible assets for deductions of DTAs. This proposal differs from the Federal banking regulatory agencies' final rules for deductions of DTAs. For System institutions, this proposal also represents a change from our existing DTAs deduction regulation. Under the proposal, System institutions would adjust CET1 capital under § 628.22(b) of the proposed rule net of any associated deferred tax effects. In addition, System institutions would deduct from CET1 capital elements under § 628.22(a) and (c) of the proposed rule net of associated DTLs, pursuant to § 628.22(e).

Currently System institution deduct DTAs according to § 615.5209 of FCA regulations. A System institution must deduct an amount of DTAs from its assets and its total capital that is equal to the greater of the two following conditions: (1) An amount of DTAs that is dependent on future income; or (2) an amount of DTAs that is dependent on future income in excess of 10 percent of the amount of core surplus.[38]

For this proposed regulation, FCA categorized DTAs into three types. First, there are DTAs that arise from temporary differences that a System institution could realize through a net loss carryback.[39] Since System institutions have recognized or projected to realize these temporary differences in current income, a System institution would assign these DTAs a risk weight of 100 percent. Second, there are DTAs that arise from temporary differences that a System institution could not realize through net loss carryback.[40] And third, there are DTAs that arise from operating loss and tax credit carryforwards.[41] A System

[37] An example would be an association's equity investment in its System bank.

[38] That exists before the deduction of any deferred-tax assets.

[39] Net of any valuation allowances.

[40] Net of any valuation allowances.

[41] Net of any valuation allowances.

institution would deduct the latter two DTAs subject to § 628.22(c).

Under the proposal, System institutions making regulatory capital deductions under § 628.22 would net DTLs against assets to which they are associated (other than DTAs). Should the asset to which the DTL is associated become impaired or derecognized under GAAP, the System institution would extinguish the DTL. Likewise, System institutions may only use the same DTL once for netting purposes. This practice is consistent with the netting DTLs against goodwill.

System institutions would net DTLs against DTAs that arise from temporary differences that a System institution could not realize through net loss carrybacks,[42] and DTAs that arise from operating loss and tax credit carryforwards[43] provided certain conditions exist: (1) A System institution would net only DTLs and DTAs related to taxes levied by the same taxation authority and eligible for offsetting by that authority; and (2) the amount of DTLs that a System institution would be able to net against DTAs that arise from loss carryforwards,[44] and against DTAs arising from temporary differences that could not be realized through loss carrybacks,[45] would be allocated in proportion to the amount of DTAs that arise from loss carryforwards[46] and of DTAs arising from temporary differences that could not be realized through net operating loss carrybacks.[47]

GAAP requires quarterly adjustment for some DTA and DTL items, such as DTAs and DTLs associated with certain gains and losses included in AOCI. Therefore, the FCA expects System institutions to use for regulatory capital calculations the DTA and DTL amounts reported in the regulatory reports. The proposed rule does not require System institutions to perform these calculations more often than would be required to meet quarterly regulatory reporting requirements.

The FCA would allow System institutions to treat future taxes payable included in valuing a leveraged lease portfolio as a reversing taxable temporary difference available to support recognizing DTAs.[48] The proposed rule allows a System institution to use the DTLs embedded in the carrying value of a leveraged lease to reduce the amount of DTAs consistent with § 628.22(e).

The FCA recognizes that, if the tax laws of the relevant state and local jurisdictions do not differ significantly from Federal income tax laws, then under GAAP the calculation of deferred tax expense can be made in the aggregate considering the combination of Federal, state, and local income tax rates. The rate used should consider whether amounts paid in one jurisdiction are deductible in another jurisdiction. For example, since state and local taxes are deductible for Federal income tax purposes, the aggregate combined rate would generally be (1) The Federal income tax rate plus (2) the state and local tax rates, minus (3) the Federal tax effect of the deductibility of the state and local taxes at the Federal tax rate. In addition, for financial reporting purposes, consistent with GAAP, the FCA allows System institutions to offset DTAs (net of valuation allowance) and DTLs related to a particular tax jurisdiction. Moreover, for regulatory reporting purposes, consistent with GAAP, the FCA requires separate calculations of income taxes, both current and deferred amounts, for each tax jurisdiction. Accordingly, System institutions must calculate DTAs and DTLs on a state-by-state basis for financial reporting purposes under GAAP and for regulatory reporting purposes.

Under the proposed rule, a System institution must assign a risk weight of 100 percent under § 628.30 for DTAs that arise from temporary differences that a System institution may realize through net operating loss carrybacks. By this proposal, the FCA would allow System institutions to include in regulatory capital some or all of their DTAs resulting from timing differences that are realizable through net operating loss carrybacks. In this regard, we believe the proposed rule strikes an appropriate balance between prudential concerns and practical considerations about the ability of System institutions to realize DTAs.

C. Limits on Inclusion of Third-Party Capital

The proposed rule would impose limits on System institution issuances of third-party capital—that is, capital issued to entities that are not System institutions or members of System institutions—in regulatory capital.[49] The FCA currently imposes limits on the inclusion of third-party capital in core surplus, total surplus, and net collateral on a case-by-case basis in connection with our clearance of disclosure documents and regulatory capital determinations. The FCA has imposed this restriction to ensure that cooperative ownership continues to predominate in all System institutions, in order to maintain the status of the System as a member-controlled GSE that is owned by and primarily benefits its members.

The proposed rule would provide that third-party capital when issued, together with any already outstanding third-party capital in tier 1 capital, may be included in tier 1 capital in an amount up to 33 percent of all other tier 1 capital (*i.e.,* 25 percent of all tier 1 capital including third-party capital). It may be included in total capital in an amount equal to the lesser of 40 percent of total capital or 100 percent of tier 1 capital.

The two formulas are:

1. ALTPC = min (40 percent TC, 100 percent T1),

where,

ALTPC = Aggregate limit on third-party capital

TC = Total capital (tier 1 Capital + tier 2 Capital)

T1 = Tier 1 capital

$$2.\quad CLNPSS = \max\left[ELNPPS,\quad 1/3\left(\sum_{n=1}^{4}\frac{(T1_n - NPPS_n)}{4}\right)\right]$$

[42] Net of any valuation allowances.

[43] Net of any valuation allowances.

[44] Net of any valuation allowances.

[45] Net of any valuation allowances.

[46] Net of any valuation allowances, but before any offsetting of DTLs.

[47] Net of any valuation allowances, but before any offsetting of DTLs.

[48] Temporary differences arise when financial events or transactions are recognized in one period for financial reporting purposes and in another period, or periods, for tax purposes. A reversing taxable temporary difference is a temporary difference that produces additional taxable income in future periods.

[49] The FCA notes that System institution members could hold third-party equities that are issued to groups of persons such as individual accredited investors, if they are qualified to purchase the stock and are not prohibited to do so under conditions imposed by FCA. We use the term ''third-party'' to refer to a class of stock other than the classes of stock that only a System institution's members are eligible to purchase.

where

CLNPPS = current limit on noncumulative perpetual preferred stock in tier 1 capital, calculated this quarter
ELNPPS = existing limit on noncumulative perpetual preferred stock in tier 1 capital, calculated the previous quarter,
NPPS = noncumulative perpetual preferred stock included in tier 1 capital,
T1 = tier 1 capital, and
n = 4 previous quarters, 1–4

We seek comment on alternative third-party limits to ensure that System institutions remain capitalized primarily by their member borrowers.

IV. Standardized Approach for Risk-Weighted Assets

A. Calculation of Standardized Total Risk-Weighted Assets

Similar to the FCA's current risk-based capital rules, under this proposal a System institution would calculate its total risk-weighted assets by adding together its on- and off-balance sheet risk-weighted asset amounts and making any relevant adjustments to incorporate required capital deductions.[50] Risk-weighted asset amounts generally would be determined by assigning on-balance sheet assets to broad risk-weight categories according to the counterparty or, if relevant, the guarantor or collateral. Similarly, risk-weighted asset amounts for off-balance sheet items would be calculated using a two-step process: (1) Multiplying the amount of the off-balance sheet exposure [51] by a credit conversion factor (CCF) to determine a credit equivalent amount; and (2) assigning the credit equivalent amount to a relevant risk-weight category.

A System institution would determine its standardized total risk-weighted assets by calculating the sum of its risk-weighted assets for general credit risk, cleared transactions, unsettled transactions, securitization exposures, and equity exposures, each as defined below, less the System institution's allowance for loan losses (ALL) that is not included in tier 2 capital (as described in § 628.20 of the proposal). The sections below describe in more detail how a System institution would determine the risk-weighted asset amounts for its exposures.

B. Risk-Weighted Assets for General Credit Risk

Under this proposed rule, total risk-weighted assets for general credit risk is the sum of the risk-weighted asset amounts as calculated under § 628.31(a) of the proposal. As proposed, general credit risk exposures would include a System institution's on-balance sheet exposures (other than cleared transactions, securitization exposures, and equity exposures, each as defined in § 628.2 of the proposed rule), exposures to over-the-counter (OTC) derivative contracts, off-balance sheet commitments, trade and transaction-related contingencies, guarantees, repo-style transactions, financial standby letters of credit, forward agreements, or other similar transactions. Proposed § 628.32 describes the risk weights that would apply to sovereign exposures; exposures to certain supranational entities and multilateral development banks (MDBs); exposures to Government-sponsored enterprises (GSEs); exposures to depository institutions, foreign banks, and credit unions (including certain exposures to other financing institutions (OFIs) owned or controlled by these entities); exposures to public sector entities (PSEs); corporate exposures (including certain exposures to OFIs); residential mortgage exposures; high volatility commercial real estate (HVCRE) exposures; past due exposures; other assets (including cash, gold bullion, certain MSAs and DTAs); and loans from System banks to associations.

Generally, the exposure amount for the on-balance sheet component of an exposure would be the System institution's carrying value for the exposure as determined under generally accepted accounting principles (GAAP). Because all System institutions use GAAP to prepare their financial statements and regulatory reports, we believe that using GAAP to determine the amount and nature of an exposure provides a consistent framework that System institutions can easily apply. Using GAAP for this purpose would reduce the potential burden that could otherwise result from requiring System institutions to comply with a separate set of accounting and measurement standards for risk-based capital calculation purposes under non-GAAP standards, such as regulatory accounting practices or legal classification standards.

For purposes of the definition of exposure amount for available-for-sale (AFS) or held-to-maturity (HTM) debt securities and AFS preferred stock not classified as equity under GAAP, the exposure amount is the System institution's carrying value (including net accrued but unpaid interest and fees) for the exposure, less any net unrealized gains, and plus any net unrealized losses. For purposes of the definition of exposure amount for AFS preferred stock classified as an equity security under GAAP, the exposure amount is the System institution's carrying value (including net accrued but unpaid interest and fees) for the exposure, less any net unrealized gains that are reflected in such carrying value but excluded from the System institution's regulatory capital.[52]

In most cases, the exposure amount for an off-balance sheet component of an exposure would typically be determined by multiplying the notional amount of the off-balance sheet component by the appropriate CCF as determined under § 628.33 of the proposed rule. The exposure amount for an OTC derivative contract or cleared transaction that is a derivative would be determined under § 628.34 of the proposed rule, whereas exposure amounts for collateralized OTC derivative contracts, collateralized cleared transactions that are derivatives, repo-style transactions, and eligible margin loans would be determined under § 628.37 of the proposal.

1. Exposures to Sovereigns

Under the proposal, a sovereign would be defined as a central government (including the U.S. Government) or an agency, department, ministry, or central bank of a central government (for the U.S. Government, the central bank is the Federal Reserve). The FCA proposes to retain the current rules' risk weights for exposures to and claims directly and unconditionally guaranteed by the U.S. Government or its agencies.[53] Accordingly, exposures to the U.S. Government, the Federal Reserve, or a U.S. Government agency, and the portion of an exposure that is directly and unconditionally guaranteed by the U.S. Government, the Federal Reserve, or a U.S. Government agency would receive a 0-percent risk weight.[54] Consistent with the current risk-based capital rules, the portion of a deposit insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA) would also be assigned a 0-percent risk weight.

[50] *See generally* the FCA's regulations at part 615, subpart H.

[51] The term ''exposure,'' which would be defined as an amount at risk, is used throughout the proposed rule and preamble.

[52] Although System banks often classify their securities as AFS, associations almost always classify their securities, to the extent they hold any, as HTM.

[53] A U.S. Government agency would be defined in the proposal as an instrumentality of the U.S. Government whose obligations are fully guaranteed as to the timely payment of principal and interest by the full faith and credit of the U.S. Government.

[54] Similar to the FCA's current risk-based capital rules, a claim would not be considered unconditionally guaranteed by a central government if the validity of the guarantee is dependent upon some affirmative action by the holder or a third party.

An exposure conditionally guaranteed by the U.S. Government, the Federal Reserve, or a U.S. Government agency would receive a 20-percent risk weight.[55] This would include an exposure that is conditionally guaranteed by the FDIC or the NCUA.

The FCA's existing risk-based capital rules generally assign risk weights to direct exposures to sovereigns and exposures directly guaranteed by sovereigns based on whether the sovereign is a member of the Organization for Economic Cooperation and Development (OECD) and, as applicable, whether the exposure is unconditionally or conditionally guaranteed by the sovereign.[56]

The OECD assigns Country Risk Classifications (CRCs) to many countries as an assessment of their credit risk. CRCs are used to set interest rate charges for transactions covered by the OECD arrangement on export credits. The OECD uses a scale of 0 to 7 with 0 being the lowest possible risk and 7 being the highest possible risk. The OECD no longer assigns CRCs to certain high-income countries that are members of the OECD and that have previously received a CRC of 0. These countries exhibit a similar degree of country risk as that of a jurisdiction with a CRC of 0.[57]

Under the proposed rule, the risk weight for exposures to countries with CRCs would be determined based on the CRCs. Exposures to OECD member countries that do not have CRCs would be risk-weighted at 0-percent. Exposures to non-OECD members with no CRC would be risk-weighted at 100-percent.[58] The OECD regularly updates CRCs and makes the assessments publicly available on its Web site. Accordingly, the FCA believes that the CRC approach should not represent undue burden to System institutions.

The FCA believes that use of CRCs in the proposal is permissible under section 939A of the Dodd-Frank Act and that section 939A was not intended to apply to assessments of creditworthiness by organizations such as the OECD. Section 939A is part of Subtitle C of Title IX of the Dodd-Frank Act, which, among other things, enhances regulation by the U.S. Securities and Exchange Commission (SEC) of credit rating agencies, including Nationally Recognized Statistical Rating Organizations (NRSROs) registered with the SEC. Section 939A requires agencies to remove references to credit ratings and NRSROs from Federal regulations. In the introductory ''findings'' section to Subtitle C, which is entitled ''Improvements to the Regulation of Credit Ratings Agencies,'' Congress characterized credit rating agencies as organizations that play a critical ''gatekeeper'' role in the debt markets and perform evaluative and analytical services on behalf of clients, and whose activities are fundamentally commercial in character.[59] Furthermore, the legislative history of section 939A focuses on the conflicts of interest of credit rating agencies in providing credit ratings to their clients, and the problem of government ''sanctioning'' of the credit rating agencies' credit ratings by having them incorporated into Federal regulations. The OECD is not a commercial entity that produces credit assessments for fee-paying clients, nor does it provide the sort of evaluative and analytical services as credit rating agencies. Additionally, the FCA notes that the use of the CRCs is limited in the proposal. The FCA considers CRCs to be a reasonable alternative to credit ratings for sovereign exposures and the proposed CRC methodology to be more granular and risk sensitive than the current risk-weighting methodology based solely on OECD membership.

The FCA also proposes to require a System institution to apply a 150-percent risk weight to sovereign exposures immediately upon determining that an event of sovereign default has occurred or if an event of sovereign default has occurred during the previous 5 years. Sovereign default would be defined as a noncompliance by a sovereign with its external debt service obligations or the inability or unwillingness of a sovereign government to service an existing loan according to its original terms, as evidenced by failure to pay principal or interest fully and on a timely basis, arrearages, or restructuring. A default would include a voluntary or involuntary restructuring that results in a sovereign not servicing an existing obligation in accordance with the obligation's original terms.

TABLE 3—RISK WEIGHTS FOR SOVEREIGN EXPOSURES

	Risk weight (in percent)
CRC:	
0–1	0
2	20
3	50
4–6	100
7	150
OECD Member with No CRC	0
Non-OECD Member with No CRC	100
Sovereign Default	150

2. Exposures to Certain Supranational Entities and Multilateral Development Banks

Under the FCA's existing risk-based capital rules, exposures to certain supranational entities and multilateral development banks (MDBs) receive a 20-percent risk weight. Consistent with the Basel framework's treatment of exposures to supranational entities, the FCA proposes to apply a 0-percent risk weight to exposures to the Bank for International Settlements, the European Central Bank, the European Commission, and the International Monetary Fund.

Similarly, the FCA proposes to apply a 0-percent risk weight to exposures to an MDB. The proposal would define an MDB to include the International Bank for Reconstruction and Development, the Multilateral Investment Guarantee Agency, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the European Investment Fund, the Nordic Investment Bank, the Caribbean Development Bank, the Islamic Development Bank, the Council of Europe Development Bank, and any other multilateral lending institution or regional development bank in which the U.S. Government is a shareholder or contributing member or which the FCA determines poses comparable credit risk.

The FCA believes this treatment is appropriate in light of the generally high-credit quality of MDBs, their strong shareholder support, and a shareholder structure comprised of a significant proportion of sovereign entities with

[55] Because of the issues such an exposure would raise, the FCA would determine the risk-weight of any System institution exposures that has a Farm Credit System Insurance Corporation (FCSIC) guarantee, whether conditional or unconditional, on a case-by-case basis.

[56] Section 615.5211.

[57] For more information on the OECD country risk classification methodology, *see generally* OECD, ''Country Risk Classification,'' available at *http://www.oecd.org/tad/xcred/crc.htm.*

[58] This proposed rule, like the capital rules of the Federal banking regulatory agencies, permits a lower risk weighting for sovereign exposures if certain conditions are met, including that the exposure is denominated in the sovereign's currency. Although the investment eligibility regulation applicable to System institutions require that all investments must be denominated in U.S. dollars (*see* § 615.5140(a) of our regulations), this lower risk weight could be used if a System institution were to foreclose on collateral in the form of such a sovereign exposure.

[59] *See* Dodd-Frank Act, section 931 (15 U.S.C. 78o–7 note).

strong creditworthiness. Exposures to regional development banks and multilateral lending institutions that are not covered under the definition of MDB generally would be treated as corporate exposures and would receive a 100-percent risk weight.

3. Exposures to Government-Sponsored Enterprises

The System is a GSE, and the definition of GSE adopted by the Federal banking regulatory agencies includes the System in their definition of GSE.[60] Those agencies view the System, and the other GSEs, as potential counterparties to the entities that they regulate. In contrast, we regulate System institutions rather than viewing them as potential counterparties. It is too confusing for the System to be included in a definition that is intended to refer to counterparties. Accordingly, we propose for the purpose of these capital regulations at part 628 to exclude institutions of the System (other than the Federal Agricultural Mortgage Corporation (Farmer Mac)) from the definition of GSE.[61] Throughout these capital regulations, we will refer to System institutions specifically as necessary.

The FCA is proposing to assign a 20-percent risk weight to exposures to GSEs that are not equity exposures and a 100-percent risk weight to preferred stock issued by a GSE.[62] This risk weighting would represent a change to the FCA's existing risk-based capital rules, which currently allow a System institution to apply a 20-percent risk weight to GSE preferred stock.[63]

4. Exposures to Depository Institutions, Foreign Banks, and Credit Unions

The FCA's existing risk-based capital rules assign a 20-percent risk weight to all exposures to U.S. depository institutions and foreign banks incorporated in an OECD country. Short-term exposures to foreign banks incorporated in a non-OECD country receive a 20-percent risk weight and long-term exposures to such entities receive a 100-percent risk weight.

Under the proposal, exposures to U.S. depository institutions and credit unions would be assigned a 20-percent risk weight.[64] This risk weight would apply to a System bank exposure to an OFI that is owned and controlled by a U.S. or state depository institution or credit union that guarantees the exposure. If the OFI exposure did not satisfy these requirements, it would be assigned a 100-percent risk weight as a corporate exposure pursuant to § 628.32(f)(2).

Our existing OFI rules assign a 20-percent risk weight to a claim on an OFI that is an OECD bank or is owned and controlled by an OECD bank that guarantees the claim or if the OFI or its parent has a sufficiently high credit rating.[65] Our proposal would impose the same risk weight for OFI exposures of the same nature, except that we propose to eliminate the credit rating alternative in accordance with section 939A of the Dodd-Frank Act.

Under this proposal, an exposure to a foreign bank would receive a risk weight one category higher than the risk weight assigned to a direct exposure to the foreign bank's home country, based on the assignment of risk weights by CRC, as discussed above.[66] Exposures to a foreign bank in a country that does not have a CRC but that is a member of the OECD would receive a 20-percent risk weight. A System institution would assign a 100-percent risk weight to an exposure to a foreign bank in a non-OECD member country that does not have a CRC, except that the institution could assign a 20-percent risk weight to self-liquidating, trade-related contingent items that arise from the movement of goods and that have a maturity of 3 months or less.

A System institution would be required to assign a 150-percent risk weight to an exposure to a foreign bank immediately upon determining that an event of sovereign default has occurred in the bank's home country, or if an event of sovereign default has occurred in the foreign bank's home country during the previous 5 years.

Both the Basel capital framework and our existing regulation treat exposures to securities firms that meet certain requirements like exposures to depository institutions.[67] However, like the Federal banking regulatory agencies, the FCA no longer believes that the risk profile of these firms is sufficiently similar to depository institutions to justify that treatment. Accordingly, the FCA proposes to require System institutions to treat exposures to securities firms as corporate exposures, with a 100-percent risk weight.

TABLE 4—RISK WEIGHTS FOR EXPOSURES TO FOREIGN BANKS

	Risk weight (in percent)
Sovereign CRC	
0–1	20
2	50
3	100
4–7	150
OECD Member with no CRC	20
Non-OECD Member with no CRC	100
Sovereign Default	150

5. Exposures to Public Sector Entities

The FCA's existing risk-based capital rules assign a 20-percent risk weight to general obligations of states and other political subdivisions of OECD countries.[68] Exposures that rely on repayment from specific projects (for example, revenue bonds) are assigned a risk weight of 50 percent. Other exposures to state and political subdivisions of OECD countries (including industrial revenue bonds) and exposures to political subdivisions of non-OECD countries receive a risk weight of 100 percent. The risk weights assigned to revenue obligations are higher than the risk weight assigned to general obligations because repayment of revenue obligations depends on specific projects, which present more risk relative to a general repayment obligation of a state or political subdivision of a sovereign.

The FCA is proposing to apply the same risk weights to exposures to U.S. states and municipalities as the existing risk-based capital rules apply. Under the proposal, these political subdivisions would be included in the definition of ''public sector entity'' (PSE). Consistent with both the current rules and the Basel capital framework, the FCA proposes to define a PSE as a state, local authority, or other governmental subdivision below the level of a sovereign. This definition would

[60] The definition of GSE adopted by the Federal banking regulatory agencies includes the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the System, and the Federal Home Loan Bank System.

[61] Farmer Mac would remain included in the FCA's definition of GSE, because this regulation would view Farmer Mac as a counterparty rather than as a regulated entity.

[62] As discussed below, System institutions would be required to deduct from capital preferred stock (and all other equities) issued by other System institutions, and therefore we do not propose a risk weight for these exposures.

[63] Section 615.5211(b)(6).

[64] A depository institution is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)). Under this proposal, a credit union refers to an insured credit union as defined under the Federal Credit Union Act (12 U.S.C. 1752(7)).

[65] § 615.5211(b)(16).

[66] Foreign bank means a foreign bank as defined in section 211.2 of the Federal Reserve Board's Regulation K (12 CFR 211.2), that is not a depository institution. For purposes of the proposal, home country meant the country where an entity is incorporated, chartered, or similarly established.

[67] *See* § 615.5211(b)(14) and (b)(15).

[68] Political subdivisions of the United States would include a state, county, city, town or other municipal corporation, a public authority, and generally any publicly owned entity that is an instrument of a state or municipal corporation.

include U.S. states and municipalities and would not include government-owned commercial companies that engage in activities involving trade, commerce, or profit that are generally conducted or performed in the private sector.

Under the proposal, a System institution would assign a 20-percent risk weight to a general obligation exposure to a PSE that is organized under the laws of the United States or any state or political subdivision thereof and a 50-percent risk weight to a revenue obligation exposure to such a PSE. A general obligation would be defined as a bond or similar obligation that is backed by the full faith and credit of a PSE. A revenue obligation would be defined as a bond or similar obligation that is an obligation of a PSE, but which the PSE is committed to repay with revenues from a specific project financed rather than general tax funds.

Similar to the Basel framework's use of home country risk weights to assign a risk weight to a PSE exposure, the FCA proposes to require a System institution to apply a risk weight to an exposure to a non-U.S. PSE based on (1) The CRC applicable to the PSE's home country or, if the home country has no CRC, whether it is a member of the OECD, and (2) whether the exposure is a general obligation or a revenue obligation, in accordance with Table 5.

The risk weights assigned to revenue obligations would be higher than the risk weights assigned to a general obligation issued by the same PSE, as set forth, for non-U.S. PSEs, in Table 5. Similar to exposures to a foreign bank, exposures to a non-U.S. PSE in a country that does not have a CRC rating would receive a 100-percent risk weight. Exposures to a non-U.S. PSE in a country that has defaulted on any outstanding sovereign exposure or that has defaulted on any sovereign exposure during the previous 5 years would receive a 150-percent risk weight. Table 5 illustrates the proposed risk weights for exposures to non-U.S. PSEs.

TABLE 5—PROPOSED RISK WEIGHTS FOR EXPOSURES TO NON-U.S. PSE GENERAL OBLIGATIONS AND REVENUE OBLIGATIONS

[in percent]

	Risk weight for exposures to non-U.S. PSE general obligations	Risk weight for exposures to non-U.S. PSE revenue obligations
Sovereign CRC: 0–1	20	50
2	50	100
3	100	100
4–7	150	150
OECD Member with No CRC	20	50
Non-OECD Member with No CRC	100	100
Sovereign Default	150	150

The FCA proposes to allow a System institution to apply a risk weight to an exposure to a non-U.S. PSE according to the risk weight that the foreign banking organization supervisor allows to be assigned to it. In no event, however, may the risk weight for an exposure to a non-U.S. PSE be lower than the risk weight assigned to direct exposures to that PSE's home country.

6. Corporate Exposures

Under the FCA's existing risk-based capital rules, credit exposures to companies that are not depository institutions or securitization vehicles generally are assigned to the 100-percent risk weight category. A 20-percent risk weight is assigned to claims on, or guaranteed by, a securities firm incorporated in an OECD country that satisfies certain conditions.

The proposed requirements would be generally consistent with the existing risk-based capital rules and require System institutions to assign a 100-percent risk weight to all corporate exposures. The proposal would define a corporate exposure as an exposure to a company that is not an exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, an MDB, a depository institution, a foreign bank, or a credit union, a PSE, a GSE, a residential mortgage exposure, an HVCRE exposure, a cleared transaction, a securitization exposure, an equity exposure, or an unsettled transaction. This definition captures all exposures that are not otherwise included in another specific exposure category and is not limited to exposures to corporations.

Accordingly, this category would include borrower loans such as agricultural loans and consumer loans, regardless of the corporate form of the borrower, unless those loans qualify for different risk weights (such as a 50-percent risk weight for residential mortgage exposures) under other provisions. This category would also include premises, fixed assets, and other real estate owned.

Because they are corporate exposures, this category includes all OFI exposures that do not qualify for the 20-percent depository institution risk weight provided in § 628.32(d) and discussed above. Our existing rules also contain a default 100-percent risk weight category.[69] But our existing regulations also contain an intermediate, 50-percent risk weight category for claims on OFIs that do not satisfy the requirements for a 20-percent risk weight but that otherwise meet similar capital, risk identification and control, and operational standards or that carry an investment grade credit rating.[70] Only if an OFI does not satisfy these standards does a claim on it receive a 100-percent risk weighting.

This 50-percent risk weighting for what would otherwise be a corporate exposure is inconsistent with our treatment of other corporate exposures. In addition, the Federal banking regulatory agencies would assign a 100-percent risk weight to these exposures. Accordingly, we propose to eliminate the 50-percent risk weight for OFIs and to assign a 100-percent risk weight to exposures to OFIs that do not satisfy the requirements for a 20-percent risk weight because they are not depository institutions.

We seek comment on our proposed capital treatment of exposures to OFIs. Specifically, what factors or other information would be relevant if we consider assigning an intermediate risk weight to a System institution's exposure to an OFI, recognizing that the same exposure to the same OFI would receive a 100-percent risk weight from a banking organization regulated by a Federal banking regulatory agency?

In contrast to the FCA's existing risk-based capital rules, all securities firms would be subject to the same treatment as corporate exposures.

7. Residential Mortgage Exposures

The FCA's existing risk-based capital rules assign ''qualified residential loans'' to the 50-percent risk-weight category.[71] Qualified residential loans

[69] § 615.5211(d)(11).

[70] § 615.5211(c)(5).

[71] § 615.5211(c)(2).

include both rural home loans authorized under § 613.3030 and single-family residential loans to bona fide farmers, ranchers, and producers and harvesters of aquatic products. Qualified residential loans must have been approved in accordance with prudent underwriting standards suitable for residential property and must not be past due 90 days or more or carried in nonaccrual status.[72] If the loan does not satisfy these safety and soundness standards, or the property is not characteristic of residential property, the loan receives a 100-percent risk weight.

In general, although our rule is structured differently, our existing safety and soundness standards are very similar to the risk-weighting requirements of the Federal banking regulatory agencies for residential mortgage exposures.[73] The major differences between the two sets of rules are the FCA's criteria regarding the characteristics of residential property, which the Federal banking regulatory agencies do not have.

In the interest of consistency, we now propose to structure our rule the same way as the Federal banking regulatory agencies do. Moreover, we propose to adopt the safety and soundness standards of the Federal banking regulatory agencies. As mentioned above, and as discussed below, although these standards are already very similar, there would be a few changes to our rule. Finally, while we would retain two of our existing requirements regarding the characteristics of residential property, we propose to eliminate the rest of these requirements as unnecessary and burdensome.[74]

We would define a residential mortgage exposure as an exposure (other than a securitization exposure or equity exposure) that is primarily secured by a first or subsequent lien on one-to-four family residential property, provided that the dwelling (including attached components such as garages, porches, and decks) represents at least 50 percent of the total appraised value of the collateral secured by the first or subsequent lien.[75]

The proposed rule would assign a residential mortgage exposure to the 50-percent risk-weight category if the property is either owner-occupied or rented [76] and if the exposure was made in accordance with prudent underwriting standards suitable for residential property, including standards relating to the loan amount as a percentage of the appraised value of the property; [77] is not 90 days or more past due or carried in non-accrual status; and is not restructured or modified.[78]

A System institution must assign a 100-percent risk weight to all residential mortgage exposures that do not satisfy the criteria for a 50-percent risk weight.

The proposed rule would maintain the current risk-based capital treatment for residential mortgage exposures that are guaranteed by the U.S. Government or U.S. Government agencies. Accordingly, residential mortgage exposures that are unconditionally guaranteed by the U.S. Government or a U.S. Government agency would receive a 0-percent risk weight, and residential mortgage exposures that are conditionally guaranteed by the U.S. Government or a U.S. Government agency would receive a 20-percent risk weight.

Under the proposal, a residential mortgage exposure may be assigned to the 50-percent risk-weight category only if it is not restructured or modified. We believe this new restriction on System institution risk weighting, which the Federal banking regulatory agencies adopted, is appropriate based on risk.

However, a residential mortgage exposure modified or restructured on a permanent or trial basis solely pursuant to the U.S. Treasury's Home Affordable Mortgage Program (HAMP) would not be considered to be restructured or modified and would continue to receive a 50-percent risk weighting. Treating mortgage loans modified pursuant to HAMP in this manner is appropriate in light of the special and unique incentive features of HAMP, and the fact that the program is offered by the U.S. Government to achieve the public policy objective of promoting sustainable loan modifications for homeowners at risk of foreclosure in a way that balances the interests of borrowers, servicers, and lenders.[79]

System institutions should be mindful that the residential mortgage market is likely to change in the future, in part because of regulations the CFPB is adopting to improve the quality of mortgage underwriting and to reduce the associated credit risk and in part for market-driven or other reasons. The FCA may propose changes in the treatment of residential mortgage exposures in the future. If so, we intend to take into consideration structural and product market developments, other relevant regulations, and potential issues with implementation across various product types.

8. High Volatility Commercial Real Estate Exposures

Certain acquisition, development, and construction (ADC) loans (which are a subset of commercial real estate exposures) present particular risks and warrant the holding of additional capital beyond the 100-percent risk weight that would otherwise apply. Accordingly, the FCA is proposing a 150-percent risk weight for these HVCRE exposures.

The proposed definition of HVCRE would be a credit facility that, prior to conversion to permanent financing, finances or has financed the acquisition, development, or construction of real property. The financing of four kinds of property is excluded from this definition:

- One-to-four family residential properties;
- Real property that the FCA has authorized as an investment pursuant to § 615.5140(e) (this provision authorizes System institutions to purchase and hold investments as approved by the FCA);
- The purchase or development of agricultural land, which includes all land known to be used or usable for

[72] *See* definition of *qualified residential loan* in § 615.5201. In addition to these credit risk standards, qualified residential loans must also satisfy a number of criteria designed to ensure that the property is residential in nature. The conditions for a loan to be considered nonaccrual are set forth in § 621.6(a) of the FCA's regulations. This rule proposes no changes to that provision.

[73] These agencies retained their existing risk-weighting requirements for residential mortgage exposures when they adopted their new capital rules.

[74] Although we are proposing to delete the specific requirements in this area, FCA examiners will continue to verify that residential property securing an exposure risk-weighted as a residential mortgage exposure does in fact exhibit characteristics of residential rather than agricultural property. If examiners determine that the property is agricultural in nature, they will require appropriate adjustment of the risk-based capital treatment.

[75] To ensure that the collateral is primarily residential rather than agricultural in nature, we propose to revise the definition adopted by the Federal banking regulatory agencies to include the requirement regarding the appraised value of the dwelling relative to the value of the collateral as a whole.

[76] The FCA's risk-weighting provisions would not expand the lending authorities of System institutions.

[77] The requirement that the underwriting standards be suitable for residential property is the other requirement we propose to add to ensure that the collateral is primarily residential rather than agricultural in nature.

[78] The FCA's existing regulation does not prohibit loans that have been restructured or modified from receiving a 50-percent risk weight. The other proposed requirements carry over from our existing regulation.

[79] The rules of the Federal banking regulatory agencies establish risk weights for ''pre-sold residential construction loans'' and ''statutory multifamily mortgages.'' These are loans that are authorized by statutes that do not apply to System institutions, and therefore we do not propose risk weights for them.

agricultural purposes (such as crop and livestock production), provided that the valuation of the agricultural land is based on its value for agricultural purposes and the valuation does not take into consideration any potential use of the land for non-agricultural commercial development or residential development; or

- Commercial real estate projects that meet certain prudential criteria, including with respect to the LTV ratio and capital contributions or expense contributions of the borrower.

A commercial real estate loan that is not an HVCRE exposure, including permanent financing after the life of the ADC project concludes, would be treated as a corporate exposure.

There may be overlap between HVCRE exposures and exposures to land in transition—agricultural land in the path of development. FCA Bookletter BL–058 (BL–058) explains that while System institutions may finance land in transition, they may not provide development financing that converts agricultural land to non-agricultural land, except in very rare instances. BL–058 provides guidance on how a System institution making a loan to purchase or refinance land in transition should ensure compliance with the FCA's eligibility and scope of financing regulations. System institutions contemplating land in transition financing must review and understand BL–058 and must ensure they are in full compliance with all FCA regulations in that area.

9. Past Due Exposures

Under the FCA's existing risk-based capital rules, the risk weight of a loan does not change if the loan becomes past due, with the exception of certain residential mortgage loans. The FCA believes, however, that a higher risk weight is appropriate for past due exposures (such as past due agricultural or other borrower loans) to reflect the increased risk associated with such exposures.

To reflect the impaired credit quality of such exposures, the FCA proposes to require a System institution to assign a risk weight of 150 percent to an exposure that is not guaranteed or is not secured by financial collateral (and that is not a sovereign exposure or a residential mortgage exposure) if it is 90 days or more past due or recognized as nonaccrual.[80] We believe this risk weight is appropriate and that any increased capital burden, potential rise in procyclicality, or impact on lending associated with the increased risk weight is justified given the overall objective of capturing the risk associated with the impaired credit quality of these exposures.

Moreover, the increased risk weight would not double-count the risk of a past due exposure, even though the ALL would already be reflected in the risk-based capital numerator, because the ALL is intended to cover estimated, incurred losses as of the balance sheet date, not unexpected losses. The higher risk weight on past due exposures would ensure sufficient regulatory capital for the increased probability of unexpected losses on these exposures.

A System institution would be permitted to assign a risk weight to the portion of a past due exposure that is collateralized by financial collateral or that is guaranteed if the financial collateral, guarantee, or credit derivative meets the proposed requirements for recognition described in § 628.36 and § 628.37.[81]

10. Other Assets

Generally consistent with our existing risk-based capital rules, the FCA proposes the risk weights described below for the following exposures:

(1) A 0-percent risk weight to cash owned and held in all offices of the System institution, in transit, or in accounts at a depository institution or a Federal Reserve Bank; to gold bullion held in a depository institution's vaults on an allocated basis to the extent gold bullion assets are offset by gold bullion liabilities; and to exposures that arise from the settlement of cash transactions (such as equities, fixed income, spot foreign exchange and spot commodities) with a central counterparty where there is no assumption of ongoing counterparty credit risk by the central counterparty after settlement of the trade;

(2) A 20-percent risk weight to cash items in the process of collection; and

(3) A 100-percent risk weight to DTAs arising from temporary differences that a System institution could realize through net operating loss carrybacks;

(4) A 100-percent risk weight to all MSAs; and

(5) A 100-percent risk weight to all assets not specifically assigned a different risk weight under this proposed rule (other than exposures that would be deducted from tier 1 or tier 2 capital pursuant to proposed § 628.22).

As discussed above, the FCA is proposing, unlike the Federal banking regulatory agencies, to deduct from capital all DTAs, other than those arising from temporary differences that a System institution could realize through net operating loss carrybacks. In addition, because System institutions have such little exposure to MSAs, we are proposing to simplify the capital treatment as adopted by the Federal banking regulatory agencies. Accordingly, we are proposing to risk weight DTAs and MSAs as stated above and to eliminate the capital treatment, including the 250-percent risk weight, adopted by the Federal banking regulatory agencies.[82]

11. Exposures to Other System Institutions

We propose to retain the existing 20-percent risk weight for loans from System banks to associations (direct loans).

Under proposed § 628.22(c), all equities (including preferred stock) a System institution has invested in another System institution would be deducted from the investing institution's regulatory capital, and therefore we do not propose a risk weighting for these exposures. These exposures would include an association's investment in its System bank, a System bank's purchase of nonvoting stock or participation certificates of an affiliated association pursuant to § 615.5171, and the purchase of a System association's preferred stock by a System bank, association, or service corporation pursuant to § 615.5175.

In the past, System institutions (generally System banks) have entered into loss-sharing agreements with other System institutions (generally, affiliated associations) under § 614.4340. In the future, if System institutions enter into a loss-sharing agreement, the FCA would assign a risk weight for any associated exposures at that time, using our reservation of authority.

12. Risk-Weighting for Specialized Exposures

By FCA Bookletter BL–052, dated January 25, 2006, the FCA permitted loans recorded before January 1, 2006 that are supported by Tobacco Buyout assignments to be risk weighted at 20

[80] A loan is considered nonaccrual if it meets any of the conditions specified in § 621.6(a).

[81] As discussed below, proposed § 628.2 would define financial collateral as collateral in the form of, in pertinent part, cash, investment grade debt instruments that are not resecuritization exposures, publicly traded equity securities and convertible bonds, and mutual fund (including money market fund) shares if a price is publicly quoted daily, in which the System institution has a perfected, first-priority security interest (except for cash). Financial collateral would not include collateral such as real estate (whether agricultural or not) or chattel.

[82] If a System institution were to increase significantly its exposures to MSAs, we would consider exercising our authority to require a higher risk weight.

percent.[83] These loans mature no later than 2015. Although we do not propose to include it in this rule, the FCA intends to continue to permit a 20-percent risk weight for these loans. If necessary, we will issue revised guidance on this capital treatment when we adopt our final capital rule.

By FCA Bookletter BL–053, dated February 27, 2007, the FCA permitted System institutions to assign a lower risk than would otherwise apply to certain electrical cooperative assets, based on the unique characteristics and lower risk profile of this industry segment. Exposures to certain electrical cooperative assets that satisfy specified conditions receive a 50-percent rather than a 100-percent risk weight. Furthermore, exposures to these assets receive a 20-percent risk weight if the assets have a AAA or AA credit rating.

We do not propose this favorable risk weighting for these assets in this rule, but we seek comment as to whether we should retain this risk weighting, being mindful of the Dodd-Frank Act section 939A requirement that we must eliminate the credit rating criteria. If we do retain this capital treatment, we will issue revised guidance on the risk weighting when we adopt our final capital rule.

C. Off-Balance Sheet Items

1. Credit Conversion Factors

Under this proposed rule, as under our existing risk-based capital rules, a System institution would calculate the exposure amount of an off-balance sheet item by multiplying the off-balance sheet component, which is usually the contractual amount, by the applicable credit conversion factor (CCF). This treatment would apply to off-balance sheet items, such as commitments (including a System bank's commitment to an association, discussed below), contingent items, guarantees, certain repo-style transactions, financial standby letters of credit, and forward agreements.

We propose to determine the exposure amount of a System bank's commitment to an association as the difference between the association's maximum credit limit with the System bank (as established by the general financing agreement or promissory note, as required by § 614.4125(d)) and the amount the association has borrowed from the System bank. For example, if a System bank has a $100 maximum credit limit to an association and the association has $80 outstanding on its direct note, the System bank's exposure amount on its commitment would be $20.

Determining a System bank's exposure amount in this manner would result in what could be viewed as double counting of commitment exposures (although, as discussed below, we disagree). Continuing the example above, the association that has borrowed $80 from its System bank could have $60 in outstanding loans to its borrowers and $15 in commitments to its borrowers.[84] The System bank would be required to hold capital against its $20 commitment exposure amount, and the association would be required to hold capital against its $15 commitment exposure amount, which it would fund by drawing on its commitment with the System bank.

We do not believe this treatment results in double counting commitment exposures. This treatment is consistent with the way we treat loan exposures; we require a System bank to hold capital against the outstanding balance of its loan to an association, and we also require an association to hold capital against its loans to borrowers (even though the association's loaned funds come from its loan with the System bank). As with loan exposures, we believe that there are separate risks involved in System bank commitment exposures and association commitment exposures.[85] Accordingly, we do not propose to net association commitments against System bank commitments. We invite comment on this determination.

Similar to the current risk-based capital rules, a System institution would apply a 0-percent CCF to the unused portion of commitments that are unconditionally cancelable by the institution. For purposes of this proposed rule, a commitment would mean any legally binding arrangement that obligates a System institution to extend credit or to purchase assets. Unconditionally cancelable would mean a commitment that a System institution may, at any time, with or without cause, refuse to extend credit under the commitment (to the extent permitted under applicable law). In the case of an operating line of credit, a System institution would be deemed able to unconditionally cancel the commitment if it can, at its option, prohibit additional extensions of credit, reduce the credit line, and terminate the commitment to the full extent permitted by applicable law. If a System institution provides a commitment that is structured as a syndication, it would only be required to calculate the exposure amount for its pro rata share of the commitment.

The FCA proposes to maintain the current 20-percent CCF for self-liquidating, trade-related contingencies with an original maturity of 14 months or less.[86] In addition, the FCA proposes to increase the CCF from 0 percent to 20 percent for commitments with an original maturity of 14 months or less that are not unconditionally cancelable by a System institution.

As under our existing risk-based capital rules, a System institution would apply a 50-percent CCF to commitments with an original maturity of more than 14 months that are not unconditionally cancelable by the institution and to transaction-related contingent items, including performance bonds, bid bonds, warranties, and performance standby letters of credit.

Under this proposed rule, a System institution would be required to apply a 100-percent CCF to off-balance sheet guarantees, repurchase agreements, credit-enhancing representations and warranties that are not securitization exposures, securities lending and borrowing transactions, financial standby letters of credit, forward agreements, and other similar exposures. The off-balance sheet component of a repurchase agreement would equal the sum of the current fair values of all positions the System institution has sold subject to repurchase. The off-balance sheet component of a securities lending transaction would be the sum of the current fair values of all positions the System institution has lent under the transaction. For securities borrowing transactions, the off-balance sheet component would be the sum of the current fair values of all non-cash positions the institution has posted as collateral under the transaction. In certain circumstances, a System institution may instead determine the exposure amount of the transaction as described in § 628.37 of the proposed rule.

[83] Such loans recorded after this date must be risk-weighted at 100 percent.

[84] The association could use the $5 difference to fund its operations and investments.

[85] To illustrate the difference, we note that an association could use money it borrowers from the bank not only to establish and expand commitments and loans to borrowers but also to invest, hedge risk, replace equipment, or fund new facilities and services.

[86] As under our existing rules, we propose a 14-month rather than a 12-month original maturity because the agricultural production cycle and related marketing efforts typically extend beyond 12 months. A 14-month maturity would allow a commitment for an operating loan to cover an entire cycle. A new commitment would be issued for the next cycle. Allowing a more favorable risk weight for a 14-month rather than a 12-month commitment does not materially raise risk in the portfolios of System institutions.

In contrast to our existing risk-based capital rules, which require capital for securities lending and borrowing transactions and repurchase agreements only if they generate an on-balance sheet exposure, the proposed rule would require a System institution to hold risk-based capital against all repo-style transactions (that is, repurchase agreements, reverse repurchase agreements, securities lending transactions, and securities borrowing transactions), regardless of whether they generate on-balance sheet exposures, as described in § 628.37 of the proposed rule. For example, capital is required against the cash receivable that a System institution generates when it borrows a security and posts cash collateral to obtain the security. We propose this approach because System institutions face counterparty credit risk when engaging in repo-style transactions, even if those transactions do not generate on-balance sheet exposures, and thus these transactions should not be exempt from risk-based capital requirements.

2. Credit-Enhancing Representations and Warranties

Consistent with our existing risk-based capital rules, under the proposed rule a System institution would be subject to a risk-based capital requirement when it provides credit-enhancing representations and warranties on assets sold or otherwise transferred to third parties, as such positions are considered recourse arrangements.[87]

A System institution would be required to hold capital only for the maximum contractual amount of its exposure under the representations and warranties, not against the value of the underlying loan. Moreover, a System institution would have to hold capital for the life of a credit-enhancing representation and warranty, but not after its expiration, regardless of the maturity of the underlying loan.

D. Over-the-Counter Derivative Contracts

Under the proposed rule, a System institution is required to hold risk-based capital for counterparty credit risk for an OTC derivative contract. As defined in proposed § 628.2, a derivative contract is a financial contract whose value is derived from the values of one or more underlying assets, reference rates, or indices of asset values or reference rates. A derivative contract includes interest rate, exchange rate, equity, commodity, credit, and any other derivative contract that poses similar counterparty credit risks. Derivative contracts also include unsettled securities, commodities, and foreign exchange transactions with a contractual settlement or delivery lag that is longer than the lesser of the market standard for the particular instrument or 5 business days. This applies, for example, to mortgage-backed securities (MBS) transactions that the GSEs conduct in the To-Be-Announced market.

Under the proposed rule, an OTC derivative contract does not include a derivative contract that is a cleared transaction, which is subject to a specific treatment as described elsewhere in this preamble.

To determine the risk-weighted asset amount for an OTC derivative contract under the proposed rule, a System institution would first determine its exposure amount for the contract and then apply to that amount a risk weight based on the counterparty, eligible guarantor, or recognized collateral.

For a single OTC derivative contract that is not subject to a qualifying master netting agreement (as defined further below in this section), the proposed rule would require the exposure amount to be the sum of: (1) The System institution's current credit exposure, which would be the greater of the fair value or 0; and (2) potential future exposure (PFE), which would be calculated by multiplying the notional principal amount of the OTC derivative contract by the appropriate conversion factor, in accordance with Table 6 below.

Under the proposed rule, the conversion factor matrix would include the categories of OTC derivative contracts as illustrated in Table 6. For an OTC derivative contract that does not fall within one of the specified categories in Table 6, the proposed rule would require PFE to be calculated using the ''other'' conversion factor.

[87] §§ 615.5201 and 615.5210.

Table 6 – Conversion Factor Matrix For OTC Derivative Contracts[1]

Remaining maturity[2]	Interest rate	Foreign exchange rate and gold	Credit (investment-grade reference asset)[3]	Credit (non-investment- grade reference asset)	Equity	Precious metals (except gold)	Other
1 year or less	0.00	0.01	0.05	0.10	0.06	0.07	0.10
Greater than 1 year and less than or equal to 5 years	0.005	0.05	0.05	0.10	0.08	0.07	0.12
Greater than 5 years	0.015	0.075	0.05	0.10	0.10	0.08	0.15

[1] For a derivative contract with multiple exchanges of principal, the conversion factor would be multiplied by the number of remaining payments in the derivative contract.

[2] For a derivative contract that is structured such that on specified dates any outstanding exposure is settled and the terms are reset so that the fair value of the contract is 0, the remaining maturity would equal the time until the next reset date. For an interest rate derivative contract with a remaining maturity of greater than 1 year that meets these criteria, the minimum conversion factor would be 0.005.

[3] A System institution would use the column labeled "Credit(investment-grade reference asset)" for a credit derivative whose reference asset is an outstanding unsecured long-term debt security without credit enhancement that is investment grade. A System institution would use the column labeled "Credit (non-investment-grade reference asset)" for all other credit derivatives. The proposed rule would define "investment grade" to mean that the entity to which the System institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments for the projected life of the asset or exposure. Such an entity or reference entity would have adequate capacity to meet financial commitments if the risk of its default is low and the full and timely repayment of principal and interest is expected.

For multiple OTC derivative contracts subject to a qualifying master netting agreement, a System institution would calculate the exposure amount by adding the net current credit exposure and the adjusted sum of the PFE amounts for all OTC derivative contracts subject to the qualifying master netting agreement. Under the proposed rule, the net current credit exposure would be the greater of 0 and the net sum of all positive and negative fair values of the individual OTC derivative contracts subject to the qualifying master netting agreement. The adjusted sum of the PFE amounts would be calculated as described in § 628.34(a)(2)(ii) of the proposed rule.

Under the proposed rule, to recognize the netting benefit of multiple OTC derivative contracts, the contracts would have to be subject to a qualifying master netting agreement. The proposed rule would define a qualifying master netting agreement as any written, legally enforceable netting agreement that creates a single legal obligation for all individual transactions covered by the agreement upon an event of default (including receivership, insolvency, liquidation, or similar proceeding) provided that certain conditions set forth in § 628.3 of the proposed rule are met.[88] These conditions include

[88] Section 628.3 of the proposed rule organizes substantive requirements related to cleared transactions, eligible margin loans, qualifying

Continued

requirements with respect to the System institution's right to terminate the contract and liquidate collateral and meeting certain standards with respect to legal review of the agreement to ensure it meets the criteria in the definition.

The required legal review must be sufficient so that the System institution may conclude with a well-founded basis that, among other things, the contract would be found legal, binding, and enforceable under the law of the relevant jurisdiction and that the contract meets the other requirements of the definition. In some cases, the legal review requirement could be met by reasoned reliance on a commissioned legal opinion or an in-house counsel analysis.

In other cases, for example, those involving certain unfamiliar derivative transactions or derivative counterparties in jurisdictions where a System institution has little experience, the institution would be expected to obtain an explicit, written legal opinion from external or internal legal counsel addressing the particular situation.

Under the proposed rule, if an OTC derivative contract is collateralized by financial collateral,[89] a System institution would first have to determine the exposure amount of the OTC derivative contract as described in this section of the preamble. Next, to recognize the credit risk mitigation benefits of the financial collateral, a System institution could use the simple approach for collateralized transactions as described in § 628.37(b) of the proposed rule. Alternatively, if the financial collateral is marked-to-market on a daily basis and subject to a daily margin maintenance requirement, a System institution could adjust the exposure amount of the contract using the collateral haircut approach described in § 628.37(c) of the proposed rule.

Similarly, if a System institution purchased a credit derivative that would be recognized under § 628.36 of the proposed rule as a credit risk mitigant, it would not be required to compute a separate counterparty credit risk capital requirement for the credit derivative, provided it does so consistently for all such credit derivative contracts. Further, where these credit derivative contracts are subject to a qualifying master netting agreement, the System institution would be required to either include them all or exclude them all from any measure used to determine the counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

Under the proposed rule, a System institution would have to treat an equity derivative contract as an equity exposure and compute its risk-weighted asset amount according to the simple risk-weight approach (SRWA) described in § 628.52. If the System institution risk weighted a contract under the SRWA described in § 628.52, it could choose not to hold risk-based capital against the counterparty risk of the equity contract, so long as it made this choice for all such contracts. Where the OTC equity contracts are subject to a qualified master netting agreement, a System institution would either include or exclude all of the contracts from any measure used to determine counterparty credit risk exposures.[90]

If a System provided protection through a credit derivative, it would have to treat the credit derivative as an exposure to the underlying reference asset and compute a risk-weighted asset amount for the credit derivative under § 628.32 of the proposed rule. The System institution would not be required to compute a counterparty credit risk capital requirement for the credit derivative, as long as it did so consistently for all such OTC credit derivative contracts. Further, where these credit derivative contracts are subject to a qualifying master netting agreement, the System institution would either have to include all or exclude all such credit derivatives from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

Under the proposed rule, the risk weight for OTC derivative transactions is not subject to any specific ceiling, consistent with the Basel capital framework.

E. Cleared Transactions

Like the BCBS and the Federal banking regulatory agencies, the FCA supports incentives designed to encourage clearing of derivative and repo-style transactions [91] through a central counterparty (CCP) wherever possible in order to promote transparency, multilateral netting, and robust risk management practices. Although there are some risks associated with CCPs, as discussed below, we believe that CCPs generally help improve the safety and soundness of the derivatives and repo-style transactions markets through the multilateral netting of exposures, establishment, and enforcement of collateral requirements, and the promotion of market transparency.

1. Definition of Cleared Transaction

Under the proposal, a System institution would be required to hold risk-based capital for all of its cleared transactions. In any such transaction, the System institution would act as a clearing member client (defined as a party to a cleared transaction associated with a CCP in which a clearing member acts either as a financial intermediary with respect to the party or guarantees the performance of the party to the CCP).[92]

The proposed rule would define a cleared transaction as an exposure associated with an outstanding derivative contract or repo-style transaction that a System institution or clearing member has entered into with a CCP (that is, a transaction that a CCP has accepted).[93] Cleared transactions would include the following: (1) A transaction between a clearing member client System institution and a clearing member where the clearing member acts as a financial intermediary on behalf of the client and enters into an offsetting

master netting agreements, and repo-style transactions in a central place to assist System institutions in determining their legal responsibilities.

[89] As discussed below, proposed § 628.2 would define financial collateral as collateral in the form of, in pertinent part, cash, investment grade debt instruments that are not resecuritization exposures, publicly traded equity securities and convertible bonds, and mutual fund (including money market fund) shares if a price is publicly quoted daily, in which the System institution has a perfected, first-priority security interest (except for cash). Financial collateral would not include collateral such as real estate (whether agricultural or not) or chattel.

[90] It would be unusual for a System institution to have such an exposure, but it could occur, for example, through foreclosure of collateral.

[91] *See* § 628.2 of the proposed rule for the definition of a repo-style transaction.

[92] The Federal banking regulatory agencies adopted regulatory provisions contemplating that their regulated banking organizations could act as clearing members as well as clearing member clients. Because of the complexity, we believe System institutions will not want to act as clearing members, and we therefore do not propose comparable provisions. We invite comment as to whether we should adopt such provisions. In their absence, if a System institution did choose to act as a clearing member, we could address risk-weighting issues on a case-by-case basis.

[93] For example, we expect that a transaction with a derivatives clearing organization (DCO) would meet the proposed criteria for a cleared transaction. A DCO is a clearinghouse, clearing association, clearing corporation, or similar entity that enables each party to an agreement, contract, or transaction to substitute, through novation or otherwise, the credit of the DCO for the credit of the parties; arranges or provides, on a multilateral basis, for the settlement or netting of obligations; or otherwise provides clearing services or arrangements that mutualize or transfer credit risk among participants. To qualify as a DCO, an entity must be registered with the U.S. Commodity Futures Trading Commission and comply with all relevant laws and procedures.

transaction with a CCP; and (2) a transaction between a clearing member client System institution and a CCP where a clearing member guarantees the performance of the client to the CCP. Such transactions would also have to satisfy additional criteria provided in § 628.3 of the proposed rule, including bankruptcy remoteness of collateral, transferability criteria, and portability of the clearing member client's position.

Derivative transactions that are not cleared transactions because they do not meet all the criteria would be OTC derivative transactions. For example, if a transaction submitted to a CCP is not accepted by a CCP because the terms of the transaction submitted by the clearing members do not match or because other operational issues were identified by the CCP, the transaction would not meet the definition of a cleared transaction and would be an OTC derivative transaction. If the counterparties to the transaction resolved the issues and resubmitted the transaction and it was accepted, the transaction would then be a cleared transaction.

2. Risk Weighting for Cleared Transactions

Under the proposed rule, to determine the risk-weighted asset amount for a cleared transaction, a clearing member client System institution would multiply the trade exposure amount for the cleared transaction by the appropriate risk weight, determined as described below. The trade exposure amount would be calculated as follows:

(1) For a cleared transaction that is either a derivative contract or a netting set of derivative contracts, the trade exposure amount would equal the exposure amount for the derivative contract or netting set of derivative contracts, calculated using the current exposure method (CEM) for OTC derivative contracts (described in § 628.34 of the proposed rule), plus the fair value of the collateral posted by the clearing member client System institution and held by the CCP or clearing member in a manner that is not bankruptcy remote; [94] and

(2) For a cleared transaction that is a repo-style transaction or a netting set of repo-style transactions, the trade exposure amount would equal the exposure amount calculated under the collateral haircut approach (described in § 628.37(c) of the proposed rule) plus the fair value of the collateral posted by the clearing member client System institution that is held by the CCP or clearing member in a manner that is not bankruptcy remote.

The trade exposure amount would not include any collateral posted by a clearing member client System institution that is held by a custodian in a manner that is bankruptcy remote from the CCP, clearing member, other counterparties of the clearing member, and the custodian itself. In addition to the capital requirement for the cleared transaction, the System institution would remain subject to a capital requirement for any collateral provided to a CCP, a clearing member, or a custodian in connection with a cleared transaction in accordance with § 628.32 of the proposal.

The risk weight for a cleared transaction would depend on whether the CCP is a qualifying CCP (QCCP). Central counterparties that are designated financial market utilities (FMUs) and foreign entities regulated and supervised in a manner equivalent to designated FMUs would be QCCPs. In addition, a CCP could be a QCCP if it were in sound financial condition and met certain standards that are set forth in the proposed QCCP definition.

A System institution that is a clearing member client would apply a 2-percent risk weight to its trade exposure amount to a QCCP only if:

(1) The collateral posted by the clearing member client System institution to the QCCP or clearing member is subject to an arrangement that prevents any losses to the clearing member client due to the joint default or a concurrent insolvency, liquidation, or receivership proceeding of the clearing member and any other clearing member clients of the clearing member; and

(2) The clearing member client System institution has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that in the event of a legal challenge (including one resulting from default or a liquidation, insolvency, or receivership proceeding) the relevant court and administrative authorities would find the arrangements to be legal, valid, binding, and enforceable under the law of the relevant jurisdiction.

If the criteria above are not met, a clearing member client System institution would apply a risk weight of 4 percent to the trade exposure amount.

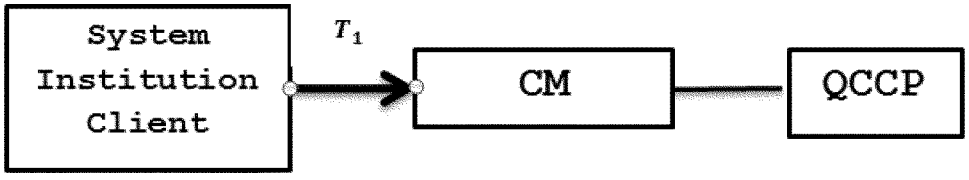
For a cleared transaction with a CCP that is not a QCCP, a clearing member client System institution would risk weight the trade exposure amount to the CCP according to the treatment for the CCP under § 628.32 of the proposal (generally 100 percent). Collateral posted by a clearing member client System institution that is held by a custodian in a manner that is bankruptcy remote from the CCP, clearing member, and other clearing member clients of the clearing member would not be subject to a capital requirement for counterparty credit risk.

The diagrams below demonstrate the various potential transactions and exposure treatment in the proposed rule. Table 7 sets out how the transactions illustrated in the diagrams below are risk-weighted under the proposed rule.

In the diagram, ''T'' refers to a transaction, and the arrow indicates the direction of the exposure. The diagram describes the appropriate risk weight treatment for exposures from the perspective of a System institution entering into cleared transactions as a client of a clearing member (T_1 and T_2). Table 7 shows for each trade whom the exposure is to, a description of the type of trade, and the risk weight that would apply based on the risk of the counterparty.

System Institution Client—Clearing Member(CM) Trade

- Financial Intermediary with offsetting transaction to QCCP



[94] Under this proposal, bankruptcy remote, with respect to an entity or asset, would mean that the entity or asset would be excluded from an insolvent entity's estate in a receivership, insolvency, or similar proceeding.

• Agency with guarantee of client performance

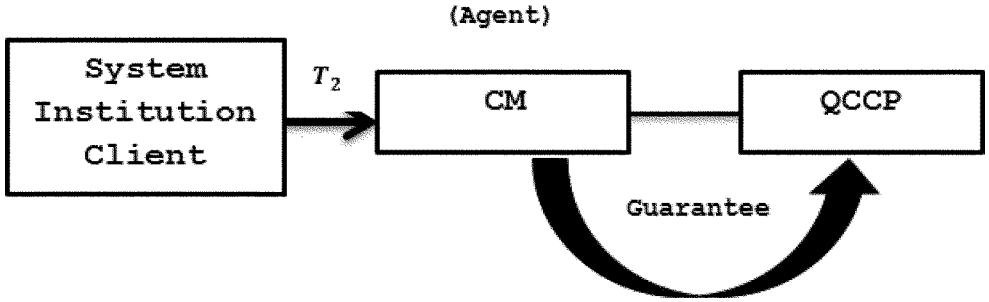


TABLE 7—RISK WEIGHTS FOR VARIOUS CLEARED TRANSACTIONS

T_1	CM	CM financial intermediary with offsetting trade to QCCP.	2% or 4% risk weight on trade exposure amount.
T_2	QCCP	CM agent with guarantee of client performance	2% or 4% risk weight on trade exposure amount.

F. Credit Risk Mitigation

System institutions use a number of techniques to mitigate credit risks. For example, a System institution may collateralize exposures with cash or securities; a third party may guarantee an exposure; a System institution may buy a credit derivative to offset an exposure's credit risk; or a System institution may net exposures with a counterparty under a netting agreement. This section of the preamble describes how the proposed rule would allow System institutions to recognize the risk-mitigation effects of guarantees, credit derivatives, and collateral for risk-based capital purposes.

Under the proposed rule, a System institution generally would be able to use a substitution approach to recognize the credit risk mitigation effect of an eligible guarantee from an eligible guarantor and the simple approach to recognize the effect of collateral. To recognize credit risk mitigants, a System institution would have to implement operational procedures and risk-management processes that ensure that all documentation used in collateralizing or guaranteeing a transaction is legal, valid, binding, and enforceable under applicable law in the relevant jurisdictions. A System institution would be expected to conduct sufficient legal review to reach a well-founded conclusion that the documentation meets this standard as well as conduct additional reviews as necessary to ensure continuing enforceability.

Although the use of credit risk mitigants may reduce or transfer credit risk, it simultaneously may increase other risks, including operational, liquidity, or market risk. Accordingly, a System institution would be expected to employ robust procedures and processes to control risks, including roll-off and concentration risks, and monitor and manage the implications of using credit risk mitigants for the institution's overall credit risk profile.

1. Guarantees and Credit Derivatives

a. Eligibility Requirements

Our existing risk-based capital rules generally recognize third-party guarantees provided by central governments, GSEs, PSEs in the OECD countries, multilateral lending institutions and regional development banking organizations, U.S. depository institutions, foreign banks, and qualifying securities firms in OECD countries.[95] The FCA proposes to revise this listing of eligible guarantors to expressly include sovereigns, the Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Commission, Federal Home Loan Banks (FHLB), Federal Agricultural Mortgage Corporation (Farmer Mac), MDBs, depository institutions, bank holding companies, savings and loan holding companies, credit unions, and foreign banks. Entities not expressly included in the above list would be eligible guarantors if they have issued and outstanding unsecured debt securities without credit enhancement that are investment grade, if their creditworthiness is not positively correlated with the credit risk of the exposures for which it has provided guarantees, and if they meet certain other requirements.[96]

Guarantees and credit derivatives would be required to meet specific eligibility requirements to be recognized for credit risk mitigation purposes. Under the proposal, an eligible guarantee would be defined as a guarantee from an eligible guarantor that is written and meets certain standards and conditions, including with respect to its enforceability. An eligible credit derivative would be defined as a credit derivative in the form of a credit default swap (CDS), n^{th}-to-default swap, total return swap, or any other form of credit derivative approved by the FCA, provided that the instrument meets the standards and conditions set forth in the proposed definition. See the proposed definitions of ''eligible guarantee'' and ''eligible credit derivative'' in § 628.2 of the proposed rule.

Under this proposed rule, a System institution would be permitted to recognize the credit risk mitigation benefits of an eligible credit derivative that hedges an exposure that is different from the credit derivative's reference exposure used for determining the derivative's cash settlement value, deliverable obligation, or occurrence of a credit event if:

(1) The reference exposure ranks *pari passu* with or is subordinated to the hedged exposure;

[95] Section 615.5211.

[96] Our proposed definition of eligible guarantor is comparable to that adopted by the Federal banking regulatory agencies. A System institution would not satisfy the definition of eligible guarantor. System institutions are not included in the express listing of eligible guarantors. Moreover, individual System institutions do not meet the eligible guarantor criteria because of the positive correlation of the creditworthiness of a System institution with the credit risk of the System exposures for which it would provide guarantees. Accordingly, a System institution that received a guarantee from another System institution would not be able to recognize the guarantee for credit risk mitigation purposes.

(2) The reference exposure and the hedged exposure are to the same legal entity; and

(3) Legally enforceable cross-default or cross-acceleration clauses are in place to assure payments under the credit derivative are triggered when the issuer fails to pay under the terms of the hedged exposure.

When a System institution has a group of hedged exposures with different residual maturities that are covered by a single eligible guarantee or eligible credit derivative, the System institution would treat each hedged exposure as if it were fully covered by a separate eligible guarantee or eligible credit derivative.

b. Substitution Approach

Under the proposed substitution approach, if the protection amount (as defined below) of an eligible guarantee or eligible credit derivative is greater than or equal to the exposure amount of the hedged exposure, a System institution would substitute the risk weight applicable to the guarantor or credit derivative protection provider for the risk weight assigned to the hedged exposure.

If the protection amount of the eligible guarantee or eligible credit derivative is less than the exposure amount of the hedged exposure, a System institution would treat the hedged exposure as two separate exposures (protected and unprotected) to recognize the credit risk mitigation benefit of the guarantee or credit derivative. In such cases, a System institution would calculate the risk-weighted asset amount for the protected exposure under § 628.36 of the proposed rule (using a risk weight applicable to the guarantor or credit derivative protection provider and an exposure amount equal to the protection amount of the guarantee or credit derivative). The System institution would calculate its risk-weighted asset amount for the unprotected exposure under § 628.32 of the proposed rule (using the risk weight assigned to the exposure and an exposure amount equal to the exposure amount of the original hedged exposure minus the protection amount of the guarantee or credit derivative).

The protection amount of an eligible guarantee or eligible credit derivative would mean the effective notional amount of the guarantee or credit derivative reduced to reflect any maturity mismatch, lack of restructuring coverage, or currency mismatch as described below. The effective notional amount for an eligible guarantee or eligible credit derivative would be the lesser of the contractual notional amount of the credit risk mitigant or the exposure amount of the hedged exposure, multiplied by the percentage coverage of the credit risk mitigant. For example, the effective notional amount of a guarantee that covers, on a pro rata basis, 40 percent of any losses on a $100 bond would be $40.

c. Maturity Mismatch Haircut

Under the proposed requirements, a System institution that recognizes an eligible guarantee or eligible credit derivative would have to adjust the effective notional amount of the credit risk mitigant to reflect any maturity mismatch between the hedged exposure and the credit risk mitigant. A maturity mismatch occurs when the residual maturity of a credit risk mitigant is less than that of the hedged exposure(s).[97]

The residual maturity of a hedged exposure would be the longest possible remaining time before the obligated party of the hedged exposure is scheduled to fulfill its obligation on the hedged exposure. A System institution would be required to take into account any embedded options that may reduce the term of the credit risk mitigant so that the shortest possible residual maturity for the credit risk mitigant would be used to determine the potential maturity mismatch. If a call is at the discretion of the protection provider, the residual maturity of the credit risk mitigant would be at the first call date. If the call is at the discretion of the System institution purchasing the protection, but the terms of the arrangement at origination of the credit risk mitigant contain a positive incentive for the institution to call the transaction before contractual maturity, the remaining time to the first call date would be the residual maturity of the credit risk mitigant. Under this proposed rule, a System institution would be permitted to recognize a credit risk mitigant with a maturity mismatch only if its original maturity is greater than or equal to 1 year and the residual maturity is greater than 3 months.

Assuming that the credit risk mitigant may be recognized, a System institution would be required to apply the following adjustment to reduce the effective notional amount of the credit risk mitigant to recognize the maturity mismatch:

$P_m = E \times [(t - 0.25)/(T - 0.25)]$,

Where:

(1) P_m = effective notional amount of the credit risk mitigant, adjusted for maturity mismatch;

(2) E = effective notional amount of the credit risk mitigant;

(3) t = the lesser of T or residual maturity of the credit risk mitigant, expressed in years; and

(4) T = the lesser of 5 or the residual maturity of the hedged exposure, expressed in years.

d. Adjustment for Credit Derivatives Without Restructuring as a Credit Event

Under the proposal, a System institution that seeks to recognize an eligible credit derivative that does not include a restructuring of the hedged exposure as a credit event under the derivative would have to reduce the effective notional amount of the credit derivative recognized for credit risk mitigation purposes by 40 percent. For purposes of the proposed credit risk mitigation framework, a restructuring would involve forgiveness or postponement of principal, interest, or fees that result in a credit loss event (that is, a charge-off, specific provision, or other similar debit to the profit and loss account). In these instances, the System institution would be required to apply the following adjustment to reduce the effective notional amount of the credit derivative: $P_r = P_M \times 0.60$,

Where:

(1) P_r = effective notional amount of the credit risk mitigant, adjusted for lack of a restructuring event (and maturity mismatch, if applicable); and

(2) P_m = effective notional amount of the credit risk mitigant (adjusted for maturity mismatch, if applicable).

e. Currency Mismatch Adjustment

Under this proposal, if a System institution recognizes an eligible guarantee or eligible credit derivative that is denominated in a currency different from that in which the hedged exposure is denominated, the institution would apply the following formula to the effective notional amount of the guarantee or credit derivative:

$P_c = P_r \times (1 - H_{fx})$,

Where:

(1) P_c = effective notional amount of the credit risk mitigant, adjusted for currency mismatch (and maturity mismatch and lack of restructuring event, if applicable);

(2) P_r = effective notional amount of the credit risk mitigant (adjusted for

[97] As noted above, when a System institution has a group of hedged exposures with different residual maturities that are covered by a single eligible guarantee or eligible credit derivative, a System institution would treat each hedged exposure as if it were fully covered by a separate eligible guarantee or eligible credit derivative. To determine whether any of the hedged exposures has a maturity mismatch with the eligible guarantee or credit derivative, the System institution would assess whether the residual maturity of the eligible guarantee or eligible credit derivative is less than that of any of the hedged exposures.

maturity mismatch and lack of restructuring event, if applicable); and

(3) H_{fx} = haircut appropriate for the currency mismatch between the credit risk mitigant and the hedged exposure.

A System institution would be required to use a standard supervisory haircut of 8 percent for H_{fx} (based on a 10-business day holding period and daily marking-to-market and remargining). The System institution is required to scale the haircut up using the square root of time formula if the institution revalues the guarantee or credit derivative less frequently than once every 10 business days. The applicable haircut H_M is calculated using the following square root of time formula:

$$H_M = 8\% \sqrt{\frac{T_M}{10}}, \text{ where}$$

T_m equals the greater of 10 or the number of days between revaluation.

f. Multiple Credit Risk Mitigants

If multiple credit risk mitigants cover a single exposure, a System institution would be able to disaggregate the exposure into portions covered by each credit risk mitigant (for example, the portion covered by each guarantee) and calculate separately a risk-based capital requirement for each portion. In addition, when a single credit risk mitigant covers multiple exposures, a System institution would have to treat each hedged exposure as covered by a single risk mitigant and must calculate separate risk-weighted asset amounts for each exposure using the substitution approach described in § 628.36(c) of the proposed rule.

2. Collateralized Transactions

a. Eligible Collateral

We propose to recognize a range of financial collateral as credit risk mitigants that may reduce the risk-based capital requirements associated with a collateralized transaction, similar to the Basel capital framework and the rules of the Federal banking regulatory agencies.

As proposed, financial collateral would mean collateral in the form of:

(1) Cash on deposit at a depository institution, or Federal Reserve Bank (including cash held for the System institution by a third-party custodian or trustee);

(2) Gold bullion;

(3) Short- and long-term debt securities that are not resecuritization exposures [98] and that are investment grade;

(4) Equity securities that are publicly traded;

(5) Convertible bonds that are publicly traded; or

(6) Money market fund shares and other mutual fund shares if a price for the shares is publicly quoted daily.[99] With the exception of cash on deposit at a depository institution, or Federal Reserve Bank, the System institution would also be required to have a perfected, first-priority security interest or, outside of the United States, the legal equivalent thereof, notwithstanding the prior security interest of any custodial agent. A System institution would be permitted to recognize partial collateralization of an exposure.

Under this proposed rule, a System institution would be able to recognize the risk-mitigating effects of financial collateral using the simple approach, described below, where: (1) The collateral is subject to a collateral agreement for at least the life of the exposure; (2) the collateral is revalued at least every 6 months; and (3) the collateral (other than gold) and the exposure are denominated in the same currency. For repo-style transactions, eligible margin loans, collateralized derivative contracts, and single-product netting sets of such transactions, a System institution could alternatively use the collateral haircut approach described below. A System institution would be required to use the same approach for similar exposures or transactions.

b. Risk Management Guidance for Recognizing Collateral

Before a System institution recognized collateral for credit risk mitigation purposes, it would have to: (1) Conduct sufficient legal review to ensure, at the inception of the collateralized transaction and on an ongoing basis, that all documentation used in the transaction is binding on all parties and legally enforceable in all relevant jurisdictions; (2) consider the correlation between risk of the underlying direct exposure and collateral risk in the transaction; and (3) fully take into account the time and cost needed to realize the liquidation proceeds and the potential for a decline in collateral value over this time period.

A System institution also would have to ensure that the legal mechanism under which the collateral is pledged or transferred provides the institution the right to liquidate or take legal possession of the collateral in a timely manner in the event of the default, insolvency, or bankruptcy (or other defined credit event) of the counterparty and, where applicable, the custodian holding the collateral.

In addition, a System institution would have to ensure that it has:

(1) Taken all steps necessary to fulfill any legal requirements to secure its interest in the collateral so that it has and maintains an enforceable security interest;

(2) Set up and implemented clear and robust procedures to comply with any legal conditions required for declaring the default of the borrower and prompt liquidation of the collateral in the event of default;

(3) Established and implemented procedures and practices for conservatively estimating, on a regular ongoing basis, the fair value of the collateral, taking into account factors that could affect that value (for example, the liquidity of the market for the collateral and obsolescence or deterioration of the collateral); and

(4) Established systems in place for promptly requesting and receiving additional collateral for transactions whose terms require maintenance of collateral values at specified thresholds.

c. Simple Approach

Under the proposed simple approach, the collateralized portion of the exposure would receive the risk weight applicable to the collateral. The collateral would be required to meet the definition of financial collateral. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral would be the instruments, gold, and cash that a System institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. As noted above, in all cases:

(1) The collateral would have to be subject to a collateral agreement for at least the life of the exposure;

(2) The System institution would be required to revalue the collateral at least every 6 months; and

(3) The collateral (other than gold) and the exposure would be required to be denominated in the same currency.

Generally, the risk weight assigned to the collateralized portion of the exposure would be no less than 20

[98] References to resecuritization exposures in this preamble, and the presence of risk weights related to resecuritization exposures in this proposed rule, do not grant any authorities to System institutions related to resecuritization exposures.

[99] This definition of financial collateral would exclude collateral such as real estate or chattel. We note that publicly traded equity securities and convertible bonds are not eligible investments for System institutions, but they could be acquired as foreclosed collateral.

percent. However, OTC derivative contracts that are marked-to-fair value on a daily basis and subject to a daily margin maintenance agreement could receive:

(1) A 0-percent risk weight to the extent that they are collateralized by cash on deposit; or

(2) A 10-percent risk weight to the extent that the contracts are collateralized by an exposure to a sovereign that qualifies for a 0-percent risk weight under § 628.32 of the proposal.

In addition, a System institution may assign a 0-percent risk weight to the collateralized portion of an exposure where:

(i) The financial collateral is cash on deposit; or

(ii) The financial collateral is an exposure to a sovereign that qualifies for a 0-percent risk weight under § 628.32 of the proposal and the System institution has discounted the fair value of the collateral by 20 percent.

d. Collateral Haircut Approach

The proposed rule would permit a System institution to use a collateral haircut approach to recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, a repo-style transaction, collateralized derivative contract, or single-product netting set of such transactions.

To apply the collateral haircut approach, a System institution would determine the exposure amount and the relevant risk weight for the counterparty or guarantor.

The exposure amount for an eligible margin loan, repo-style transaction, collateralized derivative contract, or a netting set of such transactions is equal to the greater of 0 or the sum of the following three quantities:

(1) The value of the exposure less the value of the collateral. For eligible margin loans, repo-style transactions and netting sets thereof, the value of the exposure is the sum of the current fair values of all instruments, gold, and cash the System institution has lent, sold subject to repurchase, or posted as collateral to the counterparty under the transaction or netting set. For collateralized OTC derivative contracts and netting sets thereof, the value of the exposure is the exposure amount that is calculated under § 628.34 of the proposal. The value of the collateral would equal the sum of the current fair values of all instruments, gold and cash the System institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction or netting set;

(2) The absolute value of the net position in a given instrument or in gold (where the net position in a given instrument or in gold equals the sum of the current fair values of the instrument or gold the System institution has lent, sold subject to repurchase, or posted as collateral to the counterparty minus the sum of the current fair values of that same instrument or gold that the System institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty) multiplied by the market price volatility haircut appropriate to the instrument or gold; and

(3) The absolute values of the net position of instruments and cash in a currency that is different from the settlement currency (where the net position in a given currency equals the sum of the current fair values of any instruments or cash in the currency the System institution has lent, sold subject to repurchase, or posted as collateral to the counterparty minus the sum of the current fair values of any instruments or cash in the currency the System institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty) multiplied by the haircut appropriate to the currency mismatch.

For purposes of the collateral haircut approach, a given instrument would include, for example, all securities with the same Committee on Uniform Securities Identification Procedures (CUSIP) number and would not include securities with different CUSIP numbers, even if issued by the same issuer with the same maturity date.

e. Standard Supervisory Haircuts

Under this proposed rule, a System institution would apply a haircut for price market volatility and foreign exchange rates, determined using standard supervisory market price volatility haircuts and a standard haircut for exchange rates.

The standard supervisory market price volatility haircuts would set a specified market price volatility haircut for various categories of financial collateral. These standard haircuts are based on the 10-business-day holding period for eligible margin loans and derivative contracts. For repo-style transactions, a System institution would multiply the standard supervisory haircuts by the square root of ½ to scale them for a holding period of 5 business days.

The FCA proposes standard supervisory market price volatility haircuts in accordance with Table 8 below. These haircuts reflect the collateral's credit quality and an appropriate differentiation based on the collateral's residual maturity.

A System institution would be required to use an 8-percent haircut for each currency mismatch for transactions subject to a 10-day holding period, as adjusted for different required holding periods.

TABLE 8—STANDARD SUPERVISORY MARKET PRICE VOLATILITY HAIRCUTS [1]

Residual maturity	Haircut (in percent) assigned based on:						Investment-grade securitization exposures (in percent)
	Sovereign issuers risk weight under § 628.32 [2]			Non-sovereign issuers risk weight under § 628.32			
	Zero	20 or 50	100	20	50	100	
Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	4.0	4.0
Greater than 1 year and less than or equal to 5 years	2.0	3.0	15.0	4.0	6.0	8.0	12.0
Greater than 5 years	4.0	6.0	15.0	8.0	12.0	16.0	24.0
Main index equities (including convertible bonds) and gold	15.0						
Other publicly traded equities (including convertible bonds)	25.0						
Mutual funds	Highest haircut applicable to any security in which the fund can invest.						

TABLE 8—STANDARD SUPERVISORY MARKET PRICE VOLATILITY HAIRCUTS [1]—Continued

Residual maturity	Haircut (in percent) assigned based on:						Investment-grade securitization exposures (in percent)
	Sovereign issuers risk weight under § 628.32 [2]			Non-sovereign issuers risk weight under § 628.32			
	Zero	20 or 50	100	20	50	100	
Cash collateral held				0			
Other exposure types				25.0			

[1] The market price volatility haircuts in Table 8 are based on a 10-business-day holding period.
[2] Includes a foreign PSE that receives a 0-percent risk weight.

The proposed rule would require that a System institution increase the standard supervisory haircut for transactions involving large netting sets. During the financial crisis, many financial institutions experienced significant delays in settling or closing out collateralized transactions, such as repo-style transactions and collateralized OTC derivatives. Accordingly, for netting sets where:

(1) The number of trades exceeds 5,000 at any time during the quarter; [100]

(2) One or more trades involves illiquid collateral posted by the counterparty; or

(3) The netting set includes any OTC derivatives that cannot be easily replaced, this proposed rule would require a System institution to assume a holding period of 20 business days for the collateral under the collateral haircut approach. The formula and methodology for increasing the haircut to reflect this longer holding period is described in § 628.37(c) of the proposed rule. A System institution is not required to adjust the holding period upward for cleared transactions. When determining whether collateral is illiquid or an OTC derivative cannot be easily replaced for these purposes, a System institution should assess whether, during a period of stressed market conditions, it could obtain multiple price quotes within 2 days or less for the collateral or OTC derivative that would not move the market or represent a market discount (in the case of collateral) or a premium (in the case of an OTC derivative.)

In addition, the proposed rule would require a System institution to increase the holding period for a netting set if over the two previous quarters more than two margin disputes on a netting set have occurred that lasted longer than the holding period.

Margin disputes may occur when the System institution and its counterparty do not agree on the value of collateral or on the eligibility of the collateral provided. Margin disputes also can occur when the System institution and its counterparty disagree on the amount of margin that is required, which could result from differences in the valuation of a transaction, or from errors in the calculation of the net exposure of a portfolio, for instance, if a transaction is incorrectly included or excluded from the portfolio.

The determination as to whether a dispute constitutes a margin dispute for purposes of this rule would depend on whether resolution of the dispute occurs within the time period required under an agreement. Where a dispute is subject to a recognized industry dispute resolution protocol, the dispute period would be considered to begin after a third-party dispute resolution mechanism has failed.

A System institution would not be required to adjust the holding period upward for cleared transactions.

f. Own Estimates of Haircuts

Unlike the Federal banking regulatory agencies, the FCA does not propose to permit System institutions to calculate market price volatility and foreign exchange volatility using their own internal estimates. We believe, due to the complexity of developing and using these estimates, that no System institution is likely to use its own estimates of haircuts. We seek comment on whether we should adopt a regulation that would permit the use of an institution's own estimates. We note that even if we do not adopt such a provision, we would be able to permit a System institution to use its own estimates in the future on a case-by-case basis, using standards similar to those contained in the final rule of the Federal banking regulatory agencies.[101]

G. Unsettled Transactions

The FCA proposes to provide for a separate risk-based capital requirement for transactions involving securities, foreign exchange instruments, and commodities that have a risk of delayed settlement or delivery. The proposed capital requirement would not, however, apply to certain types of transactions, including:

(1) Cleared transactions that are marked-to-market daily and subject to daily receipt and payment of variation margin;

(2) Repo-style transactions, including unsettled repo-style transactions;

(3) One-way cash payments on OTC derivative contracts; or

(4) Transactions with a contractual settlement period that is longer than the normal settlement period (which the proposal defines as the lesser of the market standard for the particular instrument or 5 business days).[102]

Under the proposal, in the case of a system-wide failure of a settlement, clearing system, or central counterparty, the FCA may waive risk-based capital requirements for unsettled and failed transactions until the situation is rectified.

This rule proposes separate treatments for delivery-versus-payment (DvP) and payment-versus-payment (PvP) transactions with a normal settlement period, and non-DvP/non-PvP transactions with a normal settlement period. A DvP transaction would refer to a securities or commodities transaction in which the buyer is obligated to make payment only if the seller has made delivery of the securities or commodities and the seller is obligated to deliver the securities or commodities only if the buyer has made payment. A PvP transaction would mean a foreign exchange transaction in which each counterparty is obligated to make a final transfer of one or more currencies only if the other counterparty

[100] The 5,000-trade threshold applies to a netting set, which by definition means a group of transactions with a single counterparty that are subject to a qualifying master netting agreement.

[101] The final rules of the Federal banking regulatory agencies permit a banking organization to use such haircuts only after satisfying specified minimum standards and receiving prior approval from its primary Federal supervisor.

[102] Such transactions would be treated as derivative contracts as provided in § 628.34 or § 628.35 of the proposal.

has made a final transfer of one or more currencies.

A System institution would be required to hold risk-based capital against a DvP or PvP transaction with a normal settlement period if the institution's counterparty has not made delivery or payment within 5 business days after the settlement date. The System institution would determine its risk-weighted asset amount for such a transaction by multiplying the positive current exposure of the transaction for the institution by the appropriate risk weight in Table 9. The positive current exposure from an unsettled transaction of a System institution would be the difference between the transaction value at the agreed settlement price and the current market price of the transaction, if the difference results in a credit exposure of the institution to the counterparty.

TABLE 9—PROPOSED RISK WEIGHTS FOR UNSETTLED DVP AND PVP TRANSACTIONS

Number of business days after contractual settlement date	Risk weight to be applied to positive current exposure (in percent)
From 5 to 15	100.0
From 16 to 30	625.0
From 31 to 45	937.5
46 or more	1,250.0

A System institution would hold risk-based capital against any non-DvP/non-PvP transaction with a normal settlement period if the institution delivered cash, securities, commodities, or currencies to its counterparty but has not received its corresponding deliverables by the end of the same business day. The System institution would continue to hold risk-based capital against the transaction until it has received the corresponding deliverables. From the business day after the System institution has made its delivery until 5 business days after the counterparty delivery is due, the institution would calculate the risk-weighted asset amount for the transaction by risk weighting the current fair value of the deliverables owed to the institution, using the risk weight appropriate for an exposure to the counterparty in accordance with § 628.32. If a System institution has not received its deliverables by the 5th business day after the counterparty delivery due date, the institution would assign a 1,250-percent risk weight to the current fair value of the deliverables owed.

H. Risk-Weighted Assets for Securitization Exposures

Under the FCA's existing risk-based capital rules, a System institution may use external ratings issued by NRSROs to assign risk weights to certain recourse obligations, residual interests, direct credit substitutes, and asset-backed securities (ABS) and MBS. We propose to significantly revise the risk-based capital framework for securitization exposures. These proposed revisions include removing references to and reliance on credit ratings to determine risk weights for these exposures and using alternative standards of creditworthiness, as required by section 939A of the Dodd-Frank Act. In addition, we propose to update the terminology for the securitization framework, include a definition of a securitization exposure that encompasses a wider range of exposures with similar risk characteristics, and implement new due diligence requirements for securitization exposures.

1. Overview of the Securitization Framework and Definitions

The proposed securitization framework is designed to address the credit risk of exposures that involve the tranching of the credit risk of one or more underlying financial exposures.[103] The proposed rule would define a securitization exposure as an on- or off-balance sheet credit exposure (including credit-enhancing representations and warranties) that arises from a traditional or synthetic securitization (including a resecuritization), or an exposure that directly or indirectly references a securitization exposure.

A traditional securitization would be defined, in part, as a transaction in which credit risk of one or more underlying exposures has been transferred to one or more third parties (other than through the use of credit derivatives or guarantees), where the credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority. The proposed definition includes certain other conditions, such as requiring all or substantially all of the underlying exposures to be financial exposures.

Both the designation of exposures as securitization exposures (or resecuritization exposures, as described below) and the calculation of risk-based capital requirements for securitization exposures under the proposed rule are guided by the economic substance of a transaction rather than its legal form. Provided there is tranching of credit risk, securitization exposures could include, among other things, ABS and MBS, loans, lines of credit, liquidity facilities, financial standby letters of credit, credit derivatives and guarantees, loan servicing assets, servicer cash advance facilities, reserve accounts, credit-enhancing representations and warranties, and credit-enhancing interest-only strips (CEIOs). Securitization exposures would also include assets sold with retained tranches.

Requiring all or substantially all of the underlying exposures of a securitization to be financial exposures creates an important boundary between the general credit risk framework and the securitization framework. Examples of financial exposures include loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, MBS, other debt securities, or equity securities. Based on their cash flow characteristics, for purposes of this proposal, asset classes such as lease residuals and royalty income would also be considered financial assets.

The securitization framework is designed to address the tranching of the credit risk of financial exposures and is not designed, for example, to apply to tranched credit exposures to commercial or industrial companies or nonfinancial assets or to amounts deducted from capital in § 628.22 of the proposal. In other words, a loan backed by nonfinancial assets (such as facilities, objects, or commodities that are being financed), even if the credit exposure is tranched, would not be a securitization exposure.

Under the proposal, an operating entity would not fall under the definition of a traditional securitization (even if substantially all of its assets are financial exposures). For purposes of the proposed definition of a traditional securitization, operating entities generally would refer to companies that are established to conduct business with clients with the intention of earning a profit in their own right and that generally produce goods or provide services beyond the business of investing, reinvesting, holding, or

[103] Only those MBS that involve tranching of credit risk would be securitization exposures. As discussed below, mortgage-backed pass-through securities (for example, those guaranteed by Freddie Mac or Fannie Mae) that feature various maturities but do not involve tranching of credit risk would not meet the proposed definition of a securitization exposure. These securities are risk weighted in accordance with the general risk-weighting provisions.

trading in financial assets.[104] Under the proposal, a System institution's equity investment in an operating entity generally would be an equity exposure.[105] However, investment firms that generally do not produce goods or provide services beyond the business of investing, reinvesting, holding, or trading in financial assets, would not be operating entities for purposes of this proposal and would not qualify for this general exclusion from the definition of traditional securitization.

Paragraph (10) of the proposed definition of traditional securitization (in § 628.2) would specifically exclude exposures to investment funds (as defined in the proposed rule), collective investment funds, and pension plans (both terms as defined in relevant regulations set forth in the proposed definition); and exposures that are registered with the SEC under the Investment Company Act of 1940 or foreign equivalents. These specific exemptions serve to narrow the potential scope of the securitization framework. These entities and transactions are exempted because they are regulated and subject to strict leverage requirements. The capital requirements for an extension of credit to, or an equity holding in, these entities and transactions are more appropriately calculated under the rules for corporate and equity exposures.

To address the treatment of investment firms that are not specifically excluded from the securitization framework, the proposed rule provides discretion to the FCA to exclude from the definition of a traditional securitization those transactions in which the underlying exposures are owned by an investment firm that exercises substantially unfettered control over the size and composition of its assets, liabilities, and off-balance sheet exposures.

In determining whether to exclude an investment firm from the securitization framework, the FCA would consider a number of factors, including the assessment of the transaction's leverage, risk profile, and economic substance. This supervisory exclusion would give the FCA discretion to distinguish structured finance transactions, to which the securitization framework was designed to apply, from those of flexible investment firms such as certain hedge funds and private equity funds.

Only investment firms that can easily change the size and composition of their capital structure, as well as the size and composition of their assets and off-balance sheet exposures, would be eligible for the exclusion from the definition of traditional securitization under this provision. The FCA does not consider managed collateralized debt obligation vehicles, structured investment vehicles, and similar structures, which allow considerable management discretion regarding asset composition but are subject to substantial restrictions regarding capital structure, to have substantially unfettered control. Thus, such transactions would meet the definition of traditional securitization.

The line between securitization exposures and non-securitization exposures may be difficult to draw in some circumstances. In addition to the supervisory exclusion from the definition of traditional securitization described above, the FCA may expand the scope of the securitization framework to include other transactions if doing so is justified by the economics of the transaction. Similar to the analysis for excluding an investment firm from treatment as a traditional securitization, the FCA would consider the economic substance, leverage, and risk profile of transactions to ensure the appropriate risk-based capital treatment. The FCA would consider a number of factors when assessing the economic substance of a transaction including, for example, the amount of equity in the structure, overall leverage (whether on- or off-balance sheet), whether redemption rights attach to the equity investor, and the ability of the junior tranches to absorb losses without interrupting contractual payments to more senior tranches.

Under the proposal, a synthetic securitization would mean a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is retained or transferred to one or more third parties through the use of one or more credit derivatives or guarantees (other than a guarantee that transfers only the credit risk of an individual retail exposure);

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends upon the performance of the underlying exposures; and

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, MBS, other debt securities, or equity securities).

Mortgage-backed pass-through securities (for example, those guaranteed by Freddie Mac or Fannie Mae) that feature various maturities but do not involve tranching of credit risk would not meet the proposed definition of a securitization exposure. Only those MBS that involve tranching of credit risk would be securitization exposures.

This proposed rule would define a resecuritization exposure as an on- or off-balance sheet exposure to a resecuritization; or an exposure that directly or indirectly references a resecuritization exposure. A resecuritization would mean a securitization which has more than one underlying exposure and in which one or more of the underlying exposures is a securitization exposure. A resecuritization would not include exposures comprised of a single asset that has been retranched, such as a resecuritization of a real estate mortgage investment conduit (Re-REMIC). A resecuritization also would not include pass-through securities that have been pooled together and effectively reissued as tranched securities, because the pass-through securities do not tranche credit protection and would therefore not be considered securitization exposures.

In their rules, the Federal banking regulatory agencies excluded certain exposures to asset-backed commercial paper (ABCP) programs from the definition of resecuritization exposure. Their rules defined an ABCP program as a program established primarily for the purpose of issuing commercial paper that is investment grade and backed by underlying exposures held in a bankruptcy-remote special purpose entity. The System has access to the capital markets through the Funding Corporation; we believe it unlikely that a System institution would establish an ABCP program, because if the Funding Corporation's ability to issue debt ever was impeded, we believe the ability of an ABCP program to issue commercial paper would face the same difficulties. Accordingly, in the interest of simplifying our regulations where possible, we propose to make no reference to ABCP programs. We seek comment as to whether we should include provisions in our risk-based capital rules regarding ABCP programs that are comparable to those adopted by the Federal banking regulatory agencies.

[104] Under this definition, all System banks, associations, and service corporations, and all UBEs, are operating entities and are not traditional securitizations.

[105] A System institution's equity investment in an operating entity that is another System institution (a System bank, association, or service corporation), however, would be deducted from capital pursuant to § 628.22 rather than being risk weighted as an equity exposure.

2. Operational Requirements

a. Due Diligence Requirements

The FCA, like the Federal banking regulatory agencies, notes that during the recent financial crisis, many banking organizations relied exclusively on NRSRO ratings and did not perform their own credit analysis of the securitization exposures.[106] As the Federal banking regulatory agencies have required in their rules, we propose that System institutions satisfy specific due diligence requirements for securitization exposures. Specifically, a System institution would be required to demonstrate, to the FCA's satisfaction, a comprehensive understanding of the features of a securitization exposure that would materially affect the exposure's performance. The System institution's analysis would be required to be commensurate with the complexity of the exposure and the materiality of the exposure in relation to capital of the institution. On an on-going basis (no less frequently than quarterly), the System institution would be required to evaluate, review, and update as appropriate the analysis required under § 628.41(c)(1) of the proposed rule for each securitization exposure. The pre- and periodic post-acquisition analysis of the exposure's risk characteristics would have to consider:

(1) Structural features of the securitization that would materially affect the performance of the exposure, for example, the contractual cash flow waterfall, waterfall-related triggers, credit enhancements, liquidity enhancements, fair value triggers, the performance of organizations that service the position, and deal-specific definitions of default;

(2) Relevant information regarding the performance of the underlying credit exposure(s), for example, the percentage of loans 30, 60, and 90 days past due; default rates; prepayment rates; loans in foreclosure; property types; occupancy; average credit score or other measures of creditworthiness; average LTV ratio; and industry and geographic diversification data on the underlying exposure(s);

(3) Relevant market data on the securitization, for example, bid-ask spread, most recent sales price and historical price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the securitization; and

(4) For resecuritization exposures, performance information on the underlying securitization exposures, for example, the issuer name and credit quality, and the characteristics and performance of the exposures underlying the securitization exposures.

If the System institution is not able to meet these due diligence requirements and demonstrate a comprehensive understanding of a securitization exposure to the FCA's satisfaction, the institution would be required to assign a risk weight of 1,250 percent to the exposure.

b. Operational Requirements for Traditional Securitizations

In a traditional securitization, an originating banking organization typically transfers a portion of the credit risk of underlying exposures (such as loans) to third parties by selling those exposures to a third party (which could include, but is not limited to, a securitization special purpose entity).[107] The proposed rule would define ''originating System institution,'' with respect to a securitization, as a System institution that directly or indirectly originated the underlying exposures included in a securitization.[108]

Under the proposed rule, a System institution that transfers exposures it has originated or purchased to a third party in connection with a traditional securitization can exclude the underlying exposures from the calculation of risk-weighted assets only if each of the following conditions are met: (1) The exposures are not reported on the System institution's consolidated balance sheet under GAAP; (2) the System institution has transferred to one or more third parties credit risk associated with the underlying exposures; and (3) any clean-up calls relating to the securitization are eligible clean-up calls (as discussed below).

An originating System institution that meets these conditions must hold risk-based capital against any credit risk it retains or acquires in connection with the securitization. An originating System institution that fails to meet these conditions is required to hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from CET1 capital any after-tax gain-on-sale resulting from the transaction.

In addition, if a securitization: (1) Includes one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and (2) contains an early amortization provision, the originating System institution is required to hold risk-based capital against the transferred exposures as if they had not been securitized and deduct from CET1 capital any after-tax gain-on-sale resulting from the transaction.[109] We believe that this treatment is appropriate given the lack of risk transference in securitizations of revolving underlying exposures with early amortization provisions.

c. Operational Requirements for Synthetic Securitizations

System institutions are authorized to use synthetic securitizations as risk management tools to reduce their overall credit risk exposure relating to certain referenced loan pools. The use of synthetic securitizations enables System institutions to increase their risk-based capital ratios without moving assets off their balance sheets.

For synthetic securitizations, an originating System institution would recognize for risk-based capital purposes the use of a credit risk mitigant to hedge underlying exposures only if each of the conditions in the proposed definition of ''synthetic securitization'' is satisfied.

Failure to meet these operational requirements for a synthetic securitization would prevent a System institution that has purchased tranched

[106] 78 FR 62017, 62114, Oct. 11, 2013.

[107] The proposal would define a securitization SPE as a corporation, trust, or other entity organized for the specific purpose of holding underlying exposures of a securitization, the activities of which are limited to those appropriate to accomplish this purpose, and the structure of which is intended to isolate the underlying exposures held by the entity from the credit risk of the seller of the underlying exposures to the entity.

[108] Note that in the definition of originating System institution, ''originating'' refers to originating the underlying exposures (such as loans) that are included in a securitization, not to originating the securitization. We remind System institutions that nothing in these capital rules authorizes them to engage in activities that are not otherwise authorized.

[109] Many securitizations of revolving credit facilities contain provisions that require the securitization to be wound down and investors to be repaid if the excess spread falls below a certain threshold. This decrease in excess spread may, in some cases, be caused by deterioration in the credit quality of the underlying exposures. An early amortization event could increase a System institution's capital needs if new draws on the revolving credit facilities need to be financed by the System institution using on-balance sheet sources of funding. The payment allocations used to distribute principal and finance charge collections during the amortization phase of these transactions also could expose a System institution to a greater risk of loss than in other securitization transactions. The proposed rule would define an early amortization provision as a provision in a securitization's governing documentation that, when triggered, causes investors in the securitization exposures to be repaid before the original stated maturity of the securitization exposure, unless the provision: (1) Is solely triggered by events not related to the performance of the underlying exposures or the originating System institution (such as material changes in tax laws or regulations); or (2) leaves investors fully exposed to future draws by borrowers on the underlying exposures even after the provision is triggered.

credit protection referencing one or more of its exposures from using the proposed securitization framework with respect to the reference exposures and would require the institution to hold risk-based capital against the underlying exposures as if they had not been synthetically securitized.

A System institution that holds a synthetic securitization as a result of purchasing credit protection may use the securitization framework to determine the risk-based capital for its exposure. Alternatively, it may instead choose to disregard the credit protection and use the general risk weights under § 628.32.

A System institution that provides tranched credit protection in the form of a synthetic securitization or credit protection to a synthetic securitization must use the securitization framework to compute risk-based capital requirements for its exposures to the synthetic securitization even if the originating System institution fails to meet one or more of the operational requirements for a synthetic securitization.

d. Clean-Up Calls

To satisfy the operational requirements for securitizations and enable an originating System institution to exclude the underlying exposures from the calculation of its risk-based capital requirements, any clean-up call associated with a securitization would need to be an eligible clean-up call. The proposal would define a clean-up call as a contractual provision that permits an originating System institution or servicer to call securitization exposures before their stated maturity or call date. In the case of a traditional securitization, a clean-up call generally is accomplished by repurchasing the remaining securitization exposures once the amount of underlying exposures or outstanding securitization exposures falls below a specified level. In the case of a synthetic securitization, the clean-up call may take the form of a clause that extinguishes the credit protection once the amount of underlying exposures has fallen below a specified level.

Under the proposal, an eligible clean-up call would be a clean-up call that:

(1) Is exercisable solely at the discretion of the originating System institution or servicer;

(2) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit enhancement to the securitization (for example, to purchase non-performing underlying exposures); and

(3) For a traditional securitization, is only exercisable when 10 percent or less of the principal amount of the underlying exposures or securitization exposures (determined as of the inception of the securitization) is outstanding; or, for a synthetic securitization, is only exercisable when 10 percent or less of the principal amount of the reference portfolio of underlying exposures (determined as of the inception of the securitization) is outstanding.

Where a securitization SPE is structured as a master trust, a clean-up call with respect to a particular series or tranche issued by the master trust would meet criterion (3) of the definition of ''eligible clean-up call'' as long as the outstanding principal amount in that series was 10 percent or less of its original amount at the inception of the series.

3. Risk-Weighted Asset Amounts for Securitization Exposures

Under the proposed securitization framework, a System institution generally would calculate a risk-weighted asset amount for a securitization exposure by applying either: (1) The simplified supervisory formula approach (SSFA), described elsewhere in this preamble; or (2) a gross-up approach. A System institution would be required to apply either the gross-up approach or the SSFA consistently across all of its securitization exposures. However, a System institution could choose to apply a 1,250-percent risk weight to any securitization exposure. While the FCA does not propose to restrict the ability of System institutions to switch from the SSFA to the gross-up approach, we do not anticipate there should be a need for frequent changes in methodology by an institution absent significant change in the nature of its securitization activities, and we would expect institutions would be able to provide the FCA's Office of Examination, upon request, with their rationale for changing methodologies.

The SSFA may be somewhat complex for some System institutions to use, although it might also result in lower risk-weighting requirements. The gross-up approach may involve less operational burden, but it may also result in higher risk-weighting requirements.[110]

The proposal provides for alternative treatment of securitization exposures to certain gains-on-sale and CEIO exposures. Specifically, the proposed rule would include a minimum 100-percent risk weight for interest-only MBS and exceptions to the securitization framework for certain small business loans and certain derivatives as described below. A System institution could use the securitization credit risk mitigation rules to adjust the capital requirement under the securitization framework for an exposure to reflect certain collateral, credit derivatives, and guarantees, as described in more detail below.

a. Exposure Amount of a Securitization Exposure

Under this proposal, the exposure amount of an on-balance sheet securitization exposure that is not a repo-style transaction, eligible margin loan, OTC derivative contract or derivative that is a cleared transaction would generally be the System institution's carrying value of the exposure. The exposure amount of an on-balance sheet securitization exposure that is an available-for-sale debt security or an available-for-sale debt security transferred to held-to-maturity would be the System institution's carrying value (including net accrued but unpaid interest and fees), less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

The exposure amount of an off-balance sheet securitization exposure that is not a repo-style transaction, an eligible margin loan, an OTC derivative contract (other than a credit derivative), or a derivative that is a cleared transaction (other than a credit derivative) would be the notional amount of the exposure. The proposed treatment for OTC credit derivatives is described in more detail below.[111]

Under the proposed rule, the exposure amount of a securitization exposure that is a repo-style transaction, eligible margin loan, an OTC derivative contract (other than a purchased credit derivative), or derivative that is a cleared transaction (other than a purchased credit derivative) would be the exposure amount of the transaction as calculated in § 628.34 or § 628.37, as applicable.

b. Gains-On-Sale and Credit-Enhancing Interest-Only Strips

Under this proposed rule, a System institution would deduct from CET1 capital any after-tax gain-on-sale

[110] Requirements under either approach would likely be lower than the 1,250-percent risk weight.

[111] The rules of the Federal banking regulatory agencies address how to calculate the exposure amount of an off-balance sheet exposure to an ABCP securitization exposure. As discussed above, we do not propose any provisions relating to ABCPs.

resulting from a securitization and would apply a 1,250-percent risk weight to the portion of a CEIO that does not constitute an after-tax gain-on-sale.

c. Exceptions Under the Securitization Framework

We propose several exceptions to the general provisions in the securitization framework. First, a System institution would be required to assign a risk weight of at least 100 percent to an interest-only MBS. The FCA believes that a minimum risk weight of 100 percent is prudent in light of the uncertainty implied by the substantial price volatility of these securities. Second, as in the capital regulations of the Federal banking regulatory agencies, a special set of rules would apply to securitizations of small business loans and leases on personal property transferred with retained contractual exposure by System institutions. Finally, if a securitization exposure is an OTC derivative contract or derivative contract that is a cleared transaction (other than a credit derivative) that has a first priority claim on the cash flows from the underlying exposures (notwithstanding amounts due under interest rate or currency derivative contracts, fees due, or other similar payments), a System institution may choose to set the risk-weighted asset amount of the exposure equal to the amount of the exposure.

d. Overlapping Exposures

This proposed rule includes provisions to limit the double counting of risks in situations involving overlapping securitization exposures. If a System institution has multiple securitization exposures that provide duplicative coverage to the underlying exposures of a securitization the institution would not be required to hold duplicative risk-based capital against the overlapping position. Instead, the System institution would apply to the overlapping position the applicable risk-based capital treatment under the securitization framework that results in the highest risk-based capital requirement.

e. Servicer Cash Advances

A traditional securitization typically employs a servicing banking organization (which could be a System institution) that, on a day-to-day basis, collects principal, interest, and other payments from the underlying exposures of the securitization and forwards such payments to the securitization SPE or to investors in the securitization. Servicing banking organizations often provide a facility to the securitization under which the servicing banking organization may advance cash to ensure an uninterrupted flow of payments to investors in the securitization, including advances made to cover foreclosure costs or other expenses to facilitate the timely collection of the underlying exposures. These servicer cash advance facilities are securitization exposures.

Under the proposed rule, a System institution would either apply the SSFA or the gross-up approach, as described below, or a 1,250-percent risk weight to a servicer cash advance facility exposure. The treatment of the undrawn portion of the facility would depend on whether the facility is an eligible servicer cash advance facility. An eligible servicer cash advance facility would be defined as a servicer cash advance facility in which:

(1) The servicer is entitled to full reimbursement of advances, except that a servicer may be obligated to make non-reimbursable advances for a particular underlying exposure if any such advance is contractually limited to an insignificant amount of the outstanding principal balance of that exposure;

(2) The servicer's right to reimbursement is senior in right of payment to all other claims on the cash flows from the underlying exposures of the securitization; and

(3) The servicer has no legal obligation to, and does not make, advances to the securitization if the servicer concludes the advances are unlikely to be repaid.

Under the proposal, a System institution that is a servicer under an eligible servicer cash advance facility would not be required to hold risk-based capital against potential future cash advanced payments that it may be required to provide under the contract governing the facility. A System institution that is a servicer under a non-eligible servicer cash advance facility would be required to hold risk-based capital against the amount of all potential future cash advance payments that it may be contractually required to provide during the subsequent 12-month period under the contract governing the facility.

f. Implicit Support

This proposed rule would require a System institution that provides support to a securitization in excess of its predetermined contractual obligation (implicit support) to include in risk-weighted assets all of the underlying exposures associated with the securitization as if the exposures had not been securitized, and deduct from CET1 any after-tax gain-on-sale resulting from the securitization. In addition, the System institution would have to disclose publicly (i) that it has provided implicit support to the securitization, and (ii) the risk-based capital impact to the institution of providing such implicit support. Under the proposed reservations of authority, the FCA also could require the System institution to hold risk-based capital against all the underlying exposures associated with some or all the institution's other securitizations as if the exposures had not been securitized, and to deduct from CET1 any after-tax gain-on-sale resulting from such securitizations.

4. Simplified Supervisory Formula Approach

This rule proposes a SSFA as one option for assigning risk weights to securitization exposures.[112] The proposed SSFA starts with a baseline derived from the capital requirements that apply to all exposures underlying a securitization and then assigns risk weights based on the subordination level of an exposure. The proposed SSFA would apply relatively higher capital requirements to the more risky junior tranches of a securitization that are the first to absorb losses, and relatively lower requirements to the most senior exposures.

The SSFA methodology would apply a 1,250-percent risk weight to securitization exposures that absorb losses up to the amount of capital that would be required for the underlying exposures if those exposures were held directly by a System institution. In addition, the FCA is proposing a supervisory risk-weight floor, or minimum risk weight, of 20 percent for each securitization exposure. This floor is prudent given the performance of many securitization structures during the recent crisis.

At the inception of a securitization, the SSFA would require more capital on a transaction-wide basis than would be required if the underlying assets had not been securitized. That is, if the System institution held every tranche of a securitization, its overall capital charge would be greater than if the institution held the underlying assets in portfolio. This overall outcome is important in reducing the likelihood of regulatory capital arbitrage through securitizations.

Data used by a System institution to determine SSFA parameters would have to be the most currently available data. For exposures that feature payments on

[112] As discussed above, we propose a gross-up approach as another option for assigning risk weights to securitization exposures.

a monthly or quarterly basis, the data would have to be no more than 91 calendar days old.

To use the SSFA, a System institution would have to obtain or determine the weighted-average risk weight of the underlying exposures (K_G), as well as the attachment and detachment points for the System institution's position within the securitization structure. ''K_G'' would be calculated using the risk-weighted asset amounts and would be expressed as a decimal value between 0 and 1 (that is, an average risk weight of 100 percent would mean that K_G would equal 0.08). The System institution could recognize the relative seniority of the exposure, as well as all cash funded enhancements, in determining attachment and detachment points. In addition, a System institution would have to determine the credit performance of the underlying exposures.

To make the SSFA more risk sensitive and forward-looking, the parameter K_G would be modified based on delinquencies among the underlying assets of the securitization. The resulting adjusted parameter is labeled K_A. K_A is set equal to the weighted average of the K_G value and a fixed parameter equal to 0.5.

Under the proposal, the *W* parameter would equal the ratio of the sum of the dollar amounts of any underlying exposures of the securitization that are 90 days or more past due, subject to a bankruptcy or insolvency proceeding, in the process of foreclosure, held as real estate owned, in default, or have contractually deferred interest for 90 days or more divided by the ending balance, measured in dollars, of the underlying exposures.

The numerator of parameter *W* explicitly excludes loans with deferral of principal or interest for: (1) Federally guaranteed student loans, in accordance with the terms of those programs; or (2) consumer loans, including non-federally guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for period(s) of deferral that are not initiated based on changes in the creditworthiness of the borrower. Moreover, the calculation of parameter *W* includes all underlying exposures of a securitization transaction.

The entire specification of the SSFA in the proposed rule is as follows:

$$K_{SSFA}=\frac{e^{au}-e^{al}}{a(u-l)}$$

K_{SSFA} is the risk-based capital requirement for the securitization exposure and is a function of three variables, labeled *a*, *u*, and *l*. The constant *e* is the base of the natural logarithms (which is approximately equal to 2.71828). The variables *a*, *u*, and l, and have the following definitions:

$$a=-\frac{1}{p\times K_A}$$

$$u=D-K_A$$

$$l=max(A-K_A,0)$$

The values of *A* and *D* denote the attachment and detachment points, respectively, for the tranche. Specifically, *A* is the attachment point for the tranche that contains the securitization exposure and represents the threshold at which credit losses will first be allocated to the exposure. This input is the ratio, as expressed as a decimal value between 0 and 1, of the dollar amount of the securitization exposures that are subordinated to the tranche that contains the securitization exposure held by the System institution to the current dollar amount of all underlying exposures.

Parameter *D* is the detachment point for the tranche that contains the securitization exposure and represents the threshold at which credit losses of principal allocated to the securitization exposure would result in a total loss of principal. This input, which is a decimal value between 0 and 1, equals the value of *A* plus the ratio of the dollar amount of the exposures that are *pari passu* with the System institution's securitization exposure (that is, have equal seniority with respect to credit risk) to the current dollar amount of all underlying exposures. The SSFA specification is completed by the constant term *p*, which is set equal to 0.5 for securitization exposures that are not resecuritizations, or 1.5 for resecuritization exposures, and the variable K_A, which is described above.

When parameter *D* for a securitization exposure is less than or equal to K_A, the exposure must be assigned a risk weight of 1,250 percent. When parameter *A* for a securitization exposure is greater than or equal to K_A, the risk weight of the exposure, expressed as a percent, would equal K_{SSFA} times 1,250. When parameter *A* is less than K_A and *D* is greater than K_A, the applicable risk weight is a weighted average of 1,250 percent and 1,250 percent times K_{SSFA}. The risk weight would be determined according to the following formula:

$$RW=\left[\left(\frac{K_A-A}{D-A}\right)\times 1{,}250\ percent\right]+\left[\left(\frac{D-K_A}{D-A}\right)\times 1{,}250\ percent\times K_{SSFA}\right]$$

For resecuritizations, System institutions must use the SSFA to measure the underlying securitization exposure's contribution to K_G. For example, consider a hypothetical securitization tranche that has an attachment point at 0.06 and a detachment point at 0.07. Then assume that 90 percent of the underlying pool of assets of the resecuritization were mortgage loans that qualified for a 50-percent risk weight and that the remaining 10 percent of the pool was a tranche of a separate securitization (where the underlying 7 exposures consisted of mortgages that also qualified for a 50-percent weight). An exposure to this hypothetical tranche would meet the definition of a resecuritization exposure. Next, assume that the attachment point *A* of the securitization that is the 10-percent share of the resecuritization is 0.06 and the detachment point *D* is 0.08. Finally, assume that none of the underlying mortgage exposures of either the hypothetical tranche or the underlying securitization exposure meet the proposed definition of ''delinquent.''

The value of K_G for the resecuritization exposure would equal the weighted average of the two distinct K_G values. For the mortgages that qualify for the 50-percent risk weight and represent 90 percent of the resecuritization, K_G equals 0.04 (that is, 50 percent of the 8-percent risk-based capital standard).

$$K_{g,resecuritization}=(0.9-0.04)+(0.1\times K_{G,securitization})$$

To calculate the value of $K_{G,\ securitization}$ a System institution would use the attachment and detachment points of 0.06 and 0.08, respectively. Applying those input parameters to the SSFA (together with $p = 0.5$ and $K_G = 0.04$) results in a $K_{G,\ securitization}$ equal to 0.2325.

Substituting this value into the equation yields:

$$K_{G,resecuritization}=(0.9+.04)+(0.1+0.2325)=0.05925$$

This value of 0.05925 for $K_{G,\ resecuritization}$, would then be used in the calculation of the risk-based capital requirement for the tranche of the resecuritization (where $A = 0.06$, $B = 0.07$, $p = 1.5$). The result is a risk-weight of 1,172 percent for the tranche that runs from 0.06 to 0.07. Given that the attachment point is very close to the value of $K_{G,\ resecuritization}$, the capital charge is nearly equal to the maximum risk weight of 1,250 percent.

To apply the securitization framework to a single tranched exposure that has been re-tranched, such as some Re-REMICs, a System institution must apply the SSFA or gross-up approach to the retranched exposure as if it were still part of the structure of the original securitization transaction. Therefore, a System institution implementing the SSFA or the gross-up approach would calculate parameters for those approaches that would treat the retranched exposure as if it were still embedded in the original structure of the transaction while still recognizing any added credit enhancement provided by retranching. For example, under the SSFA a System institution would calculate the approach using hypothetical attachment and detachment points that reflect the seniority of the retranched exposure within the original deal structure, as well as any additional credit enhancement provided by retranching of the exposure. Parameters that depend on pool-level characteristics, such as the *W* parameter under the SSFA, would be calculated based on the characteristics of the total underlying exposures of the initial securitization transaction, not just the retranched exposure.

5. Gross-up Approach

As an alternative to the SSFA, System institutions may assign risk-weighted asset amounts to securitization exposures by implementing the gross-up approach described in § 628.43 of the proposal. If a System institution chooses to apply the gross-up approach, it would be required to apply this approach to all of its securitization exposures, except as otherwise provided for certain securitization exposures under §§ 628.44 and 628.45 of the proposal.

The gross-up approach assigns risk-weighted asset amounts based on the full amount of the credit-enhanced assets for which the System institution directly or indirectly assumes credit risk. To calculate risk-weighted assets under the gross-up approach, a System institution would determine four inputs: the pro rata share *A*, the exposure amount *C*, the enhanced amount *B*, and the applicable risk weight *RW*. The pro rata share *A* is the par value of the System institution's exposure *X* as a percentage of the par value of the tranche *Y* in which the securitization exposure resides A = $^{X}/_{Y}$. The enhanced amount *B* is the value of all the tranches that are more senior to the tranche in which the exposure resides. The applicable risk weight *RW* is the weighted-average risk weight of the underlying exposures in the securitization (for example, 100 percent for a corporate exposure).

Under the gross-up approach, a System institution would be required to calculate the credit equivalent amount *CEA*, which equals the sum of (1) the exposure of the System institution's securitization exposure and (2) the pro rata share multiplied by the enhanced amount $CEA = C + (A \times B)$. To calculate risk-weighted assets *RWA* for a securitization exposure under the gross-up approach, a System institution would be required to assign the applicable risk weight to the gross-up credit equivalent amount $RWA = RW \times CEA$. As noted above, in all cases, the minimum risk weight for securitization exposures would be 20 percent.

6. Alternative Treatments for Certain Types of Securitization Exposures

Under the proposed rule, a System institution generally would assign a 1,250-percent risk weight to all securitization exposures to which the institution does not apply the SSFA or the gross-up approach. However, the proposed rule provides alternative treatments for certain types of securitization exposures described below, provided that the System institution knows the composition of the underlying exposures at all times.

7. Credit Risk Mitigation for Securitization Exposures

Under the proposed rule, the treatment of credit risk mitigation for securitization exposures would differ slightly from the treatment for other exposures. To recognize the risk-mitigating effects of financial collateral or an eligible guarantee or an eligible credit derivative from an eligible guarantor, a System institution that purchased credit protection would use the approaches for collateralized transactions under § 628.37 of the proposed rule or the substitution treatment for guarantees and credit derivatives described in § 628.36 of the proposed rule.

In cases of maturity or currency mismatches, or, if applicable, lack of a restructuring event trigger, the institution would have to make any applicable adjustments to the protection amount of an eligible guarantee or credit derivative as required by § 628.36 for any hedged securitization exposure. In addition, for synthetic securitizations, when an eligible guarantee or eligible credit derivative covers multiple hedged exposures that have different residual maturities, the System institution would have to use the longest residual maturity of any of the hedged exposures as the residual maturity of all the hedged exposures. A System institution would not be required to compute a counterparty credit risk capital requirement for the credit derivative provided that this treatment is applied consistently for all of its OTC credit derivatives.

A System institution that purchases an OTC credit derivative (other than an nth-to-default credit derivative) that is recognized as a credit risk mitigant for a securitization exposure would not be required to compute a separate counterparty credit risk capital requirement provided that the institution makes this choice consistently for all such credit derivatives. The System institution would have to either include all or

exclude all such credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

If a System institution could not, or chose not to, recognize a credit derivative that is a securitization exposure as a credit risk mitigant, the institution would have to determine the exposure amount of the credit derivative under the treatment for OTC derivatives in § 628.34. If the System institution purchased the credit protection from a counterparty that is a securitization, the institution would have to determine the risk weight for counterparty credit risk according to the securitization framework. If the System institution purchased credit protection from a counterparty that is not a securitization, the institution would have to determine the risk weight for counterparty credit risk according to general risk weights under § 628.32. A System institution that believes it is authorized to and wishes to provide protection in the form of a guarantee or credit derivative (other than an nth-to-default credit derivative) that covers the full amount or a pro rata share of a securitization exposure's principal and interest should seek guidance from the FCA on risk weighting and other issues. We do not propose the capital treatment adopted by the Federal banking regulatory agencies, because we would want the opportunity to fully consider any contemplated transaction before assigning a risk weighting.

8. Nth-to-Default Credit Derivatives

A System institution that believes it is authorized to and wishes to provide credit protection through an nth-to-default credit derivative or second-or-subsequent-to default credit derivative should seek guidance from the FCA on risk weighting and other issues. As with the capital treatment for providing credit protection discussed above, we do not propose the capital treatment adopted by the Federal banking regulatory agencies for these derivatives, because we would want the opportunity to fully consider any contemplated transaction before assigning a risk weighting.

A System institution could obtain credit protection on a group of underlying exposures through a first-to-default credit derivative. Provided the rules of recognition for guarantees and credit derivatives under § 628.36(b) were met, the System institution would determine its risk-based capital requirement for the underlying exposures as if the institution synthetically securitized the underlying exposure with the smallest risk-weighted asset amount and had obtained no credit risk mitigant on the other underlying exposures. A System institution would calculate a risk-based capital requirement for counterparty credit risk according to § 628.34 for a first-to-default credit derivative that does not meet the rules of recognition of § 628.36(b).

A System institution could obtain credit protection on a group of underlying exposures through a nth-to-default credit derivative. Provided the rules of recognition of § 628.36(b) (other than a first-to-default credit derivative) were met, the System institution could recognize the credit risk mitigation benefits of the derivative only if the institution also had obtained credit protection on the same underlying exposures in the form of first-through-(n-1)-to-default credit derivatives; or if n-1 of the underlying exposures had already defaulted. If a System institution satisfied these requirements, the institution would determine its risk-based capital requirement for the underlying exposures as if the institution had only synthetically securitized the underlying exposure with the nth smallest risk-weighted asset amount and had obtained no credit risk mitigant on the other underlying exposures. For a nth-to-default credit derivative that did not meet the rules of recognition of § 628.36(b), a System institution would calculate a risk-based capital requirement for counterparty credit risk according to the treatment of OTC derivatives under § 628.34.

I. Equity Exposures

As discussed above, all equities (including preferred stock) issued by other System institutions would be deducted from capital under § 628.22. Accordingly, we do not propose a risk weighting for these equity exposures. These intra-System equity exposures would include an association's investment in its System bank, a System bank's purchase of nonvoting stock or participation certificates of an affiliated association pursuant to § 615.5171, and the purchase of a System institution's preferred stock by a System bank, association, or service corporation pursuant to § 615.5175.

Generally, System institutions have limited non-System equity exposures. A System institution could, however, acquire limited non-System equity exposures in several ways, including by investing in rural business investment companies (RBICs), by making other equity investments that the FCA approves,[113] and by foreclosing on equity exposures previously pledged as collateral.

This proposal would significantly revise our existing risk-based capital rules' treatment for non-System equity exposures. In particular, the proposed rule would require a System institution to apply the Simple Risk-Weight Approach (SRWA) for equity exposures that are not exposures to an investment fund and apply certain look-through approaches to assign risk-weighted asset amounts to equity exposures to an investment fund. These approaches are discussed in detail below.

1. Definition of Equity Exposure and Exposure Measurement

Under the proposed rule, a System institution would be required to determine the adjusted carrying value for each non-System equity exposure based on the approaches described below:

(1) For an equity exposure classified as HTM[114] the adjusted carrying value would be a System institution's carrying value of the exposure;

(2) For an equity exposure classified as AFS, the adjusted carrying value of the exposure would be the System institution's carrying value of the exposure less any net unrealized gains on the exposure that are reflected in the carrying value but excluded from the System institution's regulatory capital components;

(3) For a commitment to acquire an equity exposure that is unconditional, the adjusted carrying value would be the effective notional principal amount of the exposure multiplied by a 100-percent conversion factor;

(4) For a commitment to acquire an equity exposure that is conditional, the adjusted carrying value would be the effective notional principal amount of the commitment multiplied by a conversion factor. For a commitment with an original maturity of 14 months or less, the conversion factor would be 20 percent, and for a commitment with an original maturity greater than 14 months, the conversion factor would be 50 percent; and

[113] System institutions have no authority to make non-System equity investments, other than in RBICs, unless they receive the FCA's approval under § 615.5140(e). Authority for System institutions to invest in RBICs is governed by 7 U.S.C. 2009cc *et seq.;* these investments do not require the FCA's approval. However, as with any UBE investment, the FCA's approval is required for a System institution to invest in a UBE organized for investing in an RBIC.

[114] As noted above, although System banks often classify their securities as AFS, associations usually classify their securities; to the extent, they hold any, as HTM.

(5) For the off-balance sheet component of an equity exposure that is not an equity commitment, the adjusted carrying value would be the effective notional principal amount of the exposure. The size of the exposure would be equivalent to a hypothetical on-balance sheet position in the underlying equity instrument that would evidence the same change in fair value (measured in dollars) for a given small change in the price of the underlying equity instrument, minus the adjusted carrying value of the on-balance sheet component of the exposure.

The concept of the effective notional principal amount of the off-balance sheet portion of an equity exposure is included to provide a uniform method for System institutions to measure the on-balance sheet equivalent of an off-balance sheet exposure. For example, if the value of a derivative contract referencing the common stock of company X changes the same amount as the value of 150 shares of common stock of company X, for a small change (for example, 1.0 percent) in the value of the common stock of company X, the effective notional principal amount of the derivative contract is the current value of 150 shares of common stock of company X, regardless of the number of shares the derivative contract references. The adjusted carrying value of the off-balance sheet component of the derivative is the current value of 150 shares of common stock of company X minus the adjusted carrying value of any on-balance sheet amount associated with the derivative.

2. Equity Exposure Risk Weights

Under the proposed SRWA for equity exposures, a System institution would determine the risk-weighted asset amount for an equity exposure, other than an equity exposure to an investment fund, under § 628.52 of the proposed rule. A System institution would calculate risk-weighted asset amounts under § 628.52 by multiplying the adjusted carrying value of the equity exposure, or the effective and ineffective portions of a hedge pair as described below, by the lowest applicable risk weight in § 628.52. A System institution would determine the risk-weighted asset amount for an equity exposure to an investment fund under § 628.53 of the proposal. A System institution would sum risk-weighted asset amounts for all of its equity exposures to calculate its aggregate risk-weighted asset amount for its equity exposures.

The proposed SRWA risk weights are summarized below in Table 10.

TABLE 10—SIMPLE RISK-WEIGHT APPROACH (SRWA)

Risk Weight (in percent)	Equity exposure
0	An equity exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, an MDB, and any other entity whose credit exposures receive a 0-percent risk weight under § 628.32 of the proposal.
20	An equity exposure to a PSE or the Federal Agricultural Mortgage Corporation (Farmer Mac).
100	• An equity exposure that the FCA has authorized pursuant to § 615.5140(e) for a purpose other than those specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations), unless the exposure is assigned a different risk weight under this section. • The effective portion of a hedged pair. • Non-significant equity exposures, to the extent that the aggregate adjusted carrying value of the exposures does not exceed 10 percent of total capital (tier 1 capital plus tier 2 capital).
600	An equity exposure to an investment firm that (i) would meet the definition of a traditional securitization were it not for the FCA's application of paragraph (8) of that definition (in § 628.2) and (ii) has greater than immaterial leverage.

3. 100-Percent Risk Weight

Under this proposed rule, a System institution would apply a 100-percent risk weight to the following equity exposures:

• An equity exposure that the FCA has authorized pursuant to § 615.5140(e) for a purpose other than those specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations), unless the equity exposure is assigned a different risk weight under this section.

• The effective portion of a hedge pair; and

• Non-significant equity exposures.

Hedged transactions are discussed later in this preamble; the other two equity exposures are discussed in this section.

Section § 615.5132(a) of the FCA's regulations authorizes System banks to invest in eligible securities (equity securities are not eligible) for the purposes of complying with liquidity requirements, managing surplus short-term funds, and managing interest rate risk. Section § 615.5142 authorizes associations to invest in eligible securities (again, equity securities are not eligible) for the purposes of reducing interest rate risk and managing surplus short-term funds. Section 615.5140(e) authorizes System banks and associations, with our approval, to purchase and hold investments that are not otherwise eligible (such as equity investments) or that would be held for a purpose not specified by regulation.

Under proposed § 628.52, equity investments that the FCA approves for a purpose other than those specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations) would be risk weighted at 100 percent, unless the investments would qualify for a different risk weight (for example, 0 percent or 20 percent) under this section.

Under the proposed rule, a 100-percent risk weight would also apply to certain non-System equity exposures deemed non-significant. The following equity exposures, to the extent that their aggregate adjusted carrying value of does not exceed 10 percent of the System institution's total capital (tier 1 and tier 2), would be deemed non-significant: [115]

• Equity exposures to unconsolidated unincorporated business entities and equity exposures held through consolidated unincorporated business entities, as authorized by subpart J of part 611;

• Equity exposures that the FCA has authorized pursuant to § 615.5140(e) for a purpose specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations), unless the equity exposures are assigned a different risk weight under this section; and

• Equity exposures to an unconsolidated rural business investment company and equity

[115] Non-significant equity exposures exclude exposures to an investment firm that (1) would meet the definition of traditional securitization were it not for the FCA's application of paragraph (8) of the definition of a traditional securitization and (2) have greater than immaterial leverage. These investment firm exposures would be assigned a 600-percent risk weight.

exposures held through a consolidated rural business investment company described in 7 U.S.C. 2009cc *et seq.*

• Equity exposures to foreclosed collateral; these exposures could be either publicly traded or non-publicly traded.[116]

To compute the aggregate adjusted carrying value of a System institution's equity exposures for determining their non-significance, this proposal provides that the System institution may exclude: (1) The equity exposure in a hedge pair with the smaller adjusted carrying value; and (2) a proportion of each equity exposure to an investment fund equal to the proportion of the assets of the investment fund that are not equity exposures. If a System institution does not know the actual holdings of the investment fund, the System institution may calculate the proportion of the assets of the fund that are not equity exposures based on the terms of the prospectus, partnership agreement, or similar contract that defines the fund's permissible investments. If the sum of the investment limits for all exposure classes within the fund exceeds 100 percent, the System institution would assume that the investment fund invests to the maximum extent possible in equity exposures.

To determine which of a System institution's equity exposures qualify for a 100-percent risk weight based on the 10 percent of capital standard for non-significance, the System institution would aggregate the exposures in the following order:

(1) Equity exposures to unconsolidated rural business investment companies, or those held through consolidated rural business investment companies described in 7 U.S.C. 2009cc *et seq.;*

(2) Equity exposures that the FCA has authorized pursuant to § 615.5140(e) for a purpose specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations);

(3) Equity exposures to unconsolidated unincorporated business entities and equity exposures held through consolidated unincorporated business entities, as authorized by subpart J of part 611;

(4) Foreclosed collateral in the form of publicly traded equity exposures (including those held indirectly through investment funds); and

(5) Foreclosed collateral in the form of non-publicly traded equity exposures (including those held indirectly through investment funds).

To the extent that any of these aggregated equity exposures exceed 10 percent of a System institution's total capital, the FCA will determine their risk weighting.

4. Hedged Transactions

Under the proposal, to determine risk-weighted assets under the SRWA, a System institution could identify hedge pairs, which would be defined as two equity exposures that form an effective hedge, as long as each equity exposure is publicly traded or has a return that is primarily based on a publicly traded equity exposure. A System institution would risk weight only the effective and ineffective portions of a hedge pair rather than the entire adjusted carrying value of each exposure that makes up the pair.

Under the proposed rule, two equity exposures form an effective hedge if the exposures either have the same remaining maturity or each has a remaining maturity of at least 3 months; the hedge relationship is formally documented in a prospective manner (that is, before the System institution acquires at least one of the equity exposures); the documentation specifies the measure of effectiveness (E) the System institution would use for the hedge relationship throughout the life of the transaction; and the hedge relationship has an E greater than or equal to 0.8. A System institution would measure E at least quarterly and would use one of three measures of E described in the next section: The dollar-offset method, the variability-reduction method, or the regression method.

It is possible that only part of a System institution's exposure to a particular equity instrument is part of a hedge pair. For example, assume a System institution has equity exposure A with a $300 adjusted carrying value and chooses to hedge a portion of that exposure with equity exposure B with an adjusted carrying value of $100. Also assume that the combination of equity exposure B and $100 of the adjusted carrying value of equity exposure A form an effective hedge with an E of 0.8. In this situation, the institution would treat $100 of equity exposure A and $100 of equity exposure B as a hedge pair, and the remaining $200 of its equity exposure A as a separate, stand-alone equity position. The effective portion of a hedge pair would be calculated as E multiplied by the greater of the adjusted carrying values of the equity exposures forming the hedge pair. The ineffective portion of a hedge pair would be calculated as (1–E) multiplied by the greater of the adjusted carrying values of the equity exposures forming the hedge pair. In the above example, the effective portion of the hedge pair would be $0.8 \times \$100 = \$80$, and the ineffective portion of the hedge pair would be $(1 - 0.8) \times \$100 = \$20$.

5. Measures of Hedge Effectiveness

As stated above, a System institution could determine effectiveness using any one of three methods—the dollar-offset method, the variability-reduction method, or the regression method. Under the dollar-offset method, a System institution would determine the ratio of the cumulative sum of the changes in value of one equity exposure to the cumulative sum of the changes in value of the other equity exposure, termed the ratio of value change (RVC). If the changes in the values of the two exposures perfectly offset each other, the RVC would be -1. If RVC is positive, implying that the values of the two equity exposures move in the same direction, the hedge is not effective and E equals 0. If RVC is negative and greater than or equal to -1 (that is, between 0 and -1), then E would equal the absolute value of RVC. If RVC is negative and less than -1, then E would equal 2 plus RVC.

The variability-reduction method of measuring effectiveness compares changes in the value of the combined position of the two equity exposures in the hedge pair (labeled X in the equation below) to changes in the value of one exposure as though that one exposure were not hedged (labeled A). This measure of E expresses the time-series variability in X as a proportion of the variability of A. As the variability described by the numerator becomes small relative to the variability described by the denominator, the measure of effectiveness improves, but is bounded from above by a value of one. *E* would be computed as:

[116] This proposal defines publicly traded as traded on: (1) Any exchange registered with the SEC as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or (2) any non-U.S.-based securities exchange that is registered with, or approved by, a national securities regulatory authority and that provides a liquid, two-way market for the instrument in question. A two-way market would refer to a market where there are independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within 1 day and settled at that price within a relatively short timeframe conforming to trade custom.

$$E=1-\left[\frac{\sum_{t=1}^{T}(X_t-X_{t-1})^2}{\sum_{t=1}^{T}(A_t-A_{t-1})^2}\right]$$

where

$X_I = A_I - B_I$

A_I the value at time t of the one exposure in a hedge pair, and

B_I the value at time t of the other exposure in the hedge pair.

The value of t would range from 0 to T, where T is the length of the observation period for the values of A and B, and is comprised of shorter values each labeled t.

The regression method of measuring effectiveness is based on a regression in which the change in value of one exposure in a hedge pair is the dependent variable and the change in value of the other exposure in the hedge pair is the independent variable. E would equal the coefficient of determination of this regression, which is the proportion of the variation in the dependent variable explained by variation in the independent variable. However, if the estimated regression coefficient is positive, then the value of E is 0. Accordingly, E is higher when the relationship between the values of the two exposures is closer.

6. Equity Exposures to Investment Funds

We propose three methods of assigning risk weights to equity exposures to investment funds. Regardless of the method a System institution chooses, the risk weight for an exposure to an investment fund would have to be no less than 20 percent.[117] System institutions should keep in mind that the only investment funds they are authorized to invest in are diversified investment funds; that is, shares of an investment company registered under section 8 of the Investment Company Act of 1940. The portfolio of the investment company must consist solely of eligible investments authorized by our investment regulations.[118]

As discussed further below, under the proposed rule, a System institution would determine the risk-weighted asset amount for equity exposures (except equity exposures that the FCA has authorized pursuant to § 615.5140(e) for a purpose other than those specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations)) to investment funds using one of three approaches—the full look-through approach, the simple modified look-through approach, or the alternative modified look-through approach. The risk-weighted asset amount for an equity exposure that the FCA has authorized pursuant to § 615.5140(e) for a purpose other than those specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations) is the exposure's adjusted carrying value. If a System institution did not use the full look-through approach, and an equity exposure to an investment fund was part of a hedge pair, the System institution would have to use the ineffective portion of the hedge pair as the adjusted carrying value for the equity exposure to the investment fund. The risk-weighted asset amount of the effective portion of the hedge pair would be equal to its adjusted carrying value. A System institution could choose which approach to apply for each equity exposure to an investment fund.

a. *Full Look-Through Approach*

A System institution could use the full look-through approach only if the institution was able to calculate a risk-weighted asset amount for each of the exposures held by the investment fund. Under the proposal, a System institution using the full look-through approach would be required to calculate the risk-weighted asset amount for its proportional ownership shares of each of the exposures held by the investment fund as if the proportionate ownership share of the adjusted carrying value of each of the exposures were held directly by the institution. The System institution's risk-weighted asset amount for the fund would be equal to (1) The aggregate risk-weighted asset amount of the exposures held by the fund as if they were held directly by the System institution multiplied by (2) the System institution's proportional ownership share of the fund.

b. Simple Modified Look-Through Approach

Under the proposed simple modified look-through approach, a System institution would set the risk-weighted asset amount for its equity exposure to an investment fund equal to the adjusted carrying value of the equity exposure multiplied by the highest risk weight that applies to an exposure the fund is permitted to hold under the prospectus, partnership agreement, or similar agreement that defines the fund's permissible investments. The System institution may exclude derivative contracts held by the fund that are used for hedging, rather than for speculative purposes, as long as they do not constitute a material portion of the fund's exposures.

c. Alternative Modified Look-Through Approach

Under the proposed alternative modified look-through approach, a System institution may assign the adjusted carrying value of an equity exposure to an investment fund on a pro rata basis to different risk-weight categories based on the investment limits in the fund's prospectus, partnership agreement, or similar contract that defines the fund's permissible investments.

The risk-weighted asset amount for the System institution's equity exposure to the investment fund would be equal to the sum of each portion of the adjusted carrying value assigned to an exposure type multiplied by the applicable risk weight. If the sum of the investment limits for all exposures within the fund exceeds 100 percent, the System institution would assume that the fund invests to the maximum extent permitted under its investment limits in the exposure type with the highest applicable risk weight under the proposed requirements and continues to make investments in the order of the exposure category with the next highest risk weight until the maximum total investment level is reached. If more than one exposure category applies to an exposure, the System institution would use the highest applicable risk weight. A System institution may exclude derivative contracts held by the fund that are used for hedging, rather than for speculative purposes, as long as they do not constitute a material portion of the fund's exposures.

V. Market Discipline and Disclosure Requirements

A. Proposed Disclosure Requirements

Meaningful public disclosure by banking organizations is one of the three pillars of the Basel framework. Public disclosure complements the minimum capital requirements and the supervisory review process by encouraging market discipline. The other Federal banking regulatory agencies adopted disclosure requirements for the banking

[117] As with non-System equity exposures generally, System institutions generally have limited equity exposures to investment funds.

[118] Section 615.5140(a)(8).

organizations that they regulate with $50 billion or more in assets.

We propose similar disclosure requirements for System banks on a bank-only basis (not on a consolidated, district-wide basis). We believe these proposed disclosure requirements are appropriate for all System banks—even those that currently have less than $50 billion in assets—because they are jointly and severally liable for the Systemwide debt obligations that they issue.[119] A System bank's exposure to risks and the techniques that it uses to identify, measure, monitor, and control those risks are important factors that market participants consider in their assessment of the bank. A System bank would not, however, have to make any disclosures that do not apply to it.[120]

We believe this proposal strikes the proper balance between the market benefits of disclosure and the burden of providing the disclosures. We invite comment on the appropriate application of these proposed disclosure requirements to System banks.

We propose to require each System bank to have a board-approved disclosure policy that addresses the bank's approach for determining the disclosures it will make. The policy would address the associated internal controls, disclosure controls, and procedures. The board of directors and senior management would ensure that disclosures are reviewed appropriately and that effective internal controls, disclosure controls, and procedures are maintained. The System bank's chief executive officer, chief financial officer, and a designated board member would have to attest that the disclosures meet the requirements of these regulations.

A System bank would decide the relevant material disclosures. Information would be regarded as material if its omission or misstatement could influence the assessment or decision of a user making investment decisions.

We would expect that disclosures of CET1, tier 1, and total capital ratios would be tested by external auditors as part of the financial statement audit in a manner similar to the testing that external auditors perform on banking organizations regulated by the Federal banking regulatory agencies.

B. Location and Frequency of Disclosures

This proposed rule would require that a System bank provide timely public disclosures after each calendar quarter. However, qualitative disclosures that provide a general summary of a System bank's risk-management objectives and policies, reporting system, and definitions may be disclosed annually after the end of the fourth calendar quarter, provided any significant changes are disclosed in the interim.

The System bank would have to make these disclosures in its quarterly and annual reports to shareholders that are required in part 620 of our regulations.[121] We do not require a System bank to make these disclosures in the exact format set out in the proposed regulations, or in the same location in the report, as long as they provide a summary table specifically indicating the location(s) of all disclosures. This flexibility grants System banks discretion in how to disclose the required information and to avoid duplication.

In some cases, management may determine that a significant change has occurred, such that the most recent reported amounts do not reflect the System bank's capital adequacy and risk profile. In those cases, the System bank would need to disclose the general nature of these changes and briefly describe how they are likely to affect public disclosures going forward. A System bank would have to make these interim disclosures as soon as practicable after the determination that a significant change has occurred. This disclosure requirement may be satisfied by providing a notice under § 620.15.

The disclosures required by the proposal would have to be publicly available (for example, included on a public Web site) for each of the last 3 years or such shorter time period beginning when the System bank becomes subject to the disclosure requirements. For example, a System bank that began to make public disclosures in the first quarter of 2015 would have to make all of its required disclosures publicly available until the first quarter of 2018, after which it would have to make its required disclosures for the previous 3 years publicly available.

C. Proprietary and Confidential Information

The FCA believes that proposed disclosure requirements strike the proper balance between the need for meaningful disclosure and the protection of proprietary and confidential information.[122] Accordingly, the FCA believes System banks would be able to provide all of these disclosures without revealing proprietary and confidential information. Only in rare circumstances might disclosure of certain items of information required by the proposal compel a System bank to reveal confidential and proprietary information. In these unusual situations, if a System bank believes that disclosure of specific commercial or financial information would compromise its position by making public information that is either proprietary or confidential in nature, the System bank would not be required to disclose those specific items under the rule's periodic disclosure requirements. Instead, the System bank would have to disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed. This provision would apply only to those disclosures included in this proposed rule and would not apply to disclosure requirements imposed by accounting standards or other FCA regulations.

D. Specific Public Disclosure Requirements

The public disclosure requirements are designed to provide important information to market participants on the scope of application, capital structure, risk exposures, risk assessment processes, and the capital adequacy of the System institution. The focus of the proposed disclosure requirements is the substantive content of the tables, not the tables themselves. The table numbers below refer to the table numbers in proposed § 628.63. A System bank would be required to make the disclosures described in Tables 1 through 10.[123]

[119] Nothing in this proposed regulation or preamble would change any of our existing regulatory requirements, including those in part 620 or part 621.

[120] For example, Table 1 would require a System bank to make certain disclosures about subsidiaries. If a System bank has no subsidiaries, it would not have to make those disclosures.

[121] Sections 620.2 and 620.4 of the FCA's regulations requires each System institution to prepare, provide to the FCA and shareholders, and make available to the public an annual report after the end of each fiscal year. Sections 620.2 and 620.10 requires each System institution to prepare, provide to the FCA and shareholders, and make available to the public a quarterly report after the end of each fiscal quarter (except the fiscal quarter that coincides with the end of the System institution's fiscal year).

[122] Proprietary information encompasses information that, if shared with competitors, would render a System bank's investment in these products/systems less valuable, and, hence, could undermine its competitive position. Information about customers is often confidential, in that it is provided under the terms of a legal agreement or counterparty relationship.

[123] Other disclosure requirements, such as regulatory reporting requirements, would continue to apply.

Table 1 disclosures, ''Scope of Application,'' would provide the basic context underlying regulatory capital calculations.

Table 2 disclosures, ''Capital Structure,'' would provide summary information on the terms and conditions of the main features of regulatory capital instruments, which would allow for an evaluation of the quality of the capital available to absorb losses within a System bank. A System bank also would disclose the total amount of CET1, tier 1, and total capital, with separate disclosures for deductions and adjustments to capital. We believe that many of these disclosure requirements would be captured in revised regulatory reports.

Table 3 disclosures, ''Capital Adequacy,'' would provide information on a System bank's approach for categorizing and risk-weighting its exposures, as well as the amount of total risk-weighted assets. The table would also include CET1, and tier 1 and total risk-based capital ratios.

Table 4 disclosures, ''Capital Conservation Buffer,'' would require a System bank to disclose the capital conservation buffer, the eligible retained income and any limitations on capital distributions and certain discretionary bonus payments, as applicable.

Disclosures in Tables 5, ''Credit Risk: General Disclosures,'' 6, ''General Disclosure for Counterparty Credit Risk-Related Expenses,'' and 7, ''Credit Risk Mitigation,'' would relate to credit risk, counterparty credit risk and credit risk mitigation, respectively, and would provide market participants with insight into different types and concentrations of credit risk to which a System bank is exposed and the techniques it uses to measure, monitor, and mitigate those risks. These disclosures are intended to enable market participants to assess the credit risk exposures of the System bank without revealing proprietary information.

Table 8 disclosures, ''Securitization,'' would provide information to market participants on the amount of credit risk transferred and retained by a System bank through securitization transactions, the types of products involved in the System bank's securitizations, the risks inherent in the System bank's securitized assets, the System bank's policies regarding credit risk mitigation, and the names of any entities that provide external credit assessments of a securitization. These disclosures would provide a better understanding of how securitization transactions impact the credit risk of a System bank. For purposes of these disclosures (and these capital regulations), a System bank would be considered to have securitized assets if assets that it originated or purchased from third parties are included in a securitization. Securitization transactions in which the originating System bank does not retain any securitization exposure would be shown separately and would only be reported for the year of inception of the transaction.[124]

Table 9 disclosures, ''Equities,'' would provide market participants with an understanding of the types of equity securities held by the System bank and how they are valued. The disclosures would also provide information on the capital allocated to different equity products and the amount of unrealized gains and losses. We understand that System banks generally hold few equity securities; nevertheless, we believe disclosure of these securities, when they are held, is warranted.

Table 10 disclosures, ''Interest Rate Risk for Non-trading Activities,'' would require a System bank to provide certain quantitative and qualitative disclosures regarding the System bank's management of interest rate risks.

VI. Conforming Changes

The FCA is proposing a number of conforming changes to current FCA regulations as follows:

- In § 607.2(b), revision of the definition of ''average risk-adjusted asset base'';
- In § 614.4351(a)(3), replacement of the reference to total surplus with a reference to tier 2 capital;
- In § 615.5143(a), removal of references to the net collateral ratio;
- In § 615.5200, removal of references to total capital, surplus, core surplus, total surplus, and unallocated surplus; addition of references to CET1, tier 1 capital, total capital, and tier 1 leverage ratio; and other minor nonsubstantive and technical changes;
- In § 615.5201, removal of definitions that would no longer be used in part 615, subpart H, including ''bank,'' ''commitment,'' ''credit conversion factor,'' ''credit derivative,'' ''credit-enhancing interest-only strip,'' ''credit-enhancing representations and warranties,'' ''deferred-tax assets that are dependent on future income or future events,'' ''direct credit substitute,'' ''direct lender institution,'' ''externally rated,'' ''face amount,'' ''financial asset,'' ''financial standby letter of credit,'' ''Government agency,'' ''Government-sponsored agency,'' ''institution,'' ''nationally recognized statistical rating organization,'' ''non-OECD bank,'' ''OECD,'' ''OECD bank,'' ''performance-based standby letter of credit,'' ''qualified residential loan,'' ''qualifying bilateral netting contract,'' ''qualifying securities firm,'' ''recourse,'' ''residual interest,'' ''risk participation,'' ''Rural Business Investment Company,'' ''securitization,'' ''servicer cash advance,'' ''total capital,'' ''traded position,'' and ''U.S. depository institution''; revision of the definitions of ''permanent capital'' and ''risk-adjusted asset base''; and addition of definitions of ''deferred tax assets'' and ''System institution'';
- In §§ 615.5206 and 615.5208, removal of references to the Farm Credit System Financial Assistance Corporation in § 615.5206(a); removal of §§ 615.5206(d) and 615.5208(c), which pertain to the Farm Credit System Financial Assistance Corporation; and other minor nonsubstantive and technical changes;
- In § 615.5207, revisions in paragraph (f) (requiring deduction of an investment in the Funding Corporation) and paragraph (j) (elimination of exclusion of AOCI and requirement to exclude any defined benefit pension fund net asset) to make the deductions from the numerator of the permanent capital calculation uniform with the deductions from the denominator;
- Removal of §§ 615.5209 through 615.5212, which pertain to risk-weighting (the risk-weights for the permanent capital ratio would be the same risk weights that would be used for the tier 1 and tier 2 capital ratios in part 628);
- In § 615.5220, minor nonsubstantive and technical changes;
- Revision of § 615.5240 to add a reference to the regulatory capital standards in proposed part 628;
- Revision of § 615.5250 to include references to the regulatory capital standards in proposed part 628;
- In § 615.5255, the addition of part 628 capital standards and minor nonsubstantive and technical changes;
- In § 615.5270, revision to incorporate restrictions and limits on redemptions of equities would be included in tier 1 and tier 2 capital in the proposed rule;
- In § 615.5290, minor nonsubstantive and technical changes;
- Removal of part 615, subpart K, which contains the requirements for the

[124] A System bank is authorized to act as an ''originating System institution,'' which the proposed regulation would define as a System institution that directly or indirectly originated the underlying exposures included in a securitization. A System bank is not authorized to perform every role in a securitization, and nothing in these capital rules authorizes a System bank to engage in activities relating to securitizations that are not otherwise authorized.

core surplus, total surplus, and net collateral standards;

- In §§ 615.5350, 615.5352, and 615.5355, replacement of references to core surplus, total surplus, and net collateral with references to tier 1 and tier 2 capital;
- In § 615.5357, addition of a reference to the capital restoration plan in proposed § 628.301; and
- Revision of § 620.17 to expand the stockholder notification requirement to include the regulatory capital standards in proposed part 628.

VII. Proposed Timeframe for Implementation

Basel III and the Federal regulatory banking agencies' rules have numerous phase-in and transition periods for the capital regulations lasting from 2014 (2015 for banking organizations not using the advanced approaches rules) until 2019 or after. Many of these transition provisions pertain to regulatory deductions and adjustments, minority interests, and temporary inclusion of non-qualifying instruments. There is also a transition period for the capital conservation buffer.

The FCA is not proposing any transition or phase-in periods for regulatory adjustments and deductions. The Federal regulatory banking agencies' transition periods serve several purposes. The agencies, which are members of the BCBS, are generally following the transition and phase-in periods of Basel III and other countries' banking regulations. Since the primary competitors of many U.S. banking organizations are financial institutions that are regulated by foreign countries that are also following Basel III, there will be a level playing field among such competitors. In addition, the Federal regulatory banking agencies note that the various transition periods will give the banking organizations they regulate sufficient time to build capital to meet the new minimum requirements.

The FCA believes multiple transition periods of varying lengths for multiple adjustments and deductions could be unnecessarily burdensome for System institutions and for the FCA. Instead of a single learning curve and software re-tooling on the calculation of the new framework, institutions and FCA staff would have a new learning curve every 4 quarters for the first 4 or more years after the rule becomes effective.

We have analyzed every System institution's call report data, and we project that all System institutions would meet all the proposed minimum amounts for the CET1, tier 1 and total capital risk-based ratios if those requirements were in effect today. In reviewing the capital components, we assumed that all institutions would adopt required bylaw provisions for inclusion of stock and allocated equities in tier 1 and tier 2 capital. We also assumed that no institutions that redeem allocated equities on a cycle of less than 10 years would extend their patronage redemption periods in order to include those equities in CET1 capital, but rather they would maintain existing patronage redemption periods and qualify allocated equities as tier 2 capital. For the risk weightings, we used a simple analysis. For System associations, we assumed the proposed risk weightings would not be materially different from existing risk weightings in the current regulations. For System banks, we believe that certain new risk weights or conversion factors could have a material impact but, taken collectively, the impacts should net against each other. For instance, System banks would need to hold additional capital for their unconditionally cancelable unfunded commitments, but they would hold less capital for their end-user derivative portfolios. In the proposed rule, the banks may use credit risk mitigation for the collateral posted to derivative counterparties that are not available to them under current regulations.

All System institutions would meet the 5.0 minimum tier 1 leverage ratio (including the 1.5-percent component of the ratio for URE and equivalents) if the proposed requirement were effective today. Our analysis indicates that the leverage ratio would not be a constraining ratio for System associations because of their strong capital levels. The leverage ratio for associations would be very similar to their tier 1 capital risk-based ratio because most of their assets are risk weighted at 100 percent. If the proposed rule were effective today, the current leverage ratios of System banks would, however, be closer to, but above, the proposed 5.0-percent tier 1 and a 1.5-percent URE and URE equivalents component of the minimum leverage ratio. The System banks' tier 1 leverage ratios would be significantly lower than their tier 1 risk-based ratios because a large portion of their loans are to their affiliated associations and are risk-weighted at 20 percent.

The FCA has decided to propose a transition period for the capital conservation buffer that would commence on January 1, 2016, with the buffer fully phased in beginning January 1, 2019. Unlike the adjustments and deductions transitions, the calculation of the capital conservation buffer would not change over the transition period, and there would not be an additional burden to revise the calculation each year. Rather, the amount of the capital conservation buffer increases every year until fully phased in. The Federal regulatory banking agencies' capital conservation buffer rules also will be fully phased in as of January 1, 2019, but their transition period will begin in 2015. We expect our final rule will become effective for the reporting periods beginning in 2016.

In the event that some System institutions do not meet the tier 1 and tier 2 capital standards when the rules become effective, we are proposing to permit them to comply by submitting a capital restoration plan. The plan, which the institution would be required to submit within 20 days of the quarterend during which the new capital standards become effective, would describe how the institution proposes to achieve and maintain compliance with the new requirements, demonstrating progress towards meeting that goal. If the FCA did not approve the plan, the institution would have to revise and re-submit the plan. There is a list of factors in the proposed rule that the FCA would consider in evaluating a plan. They include: (1) Circumstances leading to the institution's decrease in capital and whether they were caused by the institution or by circumstances beyond the institution's control; (2) the institution's financial ratios (*e.g.,* capital, adverse assets, ALL) compared to those of its peers or industry norms; and (3) the institution's previous compliance practices; and (4) the views of the institution's directors and managers regarding the plan. If the capital restoration plan is adopted by the institution and approved by the FCA within 180 days of the quarterend in which the tier 1 and tier 2 capital requirements become effective, the institution will be deemed to be in compliance with the requirements.[125]

VIII. Abbreviations

ABCP Asset-Backed Commercial Paper
ABS Asset-backed Security
ADC Acquisition, Development, or Construction
AFS Available For Sale
ALL Allowance for Loan Losses
AOC Accumulated Other Comprehensive Income
BCBS Basel Committee on Banking Supervision
BHC Bank Holding Company
CCF Credit Conversion Factor

[125] This proposed rule is modeled after current § 615.5336, which was adopted in 1997 at the time the FCA adopted the core surplus, total surplus, and net collateral requirements. Several System institutions achieved initial compliance with those requirements.

CCP Central Counterparty
CDS Credit Default Swap
CEIO Credit-Enhancing Interest-Only Strip
CEM Current Exposure Method
CFR Code of Federal Regulations
CFPB Consumer Financial Protection Bureau
CFTC Commodity Futures Trading Commission
CPSS Committee on Payment and Settlement Systems
CRC Country Risk Classifications
CUSIP Committee on Uniform Securities Identification Procedures
DAC Deferred Acquisition Cost
DCO Derivatives Clearing Organizations
DTA Deferred Tax Asset
DTL Deferred Tax Liability
DvP Delivery-versus-Payment
E Measure of Effectiveness
EE Expected Exposure
ERISA Employee Retirement Income Security Act of 1974
FCA Farm Credit Administration
FDIC Federal Deposit Insurance Corporation
FDICIA Federal Deposit Insurance Corporation Improvement Act of 1991
FFIEC Federal Financial Institutions Examination Council
FHA Federal Housing Authority
FHLB Federal Home Loan Bank
FHLMC Federal Home Loan Mortgage Corporation
FIRREA Financial Institutions, Reform, Recovery and Enforcement Act
FMU Financial Market Utility
FNMA Federal National Mortgage Association
FR Federal Register
GAAP Generally Accepted Accounting Principles (U.S.)
GNMA Government National Mortgage Association
GSE Government-Sponsored Enterprise
HAMP Home Affordable Mortgage Program
HOLA Home Owners' Loan Act
HTM Held to Maturity
HVCRE High-Volatility Commercial Real Estate
IFRS International Financial Reporting Standards
IOSCO International Organization of Securities Commissions
LTV Loan-to-Value Ratio
MBS Mortgage-backed Security
MDB Multilateral Development Bank
MHC Mutual Holding Company
MSA Mortgage Servicing Assets
NRSRO Nationally Recognized Statistical Rating Organization
OCC Office of the Comptroller of the Currency
OECD Organization for Economic Cooperation and Development
OFI Other Financing Institution
OMB Office of Management and Budget
OTC Over-the-Counter
OTTI Other Than Temporary Impairment
PFE Potential Future Exposure
PMI Private Mortgage Insurance
PMSR Purchased Mortgage Servicing Right
PSE Public Sector Entities
PvP Payment-versus-Payment
QCCP Qualifying Central Counterparty
QIS Quantitative Impact Study
QM Qualified Mortgage
RBA Ratings-Based Approach
RBC Risk-Based Capital
REIT Real Estate Investment Trust
Re-REMIC Resecuritization of Real Estate Mortgage Investment Conduit
SAP Statutory Accounting Principles
SEC Securities and Exchange Commission
SFA Supervisory Formula Approach
SLHC Savings and Loan Holding Company
SPE Special Purpose Entity
SRWA Simple Risk-Weight Approach
SSFA Simplified Supervisory Formula Approach
U.S.C. United States Code
VA Department of Veterans Affairs
VOBA Value of Business Acquired
WAM Weighted Average Maturity

IX. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

Addendum: Discussion of This Proposed Rule

Overview

The FCA is issuing a proposed rule (proposal or proposed rule) to update the capital rules for the System by adopting certain changes comparable to those suggested by the Basel Committee on Banking Supervision (BCBS) to the international regulatory capital framework, the Federal banking regulatory agencies' regulations, and requirements of the Dodd-Frank Act. Among other things, the proposed rule would:

- Establish minimum risk-based CET1, tier 1, and total capital ratio requirements;
- Establish a minimum tier 1 leverage ratio requirement;
- Establish a capital conservation buffer below which an institution's discretionary cash distributions and bonuses would be limited or prohibited without FCA approval;
- Increase capital requirements for past-due loans, high volatility commercial real estate exposures, and certain short-term loan commitments;
- Expand the recognition of collateral and guarantors in determining risk-weighted assets;
- Remove references to credit ratings;
- Establish due diligence requirements for securitization exposures; and
- Increase required regulatory capital disclosures of System banks.

This addendum summarizes this proposed rule. The FCA intends for this addendum to act as a guide for System institutions to navigate the proposed rule and identify the provisions that may be most relevant to them, but it is not comprehensive. The FCA expects and encourages all System institutions to review the proposed rule in its entirety.

We remind System institutions that the presence of a particular risk weighting does not itself provide authority for a System institution to have an exposure to that asset or item.

A. Capital Components

1. Common Equity Tier 1 Capital (CET1)

(a) Common cooperative equities (purchased member stock, purchased participation certificates, and allocated equities) with the following key criteria (among others):

- Borrower stock (regardless of redemption or revolvement period) up to the statutory minimum of $1000 or 2 percent of the loan amount, whichever is less;
- Equities are perpetual;
- Equities subject to discretionary revolvement or redemption are not retired for at least 10 years after issuance;
- Equities can be retired only with FCA prior approval (unless it is the statutory minimum borrower stock requirement or unless the distribution meets ''safe harbor'' standards) and the System institution has a capitalization bylaw providing that it must obtain FCA approval prior to redeeming or revolving any equities it includes in CET1 before the end of the 10-year period;
- Equities represent a claim subordinated to all preferred stock, all subordinated debt, and all liabilities of the institution in a receivership, liquidation, or similar proceeding; and

(b) Unallocated retained earnings (URE).

The FCA is proposing to require System institutions to exclude AOCI from CET1.

2. Additional Tier 1 Capital (AT1)

Equities other than common cooperative equities (*i.e.,* equities issued primarily to third-party investors) that meet most of the CET1 criteria, except that AT1 capital equities represent a claim that ranks senior to all common cooperative equities in a receivership, liquidation, or similar proceeding.

3. Tier 2 Capital

(a) Equities, which may be common cooperative equities or equities held by third parties, not includable in Tier 1 with the following key criteria:

- Equities are perpetual or have an original maturity of at least 5 years;
- Equities subject to discretionary revolvement or redemption are not retired for at least 5 years after issuance; and
- Equities may not be redeemed or revolved prior to maturity or the end of the stated revolvement period without FCA prior approval (unless the distribution meets ''safe harbor'' standards);

(b) Subordinated debt that is not callable for at least 5 years and not subject to acceleration except in the event of a receivership, liquidation, or similar proceeding; and

(c) Allowance for losses (ALL) up to 1.25 percent of total risk-weighted assets.

4. Regulatory Adjustments and Deductions

(a) *Deductions from CET1 capital.*

- Goodwill, intangible assets, gains-on-sale in connection with a securitization exposure, and defined benefit pension fund net assets, all of which are net of associated deferred tax liabilities; and
- The System institution's allocated equity investments in another System institution.

(b) *Deductions from regulatory capital using the corresponding deduction approach.*

- A System institution's purchased equity investments in other System institutions must be deducted using the corresponding deduction approach.

This means that a System institution would make deductions from the component of capital for which the underlying instrument qualified if it were issued by the System institution itself.

5. FCA Prior Approval of Cash Patronage Refunds, Cash Dividend Payments, and Allocated Equity Redemptions; ''Safe Harbor'' Treatment for Certain Such Payments

FCA prior approval would be required for redemption of equities included in tier 1 and tier 2, comparable to Basel III and the banking agencies' rule. Prior approval is also required for cash dividends and cash patronage in excess of a specified level, comparable to U.S. banking law and regulations. An exception to the FCA prior approval requirement is that System institutions could retire member stock up to an amount equal to the Farm Credit Act's minimum member-borrower stock requirement of $1,000 or 2 percent of the member's loan, whichever is less. In addition, this amount of borrower stock would not have to be outstanding for a minimum period of 10 years in order for the institution to include it in CET1. However, redemptions of such amounts of stock would be included in the calculation for the ''safe harbor'' in proposed § 628.22(f)(5).

Under the proposed ''safe harbor,'' FCA prior approval is deemed to be granted (*i.e.,* a request for approval does not have to be made to the FCA) for cash distributions to pay dividends, patronage, or revolvements and redemptions of common cooperative equities provided that:

(a) For revolvements or redemptions of common cooperative equities included in CET1 capital, such equities were issued or allocated at least 10 years ago;

(b) For revolvements or redemptions of common cooperative equities included in Tier 2 capital, such equities were issued or allocated at least 5 years ago;

(c) After such cash distributions, the dollar amount of the System institution's CET1 capital equals or exceeds the dollar amount of CET1 capital on the same date of the previous calendar year; and

(d) After such cash distributions, the System institution continues to comply with all minimum regulatory capital requirements and supervisory or enforcement actions.

6. Capital Conservation Buffer

The capital conservation buffer of 2.5 percent provides a cushion above regulatory capital minimums. The buffer's purpose is to restrict an institution's discretionary distributions of earnings before that institution reaches the minimum capital requirements.

If a System institution's CET1, tier 1 *and* total capital ratios exceed minimum requirements, the capital conservation buffer is proposed to be the lowest of the following:

- The System institution's CET1 capital ratio minus the System institution's minimum CET1 capital ratio of 4.5 percent;
- The System institution's tier 1 capital ratio minus the System institution's minimum tier 1 capital ratio of 6 percent; and
- The System institution's total capital ratio minus the System institution's minimum total capital ratio of 8 percent.

If the CET1 ratio, tier 1 ratio, *or* total capital ratio does not exceed minimum requirements, then the capital conservation buffer would be zero.

B. Risk Weightings

1. Zero-Percent (0%) Risk-Weighted Exposures

- An exposure to the U.S. Government, its central bank, or a U.S. Government agency—§ 628.32(a)(1)(i)(A);
- The portion of an exposure that is directly and unconditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency—§ 628.32(a)(1)(i)(B);
- An exposure to a sovereign entity that meets certain criteria (as discussed below)—§ 628.32(a) and Table 1;
- Exposures to certain supranational entities and multilateral development banks—§ 628.32(b);
- Cash—§ 628.32(l);
- Certain gold bullion—§ 628.32(l);
- Certain exposures that arise from the settlement of cash transactions with a central counterparty—§ 628.32(l);
- An exposure to an OTC derivative contract that meets certain criteria—§ 628.37(b)(3)(i);
- The collateralized portion of an exposure with respect to which the financial collateral meets certain criteria—§ 628.37(b)(3)(iii); and
- An equity exposure to any entity whose credit exposures receive a 0-percent risk weight—§ 628.52(b)(1).

2. Twenty-Percent (20%) Risk-Weighted Exposures

- The portion of an exposure that is conditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency—§ 628.32(a)(1)(ii);
- An exposure to a sovereign entity that meets certain criteria (as discussed below)—§ 628.32(a) and Table 1;
- An exposure to a GSE, other than an equity exposure or preferred stock—§ 628.32(c)(1);
- Most exposures to U.S.- or state-organized depository institutions or credit unions, including those that are OFIs—§ 628.32(d)(1);
- An exposure to a foreign bank that meets certain criteria (as discussed below)—§ 628.32(d)(2) and Table 2;
- A general obligation exposure to a U.S. or state PSE—§ 628.32(e)(1)(i);
- An exposure to a non-U.S. PSE that meets certain criteria (as discussed below)—§ 628.32(e)(2), (e)(3), and (e)(4)(i) and Table 3;
- Cash items in the process of collection—§ 628.32(l)(2);
- A loan that a System bank makes to an association (a direct loan)—§ 628.32(m); and

• An equity exposure to a PSE or the Federal Agricultural Mortgage Corporation (Farmer Mac)—§ 628.52(b)(2).

3. Fifty-Percent (50%) Risk-Weighted Exposures

• An exposure to a sovereign entity that meets certain criteria (as discussed below)—§ 628.32(a) and Table 1;
• An exposure to a foreign bank that meets certain criteria (as discussed below)—§ 628.32(d)(2) and Table 2;
• A revenue obligation exposure to a U.S. or state PSE—§ 628.32(e)(1)(ii);
• An exposure to a non-U.S. PSE that meets certain criteria (as discussed below)—§ 628.32(e)(2), (e)(3), (e)(4)(ii) and Tables 3 and 4; and
• First lien residential mortgage exposures that meet certain criteria—§ 628.32(g).

4. One Hundred-Percent (100%) Risk-Weighted Exposures

• An exposure to a sovereign entity that meets certain criteria (as discussed below)—§ 628.32(a) and Table 1;
• Preferred stock issued by a GSE—§ 628.32(c)(2);
• An exposure to a foreign bank that meets certain criteria (as discussed below)—§ 628.32(d)(2) and Table 2;
• An exposure to a non-U.S. PSE that meets certain criteria (as discussed below)—§ 628.32(e)(2), (e)(3), (e)(5) and Tables 3 and 4;
• All corporate exposures—§ 628.32(f). This category would include the following:
○ Borrower loans such as agricultural loans and consumer loans, regardless of the corporate form, of the borrower, unless those loans qualify for different risk weights under other risk-weighting provisions;
○ System bank exposures to OFIs that do not satisfy the criteria for a 20-percent risk weight; and
○ Premises, fixed assets, and other real estate owned;
• All residential mortgage exposures that do not satisfy the criteria for a 50-percent risk weight—§ 628.32(g);
• DTAs arising from temporary differences that could be realized through net operating loss carrybacks—§ 628.32(l)(3);
• All MSAs—§ 628.32(l)(4);
• All assets that are not specifically assigned a different risk weight and that are not deducted from tier 1 or tier 2 capital pursuant to § 628.22—§ 628.32(l)(5);
• Certain equity exposures authorized under § 615.5140(e)—§ 628.52(b)(3)(i);
• The effective portion of a hedge pair—§ 628.52(b)(3)(ii); and
• Non-significant equity exposures—§ 628.52(b)(3)(iii).

5. One Hundred Fifty-Percent (150%) Risk-Weighted Exposures

• An exposure to a sovereign entity that meet certain criteria (as discussed below)—§ 628.32(a) and Table 1;
• A sovereign exposure, if an event of sovereign default has occurred during the previous 5 years—§ 628.32(a)(6) and Table 1;
• An exposure to a foreign bank, if an event of sovereign default has occurred during the previous 5 years in the foreign bank's home country—§ 628.32(d)(2)(iv) and Table 2;
• An exposure to a non-U.S. PSE that meets certain criteria (as discussed below)—§ 628.32(e)(2), (e)(3), (e)(5) and Tables 3 and 4;
• An exposure to a PSE, if an event of sovereign default has occurred during the previous 5 years in the PSE's home country—§ 628.32(e)(6) and Tables 3 and 4;
• HVCRE exposures—§ 628.32(j); and
• The portion of a past due exposure that is not guaranteed or that is not secured by financial collateral (except for a sovereign exposure or a residential mortgage exposure, both risk-weighted as discussed above)—§ 628.32(k).

6. Six Hundred-Percent (600%) Risk-Weighted Exposures

• An equity exposure to an investment firm, provided that the investment firm meets specified conditions—§ 628.52(b).

7. One Thousand Two Hundred Fifty-Percent (1,250%) Risk-Weighted Exposures

• Certain high-risk securitization exposures, such as CEIO strips—§§ 628.41–628.45.

8. Past Due Exposures (90 Days or More Past Due or in Nonaccrual Status)

• One hundred (100) percent—residential mortgage exposures—§ 628.32(g);
• A System institution may assign a risk weight to the guaranteed portion of a past due exposure based on the risk weight that applies under § 628.36 if the guarantee or credit derivative meets the requirements of that section—§ 628.32(k)(2);
• A System institution may assign a risk weight to the portion of a past due exposure that is collateralized by financial collateral based on the risk weight that applies under § 628.37 if the financial collateral meets the requirements of that section—§ 628.32(k)(3); and
• One hundred fifty (150) percent—all other past due exposures—§ 628.32(k).

9. Conversion Factors for Off-Balance Sheet Items—§ 628.33

• Zero percent (0%)—the unused portion of a commitment that is unconditionally cancellable by the System institution;
• Twenty percent (20%)—
○ Commitment with an original maturity of 14 months or less that is not unconditionally cancellable by the System institution; and
○ Self-liquidating, trade-related contingent items that arise from the movement of goods, with an original maturity of 14 months or less;
• Fifty percent (50%)—
○ Commitments with an original maturity of more than 14 months that are not unconditionally cancellable by the System institution; and
○ Transaction-related contingent items, including performance bonds, bid bonds, warranties, and performance standby letters of credit;
• One hundred percent (100%)—
○ Guarantees;
○ Repurchase agreements (the off-balance sheet component of which equals the sum of the current fair values of all positions the System institution has sold subject to repurchase);
○ Credit-enhancing representations and warranties that are not securitization exposures;
○ Off-balance sheet securities lending transactions (the off-balance sheet component of which equals the sum of the current fair values of all positions the System institution has lent under the transaction);
○ Off-balance sheet securities borrowing transactions (the off-balance sheet component of which equals the sum of the current fair values of all non-cash positions the System institution has posted as collateral under the transaction);
○ Financial standby letters of credit; and
○ Forward agreements.

10. Over-the-Counter (OTC) Derivative Contracts—§ 628.34

The System institution would determine the risk-based capital requirement for a derivative contract by determining the exposure amount and then assigning a risk weight based on the counterparty or collateral. The exposure amount is the sum of current exposure plus potential future credit exposure (PFE). The current credit exposure is the greater of 0 or the mark-to-fair value of the derivative contract. The PFE is generally the notional amount of the derivative contract multiplied by a credit conversion factor for the type of derivative contract. Table

1 to proposed § 628.34 shows the credit conversion factors for derivative contracts.

11. Treatment of Cleared Transactions—§ 628.35

The proposal introduces a specific capital treatment for exposures to central counterparties (CCPs), including certain transactions conducted through clearing members by System institutions that are not themselves clearing members of a CCP. Proposed § 628.35 describes the capital treatment of cleared transactions and of default fund exposures to CCPs, including more favorable capital treatment for cleared transactions through CCPs that meet certain criteria.

12. Treatment of Guarantees—§ 628.36

The proposal would allow a System institution to substitute the risk weight of an eligible guarantor for the risk weight otherwise applicable to the guaranteed exposure. This treatment would apply only to *eligible guarantees* and *eligible credit derivatives,* and it would provide certain adjustments for maturity mismatches, currency mismatches, and situations where restructuring is not treated as a credit event. To be an *eligible guarantee,* the guarantee would be required to be from an *eligible guarantor* (as defined in the proposal) and would have to satisfy the definitional requirements of *eligible guarantee.*

13. Treatment of Collateralized Transactions—§ 628.37

The proposal allows System institutions to recognize the risk-mitigating benefits of financial collateral (as defined) in risk-weighted assets. In all cases, the System institution would be required to have a perfected, first priority interest in the financial collateral.

Where the collateral satisfies specified criteria, a System institution could use the simple approach—that is, it could apply a risk weight to the portion of an exposure that is secured by the fair value of financial collateral by using the risk weight of the collateral. There is a general risk weight floor of 20 percent.

For repo-style transactions, eligible margin loans, collateralized derivative contracts, and single-product netting sets of such transactions, a System institution could instead use the collateral haircut approach—that is, it could reduce the amount of exposure to be risk weighted (rather than substituting the risk weight of the collateral).

A System institution would be required to use the same approach for similar exposures or transactions.

14. Unsettled Transactions—§ 628.38

The proposal provides for a separate risk-based capital requirement for transactions involving securities, foreign exchange instruments, and commodities that have a risk of delayed settlement or delivery. The proposed capital requirement would not, however, apply to certain types of transactions, including cleared transactions that are marked-to-market daily and subject to daily receipt and payment of variation margin. The proposal contains separate treatments for delivery-versus-payment (DvP) and payment-versus-payment (PvP) transactions with a normal settlement period, and non-DvP/non-PvP transactions with a normal settlement period.

15. Securitization Exposures—§§ 628.41–628.45

The proposed rule introduces due diligence and other requirements for System institutions that own, originate, or purchase securitization exposures and introduces a new definition of securitization exposure. Under the proposed rule, a System institution that originates the underlying exposures included in a securitization could have a securitization exposure and, if so, would be subject to the requirements.

Note that mortgage-backed pass-through securities (for example, those guaranteed by FHLMC or FNMA) do not meet the proposed definition of a securitization exposure because they do not involve a tranching of credit risk. Rather, only those MBS that involve tranching of credit risk would be securitization exposures.

16. Equity Exposures—§§ 628.51–628.52

A System institution would apply a simple risk-weight approach (SRWA) to determine the risk weight for equity exposures that are not exposures to an investment fund.

17. Equity Exposures to Investment Funds—§ 628.53

The proposals described in this section would apply to equity exposures to investment funds such as mutual funds, but not to hedge funds or other leveraged investment funds. For exposures to investment funds (other than certain equity exposures authorized under § 615.5140(e), for which the risk-weighted asset amount is equal to their adjusted carrying value for the fund), a System institution must use one of three risk-weighting approaches: The full-look through approach; the simple modified look-through approach; or the alternative modified look-through approach.

18. Foreign Exposures—§ 628.32(a), (d), and (e), and Tables 1, 2, 3, and 4

Under the proposal a System institution would risk weight an exposure to a foreign government, foreign public sector entity (PSE), and a foreign bank based on the Country Risk Classification (CRC) that is applicable to the foreign government, or the home country of the foreign PSE or foreign bank. If a foreign country does not have a CRC, the risk weighting for its government, PSEs, and banks would depend on whether or not the country is a member of the Organization for Economic Cooperation and Development (OECD). A sovereign exposure would be assigned a 150-percent risk weight immediately upon determining that an event of sovereign default has occurred, or if an event of sovereign default has occurred during the previous 5 years.

The risk weights for foreign sovereigns, foreign banks, and foreign PSEs are shown in the tables below:

TABLE 1—RISK WEIGHTS FOR FOREIGN SOVEREIGN EXPOSURES

	Risk weight (in percent)
Sovereign CRC:	
0–1	0
2	20
3	50
4–6	100
7	150
OECD Member with no CRC	0
Non-OECD Member with no CRC	100
Sovereign Default	150

TABLE 2—RISK WEIGHTS FOR EXPOSURES TO FOREIGN BANKS

	Risk weight (in percent)
Sovereign CRC:	
0–1	20
2	50
3	100
4–7	150
OECD Member with no CRC	20
Non-OECD Member with no CRC	100
Sovereign Default	150

TABLE 3—RISK WEIGHTS FOR FOREIGN PSE GENERAL OBLIGATIONS

	Risk weight (in percent)
Sovereign CRC:	
0–1	20
2	50
3	100
4–7	150
OECD Member with no CRC	20
Non-OECD Member with no CRC	100

TABLE 3—RISK WEIGHTS FOR FOREIGN PSE GENERAL OBLIGATIONS—Continued

	Risk weight (in percent)
Sovereign Default	150

TABLE 4—RISK WEIGHTS FOR FOREIGN PSE REVENUE OBLIGATIONS

	Risk weight (in percent)
Sovereign CRC:	
0–1	50
2–3	100
4–7	150
OECD Member with no CRC	50
Non-OECD Member with no CRC	100
Sovereign Default	150

TABLE 19—SUMMARY COMPARISON OF CURRENT RISK-WEIGHTING RULES VERSUS PROPOSED RISK-WEIGHTING RULES

Category	Current risk weight (in general)	Proposal	Comments
Risk Weights for On-Balance Sheet Exposures Under Current and Proposed Rules			
Cash	0%	0%.	
Direct exposures to or unconditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency.	0%	0%.	
Exposures to certain supranational entities and multilateral development banks.	20%	0%.	
Cash items in the process of collection.	20%	20%.	
Conditional exposures to the U.S. Government.	20%	20%.	A conditional exposure is one that requires the satisfaction of certain conditions, for example, servicing requirements.
Exposures to Government-sponsored entities (GSEs).	20% (including preferred stock)	20%—exposures other than preferred stock and equity exposures. 100%—preferred stock.	
Most exposures to U.S. depository institutions or credit unions (including those that are OFIs).	20%	20%.	
Exposures to U.S. public sector entities (PSEs).	20%—general obligations 50%—revenue obligations	20%—general obligations. 50%—revenue obligations..	
Exposures to other System institutions that are not deducted from tier 1 or tier 2 capital.	20%	20%.	
Corporate exposures (including exposures to OFIs that do not satisfy the criteria for a lower risk weight and agricultural borrowers).	100%	100%.	
High volatility commercial real estate (HVCRE) loans.	100% (not specifically addressed)	150%.	
Past due exposures	Generally no change when an exposure is past due. Past due QRLs—100%	100%—residential mortgage exposures. 150%—all other exposures, for the portion that is not guaranteed or secured by financial collateral.	90 days or more past due or in nonaccrual.
Servicing assets	100% (not specifically addressed) mortgage servicing assets (MSAs) and non-MSAs.	100%—MSAs. (Non-MSAs deducted from capital).	
Deferred tax assets	Certain DTAs deducted from capital. Other DTAs—100% (not specifically addressed).	100%—DTAs arising from temporary differences that could be realized through net operating carrybacks. (Other DTAs deducted from capital).	

TABLE 19—SUMMARY COMPARISON OF CURRENT RISK-WEIGHTING RULES VERSUS PROPOSED RISK-WEIGHTING RULES—Continued

Category	Current risk weight (in general)	Proposal	Comments
Assets not specifically assigned to a risk-weight category and not deducted from tier 1 or tier 2 capital.	100%	100%	Includes: —borrower loans such as agricultural loans and consumer loans, unless qualify for 50% risk weighting. —premises, fixed assets, and other real estate owned.
Exposures to foreign governments and their central banks.	0% for direct and unconditional claims on OECD governments. 20% for conditional claims on OECD governments. 100% for claims on non-OECD governments.	Risk weight depends on Country Risk Classification (CRC) applicable to the sovereign. If there is no CRC, depends on OECD membership. Risk weights range between 0% and 150%. 150% for a sovereign that has defaulted within the previous 5 years.	
Exposures to foreign banks	20% for claims on banks in OECD countries. 20% for short-term claims on banks in non-OECD countries. 100% for long-term claims on banks in non-OECD countries.	Risk weight depends on home country's CRC rating. If there is no CRC, depends on OECD membership of home country. Risk weights range between 20% and 150%. 150% in the case of a sovereign default in the bank's home country.	
Claims on foreign PSEs	20% for general obligations of states and political subdivisions of OECD countries. 50% for revenue obligations of states and political subdivisions of OECD countries. 100% for all obligations of states and political subdivisions of non-OECD countries.	Risk weight depends on the home country's CRC. If there is no CRC, risk depends on OECD membership of home country. Risk weights range between 20% and 150% for general obligations and between 50% and 150% for revenue obligations. 150% for a PSE in a home country with a sovereign default.	
MBS, ABS, and structured securities.	Ratings-based approach	Deduction for the after-tax gain-on-sale of a securitization. 1,250% risk weight for a CEIO. 100% for interest-only MBS that are not credit-enhancing. System institutions may elect to follow a gross up approach—senior securitization tranches are assigned the risk weight association with the underlying exposures. System institutions may instead elect to follow the simplified supervisory formula approach (SSFA)—requires various data inputs to a supervisory formula exposure. Alternatively, System institutions may apply a 1,250% risk weight to any securitization.	
Unsettled transactions	Not addressed.	100%, 625%, 937.5%, and 1,250% for DvP or PvP transactions depending on the number of business days past the settlement date. 1,250% for non-DvP, non-PvP transactions more than 5 days past the settlement date.	

TABLE 19—SUMMARY COMPARISON OF CURRENT RISK-WEIGHTING RULES VERSUS PROPOSED RISK-WEIGHTING RULES—Continued

Category	Current risk weight (in general)	Proposal	Comments
		The proposed capital requirement for unsettled transactions would not apply to cleared transactions that are marked-to-market daily and subject to daily receipt and payment of variation margin.	
Equity exposures	100%	0% risk weight: equity exposures to any entity whose credit exposures receive a 0% risk weight. 20%: Equity exposures to a PSE or Farmer Mac. 100%: Certain equity exposures authorized under § 615.5140(e), equity exposures to effective portions of hedge pairs, and equity exposures to non-significant equity investments. 600%: Equity exposures to investment firms that satisfy certain conditions.	
Equity exposures to investment funds.	There is a 20% risk weight floor on mutual fund holdings.	Except for certain equity exposures authorized under § 615.5140(e), choose among three approaches: full look-through; simple modified look-through; and alternative modified look-through. *Full look-through:* Risk weight the assets of the fund (as if owned directly) multiplied by the System institution's proportional ownership in the fund. *Simple modified look-through:* Multiply the System institution's exposure by the risk weight of the highest risk weight asset in the fund. *Alternative modified look-through:* Assign risk weight on a pro rata basis based on the investment limits in the fund's prospectus. For certain equity exposures authorized under § 615.5140(e), risk-weighted asset amount = adjusted carrying value.	
Credit Conversion Factors (CCF) Under the Current and Proposed Rules			
CCF for off-balance sheet items	0% for the unused portion of a commitment with an original maturity of 14 months or less, or which is unconditionally cancellable by the System institution at any time.	0% for the unused portion of a commitment that is unconditionally cancellable by the System institution.	
	20% for short-term, self-liquidating, trade-related contingent items.	20% for the unused portion of a commitment with an original maturity of 14 months or less that is not unconditionally cancellable by the System institution.	
	50% for the unused portion of a commitment with an original maturity of more than 14 months that is not unconditionally cancellable by the System institution.	20% for self-liquidating trade-related contingent items that arise from the movement of goods, with an original maturity of 14 months or less.	

TABLE 19—SUMMARY COMPARISON OF CURRENT RISK-WEIGHTING RULES VERSUS PROPOSED RISK-WEIGHTING RULES—Continued

Category	Current risk weight (in general)	Proposal	Comments
	50% for transaction-related contingent items (performance bonds, bid bonds, warranties, and standby letters of credit).	50% for the unused portion of a commitment over 14 months that is not unconditionally cancellable by the System institution.	
	100% for guarantees, repurchase agreements, securities lending and borrowing transactions, financial standby letters of credit, and forward agreements.	50% for transaction-related contingent items (performance bonds, bid bonds, warranties, and standby letters of credit).	
		100% for guarantees, repurchase agreements, securities lending and borrowing transactions, financial standby letters of credit, and forward agreements.	
OTC derivative contracts (except cleared transactions).	Calculation of off-balance sheet credit equivalents based on current exposure plus potential future exposure and a set of conversion factors.	Calculation of off-balance sheet credit equivalents amount based on current exposure plus potential future exposure and a revised set of conversion factors.	
		Recognition of credit risk mitigation of collateralized OTC derivative contracts.	
Cleared transactions	Not specifically addressed	If collateral posted with a qualified central counterparty, and subject to specific requirements, then assign 2 percent; or	
		If requirements not met, then assign 4 percent.	
Credit Risk Mitigation Under the Current and Proposed Rules			
Guarantees	Generally recognizes guarantees provided by central governments, GSEs, PSEs in OECD countries, multilateral lending institutions, regional development institutions, U.S. depository institutions, foreign banks, and qualifying securities firms in OECD countries.	Recognizes guarantees from eligible guarantors, as defined.	Claims conditionally guaranteed by the U.S. government receive a risk weight of 20 percent.
		Substitution treatment allows the System institution to substitute the risk weight of the protection provider for the risk weight ordinarily assigned to the exposure.	
		Applies only to eligible guarantees and eligible credit derivatives, and adjusts for maturity mismatches, currency mismatches, and where restructuring is not treated as a credit event.	
Collateralized transactions	No recognition	For financial collateral only, the proposal provides two approaches.	*Financial collateral* does not include does not include collateral such as real estate or chattel. In all cases the System institution must have a perfected, 1st priority interest.
		1. *Simple approach*	For the simple approach there must be a collateral agreement for at least the life of the exposure; collateral must be revalued at least every 6 months; collateral other than gold must be in the same currency.
		A System institution may apply a risk weight to the portion of an exposure that is secured by the fair value of collateral by using the risk weight of the collateral—with a general risk weight floor of 20%.	
		2. *Collateral haircut approach*	
		A System institution may use standard supervisory haircuts for eligible margin loans, repo-style transactions, and collateralized derivative contracts.	

20. Disclosure Requirements—§§ 628.61–628.63 (Including Tables 1–10)

The proposed rule would require each System bank, generally on a quarterly basis, to make public disclosures related to its capital requirements. Disclosures would be required as follows:

Table 1—Scope of Application—would provide the basic context underlying regulatory capital calculations.

Table 2—Capital Structure—would provide summary information on the terms and conditions of the main features of regulatory capital instruments. Would also require disclosure of the total amount of CET1, tier 1, and total capital, with separate disclosures for deductions and adjustments to capital.

Table 3—Capital Adequacy—would provide information on a System bank's approach for categorizing and risk-weighting its exposures, as well as the amount of total risk-weighted assets.

Table 4—Capital Conservation Buffer—would require a System bank to disclosure the capital conservation buffer, the eligible retained income and any limitations on capital distributions and certain discretionary bonus payments, as applicable.

Table 5—Credit Risk: General Disclosures—would require a System bank to disclose information pertaining to its general credit risk.

Table 6—General Disclosure for Counterparty Credit Risk-Related Exposures—would require a System bank to disclose information pertaining to its counterparty credit risk.

Table 7—Credit Risk Mitigation—would require a System bank to disclose information pertaining to credit risk mitigation.

Table 8—Securitization—would provide information to market participants on the amount of credit risk transferred and retained by a System bank through securitization transactions, the types of products involved in the System bank's securitizations, the risks inherent in the System bank's securitized assets, the System bank's policies regarding credit risk mitigation, and the names of any entities that provide external credit assessments of a securitization.[126] Securitization transactions in which the originating System bank does not retain any securitization exposure would be shown separately and would only be reported for the year of inception of the transaction.[127]

Table 9—Equities—would provide market participants with an understanding of the types of equity securities held by the System bank and how they are valued. Would also provide information on the capital allocated to different equity products and the amount of unrealized gains and losses.

Table 10—Interest Rate Risk for Non-Trading Activities—would require a System bank to provide certain quantitative and qualitative disclosures regarding the System bank's management of interest rate risks.

List of Subjects

12 CFR Part 607

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 614

Agriculture, Banks, banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 628

Accounting, Agriculture, Banks, banking, Capital, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, parts 607, 614, 615, 620, and 628 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 607—ASSESSMENT AND APPORTIONMENT OF ADMINISTRATIVE EXPENSES

■ 1. The authority citation for part 607 continues to read as follows:

Authority: Secs. 5.15, 5.17 of the Farm Credit Act (12 U.S.C. 2250, 2252) and 12 U.S.C. 3025.

■ 2. Section 607.2 is amended by revising paragraph (b) introductory text to read as follows:

§ 607.2 Definitions.

* * * * *

(b) *Average risk-adjusted asset base* means the average of the risk-adjusted asset base (as defined in § 615.5201 of this chapter) of banks, associations, and designated other System entities, calculated as follows:

* * * * *

PART 614—LOAN POLICIES AND OPERATIONS

■ 3. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

■ 4. Section 614.4351 is amended by revising paragraph (a)(3) to read as follows:

§ 614.4351 Computation of lending and leasing limit base.

(a) * * *

(3) Any amounts of preferred stock not eligible to be included in tier 2 capital as defined in § 628.2 must be deducted from the lending limit base.

* * * * *

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

■ 5. The authority citation for part 615 is revised to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a), Pub. L. 100–233, 101 Stat. 1568, 1608; sec. 939A, Pub. L. 111–203, 124 Stat. 1326, 1887 (15 U.S.C. 78o–7 note).

■ 6. Section 615.5143 is amended by revising paragraphs (a)(3) and (b)(4) to read as follows:

§ 615.5143 Management of ineligible investments and reservation of authority to require divestiture.

(a) * * *

[126] For purposes of these disclosures (and these capital regulations), a System bank would be considered to have securitized assets if assets that it originated or purchased from third parties are included in a securitization.

[127] A System bank is authorized to act as an ''originating System institution,'' which the proposed regulation would define as a System institution that directly or indirectly originated the underlying exposures included in a securitization.

(3) It must be excluded as collateral under § 615.5050.

(b) * * *

(4) You may continue to hold the investment as collateral under § 615.5050 at the lower of cost or market value.

* * * * *

■ 7. Sections 615.5200 and 615.5201 are revised to read as follows:

§ 615.5200 Capital planning.

(a) The Board of Directors of each System institution shall determine the amount of capital needed to assure the System institution's continued financial viability and to provide for growth necessary to meet the needs of its borrowers. The minimum capital standards specified in this part and part 628 of this chapter are not meant to be adopted as the optimal capital level in the System institution's capital adequacy plan. Rather, the standards are intended to serve as minimum levels of capital that each System institution must maintain to protect against the credit and other general risks inherent in its operations.

(b) Each Board of Directors shall establish, adopt, and maintain a formal written capital adequacy plan as a part of the financial plan required by § 618.8440 of this chapter. The plan shall include the capital targets that are necessary to achieve the System institution's capital adequacy goals as well as the minimum permanent capital, common equity tier 1 capital, tier 1 capital, total capital, and tier 1 leverage ratio (including the unallocated retained earnings (URE) and URE equivalents minimum) standards. The plan shall address any projected dividends, patronage distribution, equity retirements, or other action that may decrease the System institution's capital or the components thereof for which minimum amounts are required by this part. The plan shall set forth the circumstances in which retirements or revolvements of stock or equities may occur. In addition to factors that must be considered in meeting the minimum standards, the board of directors shall also consider at least the following factors in developing the capital adequacy plan:

(1) Capability of management and the board of directors;

(2) Quality of operating policies, procedures, and internal controls;

(3) Quality and quantity of earnings;

(4) Asset quality and the adequacy of the allowance for losses to absorb potential loss within the loan and lease portfolios;

(5) Sufficiency of liquid funds;

(6) Needs of a System institution's customer base; and

(7) Any other risk-oriented activities, such as funding and interest rate risks, potential obligations under joint and several liability, contingent and off-balance-sheet liabilities or other conditions warranting additional capital.

§ 615.5201 Definitions.

For the purpose of this subpart, the following definitions apply:

Nonagreeing association means an association that does not have an allotment agreement in effect with a Farm Credit Bank or agricultural credit bank pursuant to § 615.5207(b)(2).

Permanent capital, subject to adjustments as described in § 615.5207, includes:

(1) Current year earnings;

(2) Allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, must be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

(3) All surplus excluding accumulated other comprehensive income, except defined benefits pension fund net assets as reported under GAAP;

(4) Stock issued by a System institution, except:

(i) Stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder;

(ii) Stock that is protected under section 4.9A of the Act or is otherwise not at risk;

(iii) Farm Credit Bank equities required to be purchased by Federal land bank associations in connection with stock issued to borrowers that is protected under section 4.9A of the Act;

(iv) Capital subject to revolvement, unless:

(A) The bylaws of the System institution clearly provide that there is no express or implied right for such capital to be retired at the end of the revolvement cycle or at any other time; and

(B) The System institution clearly states in the notice of allocation that such capital may only be retired at the sole discretion of the board of directors in accordance with statutory and regulatory requirements and that no express or implied right to have such capital retired at the end of the revolvement cycle or at any other time is thereby granted;

(5) [Reserved]

(6) Financial assistance provided by the Farm Credit System Insurance Corporation that the FCA determines appropriate to be considered permanent capital; and

(7) Any other debt or equity instruments or other accounts the FCA has determined are appropriate to be considered permanent capital. The FCA may permit one or more System institutions to include all or a portion of such instrument, entry, or account as permanent capital, permanently or on a temporary basis, for purposes of this part.

Preferred stock means stock that is permanent capital and has dividend and/or liquidation preference over common stock.

Risk-adjusted asset base means standardized total risk-weighted assets as defined in § 628.2 of this chapter, adjusted in accordance with § 615.5207 and excluding the deduction for that amount of the System institution's allowance for loan losses that is not included in tier 2 capital.

Stock means stock and participation certificates.

System bank means a Farm Credit bank as defined in § 619.9140 of this chapter, which includes Farm Credit Banks, agricultural credit banks, and banks for cooperatives.

System institution means a System bank, an association of the Farm Credit System, Farm Credit Leasing Services Corporation, and their successors, and any other institution chartered by the FCA that the FCA determines should be considered a System institution for the purposes of this subpart.

Term preferred stock means preferred stock with an original maturity of at least 5 years and on which, if cumulative, the board of directors has the option to defer dividends, provided that, at the beginning of each of the last 5 years of the term of the stock, the amount that is eligible to be counted as permanent capital is reduced by 20 percent of the original amount of the stock (net of redemptions).

■ 8. Sections 615.5206, 615.5207, and 615.5208 are revised to read as follows:

§ 615.5206 Permanent capital ratio computation.

(a) The System institution's permanent capital ratio is determined on the basis of the financial statements of the System institution prepared in accordance with generally accepted accounting principles.

(b) The System institution's asset base and permanent capital are computed using average daily balances for the most recent 3 months.

(c) The System institution's permanent capital ratio is calculated by dividing the System institution's permanent capital, adjusted in accordance with § 615.5207 (the numerator), by the risk-adjusted asset base (the denominator) as defined in § 615.5201, to derive a ratio expressed as a percentage.

§ 615.5207 Capital adjustments and associated reductions to assets.

For the purpose of computing the System institution's permanent capital ratio, the following adjustments must be made prior to assigning assets to risk-weight categories and computing the ratio:

(a) Where two System institutions have stock investments in each other, such reciprocal holdings must be eliminated to the extent of the offset. If the investments are equal in amount, each System institution must deduct from its assets and its total capital an amount equal to the investment. If the investments are not equal in amount, each System institution must deduct from its total capital and its assets an amount equal to the smaller investment. The elimination of reciprocal holdings required by this paragraph must be made prior to making the other adjustments required by this section.

(b) Where an association has an equity investment in a Farm Credit bank, the double counting of capital is eliminated in the following manner:

(1) For a purchased investment, each association must deduct its investment in a System bank from its permanent capital. Each System bank will consider all purchased stock investments as its permanent capital.

(2) For an allocated investment, each System bank and each of its affiliated associations may enter into an agreement that specifies, for computing permanent capital, a dollar amount and/or percentage allotment of the association's allocated investment between the bank and the association. Section 615.5208 provides conditions for allotment agreements or defines allotments in the absence of such agreements.

(c) A Farm Credit Bank or agricultural credit bank and a recipient, other than an association, of allocated earnings from such bank may enter into an agreement specifying a dollar amount and/or percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement must comply with the provisions of paragraph (b) of this section, except that, in the absence of an agreement, the allocated investment must be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of the bank that are purchased by a recipient are considered as permanent capital of the issuing bank.

(d) A bank for cooperatives or an agricultural credit bank and a recipient of allocated earnings from such bank may enter into an agreement specifying a dollar amount and/or percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement must comply with the provisions of paragraph (b) of this section, except that, in the absence of an agreement, the allocated investment must be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of a bank that are purchased by a recipient shall be considered as permanent capital of the issuing bank.

(e) Where a System institution has an equity investment in another System institution to capitalize a loan participation interest, the investing System institution must deduct from its permanent capital an amount equal to its investment in the participating System institution.

(f) Where a System institution has an equity investment in a service corporation chartered under section 4.25 of the Act or the Funding Corporation chartered under section 4.9 of the Act, the investing System institution must deduct from its permanent capital an amount equal to its investment in the service corporation or the Funding Corporation, respectively.

(g) Each System institution must deduct from its total capital an amount equal to all goodwill, whenever acquired.

(h) To the extent a System institution has deducted its investment in another System institution from its permanent capital, the investment may be eliminated from its asset base.

(i) Where a Farm Credit bank and an association have an enforceable written agreement to share losses on specifically identified assets on a predetermined quantifiable basis, such assets must be counted in each System institution's risk-adjusted asset base in the same proportion as the System institutions have agreed to share the loss.

(j) The permanent capital of a System institution must exclude any defined benefit pension fund net asset as reported under GAAP.

(k) For purposes of calculating capital ratios under this part, deferred-tax assets are subject to the conditions, limitations, and restrictions described in § 628.22(a)(3) of this chapter.

(l) [Reserved]

§ 615.5208 Allotment of allocated investments.

(a) The following conditions apply to agreements that a System bank enters into with an affiliated association pursuant to § 615.5207(b)(2):

(1) The agreement must be for a term of 1 year or longer.

(2) The agreement must be entered into on or before its effective date.

(3) The agreement may be amended according to its terms, but no more frequently than annually except in the event that a party to the agreement is merged or reorganized.

(4) On or before the effective date of the agreement, a certified copy of the agreement, and any amendments thereto, must be sent to the field office of the Farm Credit Administration responsible for examining the System institution. A copy must also be sent within 30 calendar days of adoption to the bank's other affiliated associations.

(5) Unless the parties otherwise agree, if the System bank and the association have not entered into a new agreement on or before the expiration of an existing agreement, the existing agreement will automatically be extended for another 12 months, unless either party notifies the Farm Credit Administration in writing of its objection to the extension prior to the expiration of the existing agreement.

(b) In the absence of an agreement between a System bank and one or more associations, or in the event that an agreement expires and at least one party has timely objected to the continuation of the terms of its agreement, the following formula applies with respect to the allocated investments held by those associations with which there is no agreement (nonagreeing associations), and does not apply to the allocated investments held by those associations with which the bank has an agreement (agreeing associations):

(1) The allotment formula must be calculated annually.

(2) The permanent capital ratio of the System bank must be computed as of the date that the existing agreement terminates, using a 3-month average daily balance, excluding the allocated investment from nonagreeing associations but including any allocated investments of agreeing associations that are allotted to the bank under applicable allocation agreements. The permanent capital ratio of each nonagreeing association must be computed as of the same date using a 3-month average daily balance, and must be computed excluding its allocated investment in the bank.

(3) If the permanent capital ratio for the System bank calculated in

accordance with § 615.5208(b)(2) is 7 percent or above, the allocated investment of each nonagreeing association whose permanent capital ratio calculated in accordance with § 615.5208(b)(2) is 7 percent or above must be allotted 50 percent to the bank and 50 percent to the association.

(4) If the permanent capital ratio of the System bank calculated in accordance with § 615.5208(b)(2) is 7 percent or above, the allocated investment of each nonagreeing association whose capital ratio is below 7 percent must be allotted to the association until the association's capital ratio reaches 7 percent or until all of the investment is allotted to the association, whichever occurs first. Any remaining unallotted allocated investment must be allotted 50 percent to the bank and 50 percent to the association.

(5) If the permanent capital ratio of the System bank calculated in accordance with § 615.5208(b)(2) is less than 7 percent, the amount of additional capital needed by the bank to reach a permanent capital ratio of 7 percent must be determined, and an amount of the allocated investment of each nonagreeing association must be allotted to the System bank, as follows:

(i) If the total of the allocated investments of all nonagreeing associations is greater than the additional capital needed by the bank, the allocated investment of each nonagreeing association must be multiplied by a fraction whose numerator is the amount of capital needed by the bank and whose denominator is the total amount of allocated investments of the nonagreeing associations, and such amount must be allotted to the bank. Next, if the permanent capital ratio of any nonagreeing association is less than 7 percent, a sufficient amount of unallotted allocated investment must then be allotted to each nonagreeing association, as necessary, to increase its permanent capital ratio to 7 percent, or until all such remaining investment is allotted to the association, whichever occurs first. Any unallotted allocated investment still remaining must be allotted 50 percent to the bank and 50 percent to the nonagreeing association.

(ii) If the additional capital needed by the bank is greater than the total of the allocated investments of the nonagreeing associations, all of the remaining allocated investments of the nonagreeing associations must be allotted to the bank.

§§ 615.5209, 615.5210, 615.5211, and 615.5212 [Removed and reserved]

■ 9. Sections 615.5209, 615.5210, 615.5211, and 615.5212 are removed and reserved.

■ 10. Section 615.5220 is revised to read as follows:

§ 615.5220 Capitalization bylaws.

(a) The board of directors of each System bank and association shall, pursuant to section 4.3A of the Farm Credit Act of 1971 (Act), adopt capitalization bylaws, subject to the approval of its voting shareholders that set forth:

(1) Classes of equities and the manner in which they shall be issued, transferred, converted and retired;

(2) For each class of equities, a description of the class(es) of persons to whom such stock may be issued, voting rights, dividend rights and preferences, and priority upon liquidation, including rights, if any, to share in the distribution of the residual estate;

(3) The number of shares and par value of equities authorized to be issued for each class of equities. However, the bylaws need not state a number or value limit for these equities:

(i) Equities that are required to be purchased as a condition of obtaining a loan, lease, or related service.

(ii) Non-voting stock resulting from the conversion of voting stock due to repayment of a loan.

(iii) Non-voting equities that are issued to an association's funding bank in conjunction with any agreement for a transfer of capital between the association and the bank.

(iv) Equities resulting from the distribution of earnings.

(4) For Farm Credit Banks, agricultural credit banks (with respect to loans other than to cooperatives), and associations, the percentage or dollar amount of equity investment (which may be expressed as a range within which the board of directors may from time to time determine the requirement) that will be required to be purchased as a condition for obtaining a loan, which amount shall be not less than, 2 percent of the loan amount or $1,000, whichever is less;

(5) For banks for cooperatives and agricultural credit banks (with respect to loans to cooperatives), the percentage or dollar amount of equity or guaranty fund investment (which may be expressed as a range within which the board may from time to time determine the requirement) that serves as a target level of investment in the bank for patronage-sourced business, which amount shall not be less than, 2 percent of the loan amount or $1,000, whichever is less;

(6) The manner in which equities will be retired, including a provision stating that equities other than those protected under section 4.9A of the Act are retireable at the sole discretion of the board, provided minimum permanent capital adequacy standards established in subpart H of this part are met;

(7) The manner in which earnings will be allocated and distributed, including the basis on which patronage refunds will be paid, which shall be in accord with cooperative principles; and

(8) For Farm Credit banks, the manner in which the capitalization requirements of the Farm Credit bank shall be allocated and equalized from time to time among its owners.

(b) The board of directors of each service corporation (including the Farm Credit Leasing Services Corporation) shall adopt capitalization bylaws, subject to the approval of its voting shareholders, that set forth the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this section to the extent applicable. Such bylaws shall also set forth the manner in which equities will be retired and the manner in which earnings will be distributed.

■ 11. Section 615.5240 is revised to read as follows:

§ 615.5240 Capital requirements.

(a) The capitalization bylaws shall enable the institution to meet the capital adequacy standards established under subpart H of this part, part 628 of this chapter, and the capital requirements established by the board of directors of the institution.

(b) In order to qualify as permanent capital, equities issued under the bylaws must meet the following requirements:

(1) Retirement must be solely at the discretion of the board of directors and not upon a date certain (other than the original maturity date of preferred stock) or upon the happening of any event, such as repayment of the loan, and not pursuant to any automatic retirement or revolvement plan;

(2) Retirement must be at not more than book value;

(3) The institution must have made the disclosures required by this subpart;

(4) For common stock and participation certificates, dividends must be noncumulative and payable only at the discretion of the board; and

(5) For cumulative preferred stock, the board of directors must have discretion to defer payment of dividends.

■ 12. Sections 615.5250 and 615.5255 are revised to read as follows:

§ 615.5250 Disclosure requirements for sales of borrower stock.

(a) For sales of borrower stock, which for this subpart means equities purchased as a condition for obtaining a loan, an institution must provide a prospective borrower with the following documents prior to loan closing:

(1) The institution's most recent annual report filed under part 620 of this chapter;

(2) The institution's most recent quarterly report filed under part 620 of this chapter, if more recent than the annual report;

(3) A copy of the institution's capitalization bylaws; and

(4) A written description of the terms and conditions under which the equity is issued. In addition to specific terms and conditions, the description must disclose:

(i) That the equity is an at-risk investment and not a compensating balance;

(ii) That the equity is retireable only at the discretion of the board of directors, consistent with the institution's bylaws, and only if minimum capital standards established under subpart H of this part and part 628 are met;

(iii) Whether the institution presently meets its minimum capital standards established under subpart H of this part and part 628;

(iv) Whether the institution knows of any reason the institution may not meet its capital standards on the next earnings distribution date; and

(v) The rights, if any, to share in patronage distributions.

(b) Notwithstanding the provisions of paragraph (a) of this section, no materials previously provided to a purchaser (except the disclosures required by paragraph (a)(4) of this section) need be provided again unless the purchaser requests such materials.

§ 615.5255 Disclosure and review requirements for sales of other equities.

(a) A bank, association, or service corporation must submit a proposed disclosure statement to the Farm Credit Administration (FCA) for review and clearance prior to the proposed sale of any other equities, which for this subpart means equities not purchased as a condition for obtaining a loan.

(b) An institution may not offer to sell other equities until a disclosure statement is reviewed and cleared by the FCA.

(c) A disclosure statement must include:

(1) All of the information required by part 620 of this chapter in the annual report to shareholders as of a date within 135 days of the proposed sale. An institution may incorporate by reference its most recent annual report to shareholders and the most recent quarterly report filed with the FCA in satisfaction of this requirement;

(2) The information required by § 615.5250(a)(3) and (a)(4); and

(3) A discussion of the intended use of the sale proceeds.

(d) An institution is not required to provide the materials identified in paragraphs (c)(1) and (c)(2) of this section to a purchaser who previously received them unless the purchaser requests it.

(e) For any class of stock where each purchaser and each subsequent transferee acquires at least $250,000 of the stock and meets the definition of ''accredited investor'' or ''qualified institutional buyer'' contained in 17 CFR 230.501 and 230.144A (or successor provisions), a disclosure statement submitted pursuant to this section is deemed reviewed and cleared by the FCA and an institution may treat stock that meets all requirements of part 615 as permanent capital for the purpose of meeting the minimum permanent capital standards established under subpart H, unless the FCA notifies the institution to the contrary within 30 days of receipt of a complete disclosure statement submission. A complete disclosure statement submission includes the proposed disclosure statement plus any additional materials requested by the FCA.

(f) For all other issuances, a disclosure statement submitted pursuant to this section is deemed cleared by the FCA, and an institution may treat stock that meets all requirements of part 615 as permanent capital for the purpose of meeting the minimum permanent capital standards established under subpart H unless the FCA notifies the institution to the contrary within 60 days of receipt of a complete disclosure statement submission. A complete disclosure statement submission includes the proposed disclosure statement plus any additional materials requested by the FCA.

(g) Upon request, the FCA will inform the institution how it will treat the proposed issuance for other regulatory capital ratios or computations.

(h) No institution, officer, director, employee, or agent shall, in connection with the sale of equities, make any disclosure, through a disclosure statement or otherwise, that is inaccurate or misleading, or omit to make any statement needed to prevent other disclosures from being misleading.

(i) Each bank and association must establish a method to disclose and make information on insider preferred stock purchases and retirements readily available to the public. At a minimum, each institution offering preferred stock must make this information available upon request.

(j) The requirements of this section do not apply to the sale of Farm Credit System institution equities to:

(1) Other Farm Credit System institutions,

(2) Other financing institutions in connection with a lending or discount relationship, or

(3) Non-Farm Credit System lenders that purchase equities in connection with a loan participation transaction.

(k) In addition to the requirements of this section, each institution is responsible for ensuring its compliance with all applicable Federal and state securities laws.

■ 13. Section 615.5270 is revised to read as follows:

§ 615.5270 Retirement of other equities.

(a) Equities other than eligible borrower stock shall be retired at not more than their book value.

(b) Subject to the redemption restrictions in part 628 of this chapter, no equities shall be retired, except pursuant to §§ 615.5280 and 615.5290 or term stock at its stated maturity, unless after retirement the institution would continue to meet the minimum permanent capital standards established under subpart H of this part.

(c) A bank, association, or service corporation board of directors may delegate authority to retire at-risk stock to institution management if:

(1) The board has determined that the institution's capital position is adequate;

(2) All retirements are in accordance with applicable provisions of part 628 of this chapter and the institution's capital adequacy plan or capital restoration plan;

(3) The institution's permanent capital ratio will be in excess of 9 percent and the applicable capital conservation buffer set forth in § 628.11 of this chapter will be at or above 2.5 percent after any retirements;

(4) The institution will continue to satisfy all applicable regulatory capital standards after any retirements; and

(5) Management reports the aggregate amount and net effect of stock purchases and retirements to the board of directors each quarter.

(d) Each board of directors of a bank, association, or service corporation that issues preferred stock must adopt a written policy covering the retirement of preferred stock that complies with this paragraph and part 628 of this chapter

as applicable. The policy must, at a minimum:

(1) Establish any delegations of authority to retire preferred stock and the conditions of delegation, which must meet the requirements of paragraph (c) of this section and include minimum levels for regulatory capital standards as applicable and commensurate with the volatility of the preferred stock.

(2) Identify limitations on the amount of stock that may be retired during a single quarterly (or shorter) time period;

(3) Ensure that all stockholder requests for retirement are treated fairly and equitably;

(4) Prohibit any insider, including institution officers, directors, employees, or agents, from retiring any preferred stock in advance of the release of material non-public information concerning the institution to other stockholders; and

(5) Establish when insiders may retire their preferred stock.

(e) The institution's board must review its policy at least annually to ensure that it continues to be appropriate for the institution's current financial condition and consistent with its long-term goals established in its capital adequacy plan.

■ 14. Section 615.5290 is revised to read as follows:

§ 615.5290 Retirement of capital stock and participation certificates in event of restructuring.

(a) If a Farm Credit Bank or agricultural credit bank forgives and writes off, under § 617.7415 of this chapter, any of the principal outstanding on a loan made to any borrower, where appropriate the Federal land bank association of which the borrower is a member and stockholder shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock, and to the extent provided for in the bylaws of the Bank relating to its capitalization, the Farm Credit Bank or agricultural credit bank shall retire an equal amount of stock owned by the Federal land bank association.

(b) If an association forgives and writes off, under § 617.7415 of this chapter, any of the principal outstanding on a loan made to any borrower, the association shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such loan.

(c) Notwithstanding paragraphs (a) and (b) of this section, the borrower shall be entitled to retain at least one share of stock to maintain the borrower's membership and voting interest.

Subpart K [Removed and reserved]

■ 15. Subpart K, consisting of §§ 615.5301, 615.5330, 615.5335, and 615.5336, is removed and reserved.

■ 16. Section 615.5350 is amended by revising paragraph (a) to read as follows:

§ 615.5350 General—applicability.

(a) The rules and procedures specified in this subpart are applicable to a proceeding to establish required minimum capital ratios that would otherwise be applicable to an institution under §§ 615.5205 and 628.10 of this chapter. The Farm Credit Administration is authorized to establish such minimum capital requirements for an institution as the Farm Credit Administration, in its discretion, deems to be necessary or appropriate in light of the particular circumstances of the institution. Proceedings under this subpart also may be initiated to require an institution having capital ratios greater than those set forth in §§ 615.5205 or 628.10 of this chapter to continue to maintain those higher ratios.

* * * * *

■ 17. Section 615.5352 is amended by revising paragraph (a) to read as follows:

§ 615.5352 Procedures.

(a) *Notice.* When the Farm Credit Administration determines that minimum capital ratios greater than those set forth in §§ 615.5205 or 628.10 of this chapter are necessary or appropriate for a particular institution, the Farm Credit Administration will notify the institution in writing of the proposed minimum capital ratios and the date by which they should be reached (if applicable) and will provide an explanation of why the ratios proposed are considered necessary or appropriate for the institution.

* * * * *

■ 18. Section 615.5354 is revised to read as follows:

§ 615.5354 Enforcement.

An institution that does not have or maintain the minimum capital ratios applicable to it, whether required in subpart H of this part and part 628 of this chapter, in a decision pursuant to this subpart, in a written agreement or temporary or final order under part C of title V of the Act, or in a condition for approval of an application, or an institution that has failed to submit or comply with an acceptable plan to attain those ratios, will be subject to such administrative action or sanctions as the Farm Credit Administration considers appropriate. These sanctions may include the issuance of a capital directive pursuant to subpart M of this part or other enforcement action, assessment of civil money penalties, and/or the denial or condition of applications.

■ 19. Section 615.5355 is amended by revising paragraph (a) introductory text to read as follows:

§ 615.5355 Purpose and scope.

(a) This subpart is applicable to proceedings by the Farm Credit Administration to issue a capital directive under sections 4.3(b) and 4.3A(e) of the Act. A capital directive is an order issued to an institution that does not have or maintain capital at or greater than the minimum ratios set forth in §§ 615.5205 and 628.10 of this chapter; or established for the institution under subpart L of this part, by a written agreement under part C of title V of the Act, or as a condition for approval of an application. A capital directive may order the institution to:

* * * * *

PART 620—DISCLOSURE TO SHAREHOLDERS

■ 20. The authority citation for part 620 continues to read as follows:

Authority: Secs. 4.3, 4.3A, 4.19, 5.9, 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2154, 2154a, 2207, 2243, 2252, 2254); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656; sec. 514 of Pub. L. 102–552, 106 Stat. 4102.

■ 21. Section 620.5 is amended by revising paragraph (d)(1)(ix) to read as follows:

§ 620.5 Contents of the annual report to shareholders.

* * * * *

(d) * * *

(1) * * *

(ix) The statutory and regulatory restriction regarding retirement of stock and distribution of earnings pursuant to § 615.5215, and any requirements to add capital under a plan approved by the Farm Credit Administration pursuant to §§ 615.5350, 615.5351, 615.5353, or 615.5357 of this chapter.

* * * * *

■ 22. Section 620.17 is revised to read as follows:

§ 620.17 Special notice provisions for events related to noncompliance with minimum regulatory capital ratios.

(a) For purposes of this section, ''regulatory capital ratios'' include the capital ratios specified in § 628.10 of this chapter and the permanent capital

standard prescribed under § 615.5205 of this chapter.

(b) When a Farm Credit bank or association determines that it is not in compliance with one or more applicable minimum regulatory capital ratios, that institution must prepare and provide to its shareholders and the FCA a notice stating that the institution has initially determined it is not in compliance with the minimum regulatory capital ratio or ratios. Such notice must be given within 30 days following the monthend.

(c) When notice is given under paragraph (b) of this section, the institution must also notify its shareholders and the FCA when the regulatory capital ratio or ratios that are the subject of such notice decrease by one half of 1 percent or more from the level reported in the original notice, or from that reported in a subsequent notice provided under this paragraph. This notice must be given within 45 days following the end of every quarter at which the institution's regulatory capital ratio or ratios decreases as specified.

(d) Each institution required to prepare a notice under paragraph (b) or (c) of this section shall provide the notice to shareholders or publish it in any publication with circulation wide enough to be reasonably assured that all of the institution's shareholders have access to the information in a timely manner. The information required to be included in this notice must be conspicuous, easily understandable, and not misleading.

(e) A notice, at a minimum, shall include:

(1) A statement that:

(i) Briefly describes the regulatory capital ratios established by the FCA and the notice requirement of paragraph (b) of this section;

(ii) Indicates the institution's current level of capital; and

(iii) Notifies shareholders that the institution's capital is below the FCA minimum regulatory capital ratio or ratios.

(2) A statement of the effect that noncompliance has had on the institution and its shareholders, including whether the institution is currently prohibited by statute or regulation from retiring stock or distributing earnings or whether the FCA has issued a capital directive or other enforcement action to the institution.

(3) A complete description of any event(s) that may have significantly contributed to the institution's noncompliance with the minimum regulatory capital ratio or ratios.

(4) A statement that the institution is required by regulation to provide another notice to shareholders within 45 days following the end of any subsequent quarter at which the regulatory capital ratio or ratios decrease by one half of 1 percent or more from the level reported in the notice.

■ 23. Part 628 is added to read as follows:

PART 628—CAPITAL ADEQUACY OF SYSTEM INSTITUTIONS

Subpart A—General Provisions

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628.1 Purpose, applicability, and reservations of authority.
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628.3 Operational requirements for certain exposures.
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Subpart B—Capital Ratio Requirements and Buffers

628.10 Minimum capital requirements.
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Subpart D—Risk-Weighted Assets—Standardized Approach

628.30 Applicability.

Risk-Weighted Assets for General Credit Risk

628.31 Mechanics for calculating risk-weighted assets for general credit risk.
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628.34 OTC derivative contracts.
628.35 Cleared transactions.
628.36 Guarantees and credit derivatives: substitution treatment.
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Risk-Weighted Assets for Unsettled Transactions

628.38 Unsettled transactions.
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Risk-Weighted Assets for Securitization Exposures

628.41 Operational requirements for securitization exposures.
628.42 Risk-weighted assets for securitization exposures.
628.43 Simplified supervisory formula approach (SSFA) and the gross-up approach.
628.44 Securitization exposures to which the SSFA and gross-up approach do not apply.
628.45 Recognition of credit risk mitigants for securitization exposures.

Risk-Weighted Assets for Equity Exposures

628.51 Introduction and exposure measurement.
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628.53 Equity exposures to investment funds.
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Disclosures

628.61 Purpose and scope.
628.62 Disclosure requirements.
628.63 Disclosures.
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Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Transition Provisions

628.300 Transitions.
628.301 Initial compliance and reporting requirements.

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a), Pub. L. 100–233, 101 Stat. 1568, 1608; sec. 939A, Pub. L. 111–203, 124 Stat. 1326, 1887 (15 U.S.C. 78o–7 note).

Subpart A—General Provisions

§ 628.1 Purpose, applicability, and reservations of authority.

(a) *Purpose.* This part establishes minimum capital requirements and overall capital adequacy standards for System institutions. This part includes methodologies for calculating minimum capital requirements, public disclosure requirements related to the capital requirements, and transition provisions for the application of this part.

(b) *Limitation of authority.* Nothing in this part limits the authority of FCA to take action under other provisions of law, including action to address unsafe or unsound practices or conditions, deficient capital levels, or violations of law or regulation, under part C of title V of the Farm Credit Act.

(c) *Applicability.* Subject to the requirements in paragraph (d) of this section:

(1) *Minimum capital requirements and overall capital adequacy standards.* Each System institution must calculate its minimum capital requirements and meet the overall capital adequacy standards in subpart B of this part.

(2) *Regulatory capital.* Each System institution must calculate its regulatory capital in accordance with subpart C of this part.

(3) *Risk-weighted assets.* (i) Each System institution must use the

methodologies in subpart D of this part to calculate total risk-weighted assets.

(ii) [Reserved]

(4) *Disclosures.* (i) All System banks must make the public disclosures described in subpart D of this part.

(ii) [Reserved]

(iii) [Reserved]

(d) *Reservation of authority*—(1) *Additional capital in the aggregate.* FCA may require a System institution to hold an amount of regulatory capital greater than otherwise required under this part if FCA determines that the System institution's capital requirements under this part are not commensurate with the System institution's credit, market, operational, or other risks according to part 615, subparts L and M of this chapter.

(2) *Regulatory capital elements.* (i) If FCA determines that a particular common equity tier 1 (CET1), additional tier 1 (AT1), or tier 2 capital element has characteristics or terms that diminish its permanence or its ability to absorb losses, or otherwise present safety and soundness concerns, FCA may require the System institution to exclude all or a portion of such element from CET1 capital, AT1 capital, or tier 2 capital, as appropriate.

(ii) Notwithstanding the criteria for regulatory capital instruments set forth in subpart C of this part, FCA may find that a capital element may be included in a System institution's CET1 capital, AT1 capital, or tier 2 capital on a permanent or temporary basis consistent with the loss absorption capacity of the element and in accordance with § 628.20(e).

(3) *Risk-weighted asset amounts.* If FCA determines that the risk-weighted asset amount calculated under this part by the System institution for one or more exposures is not commensurate with the risks associated with those exposures, FCA may require the System institution to assign a different risk-weighted asset amount to the exposure(s) or to deduct the amount of the exposure(s) from its regulatory capital.

(4) *Total leverage.* If FCA determines that the leverage exposure amount, or the amount reflected in the System institution's reported average total consolidated assets, for a balance sheet exposure calculated by a System institution under § 628.10 is inappropriate for the exposure(s) or the circumstances of the System institution, FCA may require the System institution to adjust this exposure amount in the numerator and the denominator for purposes of the leverage ratio calculations.

(5) [Reserved]

(6) *Other reservation of authority.* With respect to any deduction or limitation required under this part, FCA may require a different deduction or limitation, provided that such alternative deduction or limitation is commensurate with the System institution's risk and consistent with safety and soundness.

(e) *Notice and response procedures.* In making a determination under this section, FCA will apply notice and response procedures in the same manner as the notice and response procedures in § 615.5352 of this chapter.

(f) [Reserved]

§ 628.2 Definitions.

As used in this part:

Additional tier 1 capital (AT1) is defined in § 628.20(c).

Allocated equities (stock or surplus) means a retained patronage refund that a System institution has distributed to a borrower.[1]

Allocated investment means earnings allocated but not paid in cash by a System bank to an association or other recipient.

Allowances for loan losses (ALL) means valuation allowances that have been established through a charge against earnings to cover estimated credit losses on loans, lease financing receivables, or other extensions of credit as determined in accordance with generally accepted accounting principles (GAAP). For purposes of this part, ALL includes allowances that have been established through a charge against earnings to cover estimated credit losses associated with off-balance sheet credit exposures as determined in accordance with GAAP.

Bank holding company means a bank holding company as defined in section 2 of the Bank Holding Company Act.

Bank Holding Company Act means the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*).

Bankruptcy remote means, with respect to an entity or asset, that the entity or asset would be excluded from an insolvent entity's estate in receivership, insolvency, liquidation, or similar proceeding.

Borrower stock means the capital investment a borrower holds in a System institution in connection with a loan.

Call Report means reports of condition and performance, as described in subpart D of part 621 of this chapter.

Carrying value means, with respect to an asset, the value of the asset on the balance sheet of the System institution, determined in accordance with GAAP.

Central counterparty (CCP) means a counterparty (for example, a clearinghouse) that facilitates trades between counterparties in one or more financial markets by either guaranteeing trades or novating contracts.

CFTC means the U.S. Commodity Futures Trading Commission.

Clean-up call means a contractual provision that permits an originating System institution or servicer to call securitization exposures before their stated maturity or call date.

Cleared transaction means an exposure associated with an outstanding derivative contract or repo-style transaction that a System institution or clearing member has entered into with a central counterparty (that is, a transaction that a central counterparty has accepted).

(1) The following transactions are cleared transactions:

(i) [Reserved]

(ii) [Reserved]

(iii) A transaction between a clearing member client System institution and a clearing member where the clearing member acts as a financial intermediary on behalf of the clearing member client and enters into an offsetting transaction with a CCP, provided that the requirements set forth in § 628.3(a) are met; or

(iv) A transaction between a clearing member client System institution and a CCP where a clearing member guarantees the performance of the clearing member client System institution to the CCP and the transaction meets the requirements of § 628.3(a)(2) and (a)(3).

(2) [Reserved]

Clearing member means a member of, or direct participant in, a CCP that is entitled to enter into transactions with the CCP.

Clearing member client means a party to a cleared transaction associated with a CCP in which a clearing member either acts as a financial intermediary with respect to the party or guarantees the performance of the party to the CCP.

Collateral agreement means a legal contract that specifies the time when, and circumstances under which, a counterparty is required to pledge collateral to a System institution for a single financial contract or for all

[1] System institutions as cooperatives are required to send borrowers a written notice of allocation specifying the amount of patronage refunds retained as equity pursuant to the Internal Revenue Code section 1388. There are two types of allocated equities: Qualified allocated equities and nonqualified allocated equities. Allocated equities are redeemable at the System institution board's discretion. Allocated equities contain no voting rights and are generally subordinated to borrow stock in receivership, insolvency, liquidation, or similar proceeding.

financial contracts in a netting set and confers upon the System institution a perfected, first-priority security interest (notwithstanding the prior security interest of any custodial agent), or the legal equivalent thereof, in the collateral posted by the counterparty under the agreement. This security interest must provide the System institution with a right to close out the financial positions and liquidate the collateral upon an event of default of, or failure to perform by, the counterparty under the collateral agreement. A contract would not satisfy this requirement if the System institution's exercise of rights under the agreement may be stayed or avoided under applicable law in the relevant jurisdictions, other than in receivership, conservatorship, resolution under the Federal Deposit Insurance Act, title II of the Dodd-Frank Act, under any similar insolvency law applicable to GSEs, or under the Farm Credit Act.

Commitment means any legally binding arrangement that obligates a System institution to extend credit or to purchase assets.

Commodity derivative contract means a commodity-linked swap, purchased commodity-linked option, forward commodity-linked contract, or any other instrument linked to commodities that gives rise to similar counterparty credit risks.

Commodity Exchange Act means the Commodity Exchange Act of 1936 (7 U.S.C. 1 *et seq.*).

Common cooperative equity or equities means borrower stock, participation certificates, and allocated equities issued or allocated by a System institution to its members.

Common equity tier 1 capital (CET1) is defined in § 628.20(b).

Company means a corporation, partnership, limited liability company, depository institution, business trust, special purpose entity, System institution, association, or similar organization.

Corporate exposure means an exposure to a company that is not:

(1) An exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, a multi-lateral development bank (MDB), a depository institution, a foreign bank, a credit union, or a public sector entity (PSE);

(2) An exposure to a GSE;

(3) A residential mortgage exposure;

(4) [Reserved];

(5) [Reserved];

(6) A high volatility commercial real estate (HVCRE) exposure;

(7) A cleared transaction;

(8) [Reserved];

(9) A securitization exposure;

(10) An equity exposure;

(11) An unsettled transaction; or

(12) An exposure to another System institution.

Country risk classification (CRC) with respect to a sovereign, means the most recent consensus CRC published by the Organization for Economic Cooperation and Development (OECD) as of December 31st of the prior calendar year that provides a view of the likelihood that the sovereign will service its external debt.

Credit derivative means a financial contract executed under standard industry credit derivative documentation that allows one party (the protection purchaser) to transfer the credit risk of one or more exposures (reference exposure(s)) to another party (the protection provider) for a certain period of time.

Credit-enhancing interest-only strip (CEIO) means an on-balance sheet asset that, in form or in substance:

(1) Represents a contractual right to receive some or all of the interest and no more than a minimal amount of principal due on the underlying exposures of a securitization; and

(2) Exposes the holder of the CEIO to credit risk directly or indirectly associated with the underlying exposures that exceeds a pro rata share of the holder's claim on the underlying exposures, whether through subordination provisions or other credit-enhancement techniques.

Credit-enhancing representations and warranties means representations and warranties that are made or assumed in connection with a transfer of underlying exposures (including loan servicing assets) and that obligate a System institution to protect another party from losses arising from the credit risk of the underlying exposures. Credit-enhancing representations and warranties include provisions to protect a party from losses resulting from the default or nonperformance of the counterparties of the underlying exposures or from an insufficiency in the value of the collateral backing the underlying exposures. Credit-enhancing representations and warranties do not include:

(1) Early default clauses and similar warranties that permit the return of, or premium refund clauses covering, 1–4 family residential first mortgage loans that qualify for a 50-percent risk weight for a period not to exceed 120 days from the date of transfer. These warranties may cover only those loans that were originated within 1 year of the date of transfer;

(2) Premium refund clauses that cover assets guaranteed, in whole or in part, by the U.S. Government, a U.S. Government agency or a Government-sponsored enterprise (GSE), provided the premium refund clauses are for a period not to exceed 120 days from the date of transfer; or

(3) Warranties that permit the return of underlying exposures in instances of misrepresentation, fraud, or incomplete documentation.

Credit risk mitigant means collateral, a credit derivative, or a guarantee.

Credit union means an insured credit union as defined under the Federal Credit Union Act (12 U.S.C. 1752 *et seq.*).

Current exposure means, with respect to a netting set, the larger of 0 or the fair value of a transaction or portfolio of transactions within the netting set that would be lost upon default of the counterparty, assuming no recovery on the value of the transactions. Current exposure is also called replacement cost.

Current exposure methodology means the method of calculating the exposure amount for over-the-counter derivative contracts in § 628.34(a).

Custodian means a company that has legal custody of collateral provided to a CCP.

Depository institution means a depository institution as defined in section 3 of the Federal Deposit Insurance Act.

Depository institution holding company means a bank holding company or savings and loan holding company.

Derivative contract means a financial contract whose value is derived from the values of one or more underlying assets, reference rates, or indices of asset values or reference rates. Derivative contracts include interest rate derivative contracts, exchange rate derivative contracts, equity derivative contracts, commodity derivative contracts, credit derivative contracts, and any other instrument that poses similar counterparty credit risks. Derivative contracts also include unsettled securities, commodities, and foreign exchange transactions with a contractual settlement or delivery lag that is longer than the lesser of the market standard for the particular instrument or 5 business days.

Discretionary bonus payment means a payment made to a senior officer of a System institution, where:

(1) The System institution retains discretion as to whether to make, and the amount of, the payment until the payment is awarded to the senior officer;

(2) The amount paid is determined by the System institution without prior promise to, or agreement with, the senior officer; and

(3) The senior officer has no contractual right, whether express or implied, to the bonus payment.

Dodd-Frank Act means the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203, 124 Stat. 1376).

Early amortization provision means a provision in the documentation governing a securitization that, when triggered, causes investors in the securitization exposures to be repaid before the original stated maturity of the securitization exposures, unless the provision:

(1) Is triggered solely by events not directly related to the performance of the underlying exposures or the originating System institution (such as material changes in tax laws or regulations); or

(2) Leaves investors fully exposed to future draws by borrowers on the underlying exposures even after the provision is triggered.

Effective notional amount means, for an eligible guarantee or eligible credit derivative, the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the hedged exposure, multiplied by the percentage coverage of the credit risk mitigant.

Eligible clean-up call means a clean-up call that:

(1) Is exercisable solely at the discretion of the originating System institution or servicer;

(2) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit enhancement to the securitization; and

(3)(i) For a traditional securitization, is only exercisable when 10 percent or less of the principal amount of the underlying exposures or securitization exposures (determined as of the inception of the securitization) is outstanding; or

(ii) For a synthetic securitization, is only exercisable when 10 percent or less of the principal amount of the reference portfolio of underlying exposures (determined as of the inception of the securitization) is outstanding.

Eligible credit derivative means a credit derivative in the form of a credit default swap, nth-to-default swap, total return swap, or any other form of credit derivative approved by the FCA, provided that:

(1) The contract meets the requirements of an eligible guarantee and has been confirmed by the protection purchaser and the protection provider;

(2) Any assignment of the contract has been confirmed by all relevant parties;

(3) If the credit derivative is a credit default swap or nth-to-default swap, the contract includes the following credit events:

(i) Failure to pay any amount due under the terms of the reference exposure, subject to any applicable minimal payment threshold that is consistent with standard market practice and with a grace period that is closely in line with the grace period of the reference exposure; and

(ii) Receivership, insolvency, liquidation, conservatorship or inability of the reference exposure issuer to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and similar events;

(4) The terms and conditions dictating the manner in which the contract is to be settled are incorporated into the contract;

(5) If the contract allows for cash settlement, the contract incorporates a robust valuation process to estimate loss reliably and specifies a reasonable period for obtaining post-credit event valuations of the reference exposure;

(6) If the contract requires the protection purchaser to transfer an exposure to the protection provider at settlement, the terms of at least one of the exposures that is permitted to be transferred under the contract provide that any required consent to transfer may not be unreasonably withheld;

(7) If the credit derivative is a credit default swap or nth-to-default swap, the contract clearly identifies the parties responsible for determining whether a credit event has occurred, specifies that this determination is not the sole responsibility of the protection provider, and gives the protection purchaser the right to notify the protection provider of the occurrence of a credit event; and

(8) If the credit derivative is a total return swap and the System institution records net payments received on the swap as net income, the System institution records offsetting deterioration in the value of the hedged exposure (either through reductions in fair value or by an addition to reserves).

Eligible guarantee means a guarantee from an eligible guarantor that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. Government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment; and

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure.

Eligible guarantor means:

(1) A sovereign, the Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Commission, a Federal Home Loan Bank, Federal Agricultural Mortgage Corporation (Farmer Mac), a multilateral development bank (MDB), a depository institution, a bank holding company, a savings and loan holding company, a credit union, a foreign bank, or a qualifying central counterparty; or

(2) An entity (other than a special purpose entity):

(i) That at the time the guarantee is issued or anytime thereafter, has issued and outstanding an unsecured debt security without credit enhancement that is investment grade;

(ii) Whose creditworthiness is not positively correlated with the credit risk of the exposures for which it has provided guarantees; and

(iii) That is not an insurance company engaged predominately in the business of providing credit protection (such as a monoline bond insurer or re-insurer).

Eligible margin loan means:

(1) An extension of credit where:

(i) The extension of credit is collateralized exclusively by liquid and readily marketable debt or equity securities, or gold;

(ii) The collateral is marked-to-fair value daily, and the transaction is subject to daily margin maintenance requirements; and

(iii) The extension of credit is conducted under an agreement that provides the System institution the right to accelerate and terminate the extension of credit and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, insolvency, liquidation, conservatorship, or similar proceeding, of the counterparty, provided that, in any such case, any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than in receivership, conservatorship, resolution under the Federal Deposit Insurance Act, Title II of the Dodd-Frank Act, under any similar insolvency law applicable to GSEs, or under the Farm Credit Act.[2]

(2) In order to recognize an exposure as an eligible margin loan for purposes of this subpart, a System institution must comply with the requirements of § 628.3(b) with respect to that exposure.

Eligible servicer cash advance facility means a servicer cash advance facility in which:

(1) The servicer is entitled to full reimbursement of advances, except that a servicer may be obligated to make non-reimbursable advances for a particular underlying exposure if any such advance is contractually limited to an insignificant amount of the outstanding principal balance of that exposure;

(2) The servicer's right to reimbursement is senior in right of payment to all other claims on the cash flows from the underlying exposures of the securitization; and

(3) The servicer has no legal obligation to, and does not make advances to the securitization if the servicer concludes the advances are unlikely to be repaid.

Equity derivative contract means an equity-linked swap, purchased equity-linked option, forward equity-linked contract, or any other instrument linked to equities that gives rise to similar counterparty credit risks.

Equity exposure means:

(1) A security or instrument (whether voting or non-voting) that represents a direct or an indirect ownership interest in, and is a residual claim on, the assets and income of a company, unless:

(i) The issuing company is consolidated with the System institution under GAAP;

(ii) The System institution is required to deduct the ownership interest from tier 1 or tier 2 capital under this part;

(iii) The ownership interest incorporates a payment or other similar obligation on the part of the issuing company (such as an obligation to make periodic payments); or

(iv) The ownership interest is a securitization exposure;

(2) A security or instrument that is mandatorily convertible into a security or instrument described in paragraph (1) of this definition;

(3) An option or warrant that is exercisable for a security or instrument described in paragraph (1) of this definition; or

(4) Any other security or instrument (other than a securitization exposure) to the extent the return on the security or instrument is based on the performance of a security or instrument described in paragraph (1) of this definition.

ERISA means the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1001 *et seq.*).

Exchange rate derivative contract means a cross-currency interest rate swap, forward foreign-exchange contract, currency option purchased, or any other instrument linked to exchange rates that gives rise to similar counterparty credit risks.

Exposure means an amount at risk.

Exposure amount means:

(1) For the on-balance sheet component of an exposure (other than an available-for-sale or held-to-maturity security; an OTC derivative contract; a repo-style transaction or an eligible margin loan for which the System institution determines the exposure amount under § 628.37; a cleared transaction; or a securitization exposure), the System institution's carrying value of the exposure.

(2) For a security (that is not a securitization exposure, equity exposure, or preferred stock classified as an equity security under GAAP) classified as available-for-sale or held-to-maturity, the System institution's carrying value (including net accrued but unpaid interest and fees) for the exposure less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

(3) For available-for-sale preferred stock classified as an equity security under GAAP, the System institution's carrying value of the exposure less any net unrealized gains on the exposure that are reflected in such carrying value but excluded from the System institution's regulatory capital components.

(4) For the off-balance sheet component of an exposure (other than an OTC derivative contract; a repo-style transaction or an eligible margin loan for which the System institution calculates the exposure amount under § 628.37; a cleared transaction; or a securitization exposure), the notional amount of the off-balance sheet component multiplied by the appropriate credit conversion factor (CCF) in § 628.33.

(5) For an exposure that is an OTC derivative contract, the exposure amount determined under § 628.34.

(6) For an exposure that is a cleared transaction, the exposure amount determined under § 628.35.

(7) For an exposure that is an eligible margin loan or repo-style transaction for which the bank calculates the exposure amount as provided in § 628.37, the exposure amount determined under § 628.37.

(8) For an exposure that is a securitization exposure, the exposure amount determined under § 628.42.

Farm Credit Act means the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 *et seq.*).

Federal Deposit Insurance Act means the Federal Deposit Insurance Act (12 U.S.C. 1813).

Federal Deposit Insurance Corporation Improvement Act means the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401).

Financial collateral means collateral:

(1) In the form of:

(i) Cash on deposit at a depository institution or Federal Reserve Bank (including cash held for the System institution by a third-party custodian or trustee);

(ii) Gold bullion;

(iii) Long-term debt securities that are not resecuritization exposures and that are investment grade;

(iv) Short-term debt instruments that are not resecuritization exposures and that are investment grade;

(v) Equity securities that are publicly traded;

(vi) Convertible bonds that are publicly traded; or

(vii) Money market fund shares and other mutual fund shares if a price for the shares is publicly quoted daily; and

(2) In which the System institution has a perfected, first-priority security interest or, outside of the United States, the legal equivalent thereof (with the exception of cash on deposit at a depository institution or Federal Reserve Bank and notwithstanding the prior security interest of any custodial agent).

First-lien residential mortgage exposure means a residential mortgage exposure secured by a first lien.

[2] This requirement is met where all transactions under the agreement are (i) executed under U.S. law and (ii) constitute ''securities contracts'' under section 555 of the Bankruptcy Code (11 U.S.C. 555) or qualified financial contracts under section 11(e)(8) of the Federal Deposit Insurance Act.

Foreign bank means a foreign bank as defined in § 211.2 of the Federal Reserve Board's Regulation K (12 CFR 211.2) (other than a depository institution).

Forward agreement means a legally binding contractual obligation to purchase assets with certain drawdown at a specified future date, not including commitments to make residential mortgage loans or forward foreign exchange contracts.

GAAP means generally accepted accounting principles as used in the United States.

Gain-on-sale means an increase in the equity capital of a System institution (as reported on the Call Report) resulting from a traditional securitization (other than an increase in equity capital resulting from the System institution's receipt of cash in connection with the securitization or reporting of a mortgage servicing asset on the Call Report).

General obligation means a bond or similar obligation that is backed by the full faith and credit of a public sector entity (PSE).

Government-sponsored enterprise (GSE) means an entity established or chartered by the U.S. Government to serve public purposes specified by the U.S. Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the U.S. Government. For purposes of part 628, this definition excludes System institutions.

Guarantee means a financial guarantee, letter of credit, insurance, or other similar financial instrument (other than a credit derivative) that allows one party (beneficiary) to transfer the credit risk of one or more specific exposures (reference exposure) to another party (protection provider).

High volatility commercial real estate (HVCRE) exposure means a credit facility that, prior to conversion to permanent financing, finances or has financed the acquisition, development, or construction (ADC) of real property, unless the facility finances:

(1) One- to four-family residential properties;

(2) Real property that:

(i) The FCA has authorized as an investment pursuant to § 615.5140(e) of this chapter; and

(ii) [Reserved];

(3) The purchase or development of agricultural land, which includes all land known to be used or usable for agricultural purposes (such as crop and livestock production), provided that the valuation of the agricultural land is based on its value for agricultural purposes and the valuation does not take into consideration any potential use of the land for non-agricultural commercial development or residential development; or

(4) Commercial real estate projects in which:

(i) The loan-to-value ratio is less than or equal to the maximum loan-to-value ratio set forth in § 614.4200(b) of this chapter;

(ii) The borrower has contributed capital to the project in the form of cash or unencumbered readily marketable assets (or has paid development expenses out-of-pocket) of at least 15 percent of the real estate's appraised ''as completed'' value; and

(iii) The borrower contributed the amount of capital required by paragraph (4)(ii) of this definition before the System institution advances funds under the credit facility, and the capital contributed by the borrower, or internally generated by the project, is contractually required to remain in the project throughout the life of the project. The life of a project concludes only when the credit facility is converted to permanent financing or is sold or paid in full. Permanent financing may be provided by the System institution that provided the ADC facility as long as the permanent financing is subject to the System institution's underwriting criteria for long-term mortgage loans.

Home country means the country where an entity is incorporated, chartered, or similarly established.

Insurance company means an insurance company as defined in section 201 of the Dodd-Frank Act (12 U.S.C. 5381).

Insurance underwriting company means an insurance company as defined in section 201 of the Dodd-Frank Act (12 U.S.C. 5381) that engages in insurance underwriting activities.

Insured depository institution means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act.

Interest rate derivative contract means a single-currency interest rate swap, basis swap, forward rate agreement, purchased interest rate option, when-issued securities, or any other instrument linked to interest rates that gives rise to similar counterparty credit risks.

International Lending Supervision Act means the International Lending Supervision Act of 1983 (12 U.S.C. 3907).

Investment fund means a company:

(1) Where all or substantially all of the assets of the company are financial assets; and

(2) That has no material liabilities.

Investment grade means that the entity to which the System institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments for the projected life of the asset or exposure. Such an entity or reference entity has adequate capacity to meet financial commitments if the risk of its default is low and the full and timely repayment of principal and interest is expected.

Junior-lien residential mortgage exposure means a residential mortgage exposure that is not a first-lien residential mortgage exposure.

Member means a borrower or former borrower from a System institution that holds voting or nonvoting common cooperative equities of the institution.

Money market fund means an investment fund that is subject to 17 CFR 270.2a–7 or any foreign equivalent thereof.

Mortgage servicing assets (MSAs) means the contractual rights owned by a System institution to service for a fee mortgage loans that are owned by others.

Multilateral development bank (MDB) means the International Bank for Reconstruction and Development, the Multilateral Investment Guarantee Agency, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the European Investment Fund, the Nordic Investment Bank, the Caribbean Development Bank, the Islamic Development Bank, the Council of Europe Development Bank, and any other multilateral lending institution or regional development bank in which the U.S. Government is a shareholder or contributing member or which the FCA determines poses comparable credit risk.

National Bank Act means the National Bank Act (12 U.S.C. 24).

Netting set means a group of transactions with a single counterparty that are subject to a qualifying master netting agreement or a qualifying cross-product master netting agreement. For purposes of calculating risk-based capital requirements using the internal models methodology in subpart E of this part, this term does not cover a transaction:

(1) That is not subject to such a master netting agreement; or

(2) Where the System institution has identified specific wrong-way risk.

Nonqualified allocated equities means retained patronage refunds paid in the form of stock or surplus that are distributed to a borrower and that a System institution does not deduct from

its taxable income according to the Internal Revenue Code §§ 1382(b) and 1383.[3]

N^{th}-to-default credit derivative means a credit derivative that provides credit protection only for the nth-defaulting reference exposure in a group of reference exposures.

Operating entity means a company established to conduct business with clients with the intention of earning a profit in its own right and that generally produces goods or provides services beyond the business of investing, reinvesting, holding, or trading in financial assets. All System banks, associations, and service corporations, and all UBEs, are operating entities.

Original maturity with respect to an off-balance sheet commitment means the length of time between the date a commitment is issued and:

(1) For a commitment that is not subject to extension or renewal, the stated expiration date of the commitment; or

(2) For a commitment that is subject to extension or renewal, the earliest date on which the System institution can, at its option, unconditionally cancel the commitment.

Originating System institution, with respect to a securitization, means a System institution that:

(1) Directly or indirectly originated the underlying exposures included in the securitization; or

(2)[Reserved]

Other financing institution (OFI) means any entity referred to in section 1.7(b)(1)(B) of the Farm Credit Act.

Over-the-counter (OTC) derivative contract means a derivative contract that is not a cleared transaction.

Participation certificates means borrower stock held by a borrower that does not have voting rights.

Patronage refund means a declared distribution of capital to borrowers based on a System institution's net income and allocated to borrowers based on business conducted with the cooperative pursuant to the Internal Revenue Code section 1381(a). Patronage refunds may be distributed as cash, allocated equity (stock or surplus), or a combination of cash and allocated equity.

Performance standby letter of credit (or performance bond) means an irrevocable obligation of a System institution to pay a third-party beneficiary when a customer (account party) fails to perform on any contractual nonfinancial or commercial obligation. To the extent permitted by law or regulation, performance standby letters of credit include arrangements backing, among other things; subcontractors' and suppliers' performance, labor; and materials contracts, and construction bids.

Protection amount (P) means, with respect to an exposure hedged by an eligible guarantee or eligible credit derivative, the effective notional amount of the guarantee or credit derivative, reduced to reflect any currency mismatch, maturity mismatch, or lack of restructuring coverage (as provided in § 628.36).

Publicly traded means traded on:

(1) Any exchange registered with the Securities and Exchange Commission (SEC) as a national securities exchange under section 6 of the Securities Exchange Act; or

(2) Any non-U.S.-based securities exchange that:

(i) Is registered with, or approved by, a national securities regulatory authority; and

(ii) Provides a liquid, two-way market for the instrument in question.

Public sector entity (PSE) means a state, local authority, or other governmental subdivision below the sovereign level.

Qualified allocated equities means patronage refunds distributed to a borrower, in the form of stock or surplus, that a System institution can exclude from its taxable income and that the borrower has agreed to include in its taxable income.[4]

Qualifying central counterparty (QCCP) means a central counterparty that:

(1)(i) Is a designated financial market utility (FMU), as defined in section 803 of the Dodd-Frank Act;

(ii) If not located in the United States, is regulated and supervised in a manner equivalent to a designated FMU; or

(iii) Meets the following standards:

(A) The central counterparty requires all parties to contracts cleared by the counterparty to be fully collateralized on a daily basis;

(B) The System institution demonstrates to the satisfaction of the FCA that the central counterparty:

(*1*) Is in sound financial condition;

(*2*) Is subject to supervision by the Board, the CFTC, or the Securities Exchange Commission (SEC), or, if the central counterparty is not located in the United States, is subject to effective oversight by a national supervisory authority in its home country; and

(*3*) Meets or exceeds the risk-management standards for central counterparties set forth in regulations established by the Board, the CFTC, or the SEC under title VII or title VIII of the Dodd-Frank Act; or if the central counterparty is not located in the United States, meets or exceeds similar risk-management standards established under the law of its home country that are consistent with international standards for central counterparty risk management as established by the relevant standard setting body of the Bank of International Settlements; and

(2)(i) Provides the System institution with the central counterparty's hypothetical capital requirement or the information necessary to calculate such hypothetical capital requirement, and other information the System institution is required to obtain under § 628.35(d)(3);

(ii) Makes available to the FCA and the CCP's regulator the information described in paragraph (2)(i) of this definition; and

(iii) Has not otherwise been determined by the FCA to not be a QCCP due to its financial condition, risk profile, failure to meet supervisory risk management standards, or other weaknesses or supervisory concerns that are inconsistent with the risk weight assigned to qualifying central counterparties under § 628.35.

(3) A QCCP that fails to meet the requirements of a QCCP in the future may still be treated as a QCCP under the conditions specified in § 628.3(f).

Qualifying master netting agreement means a written, legally enforceable agreement provided that:

(1) The agreement creates a single legal obligation for all individual transactions covered by the agreement upon an event of default, including upon an event of receivership, insolvency, liquidation, or similar proceeding, of the counterparty;

(2) The agreement provides the System institution the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of

[3] Nonqualified allocated equities also include surplus in a tax-exempt institution or subsidiary. When a System institution redeems a nonqualified allocation, the System institution deducts the allocation from its taxable income, if any, and the borrower generally recognizes the tax liability, if any, as ordinary income. System institutions distribute two types of nonqualified allocated equities through written notices of allocation to the borrowers: (1) Those subject to redemption and (2) those not subject to redemption. The second type for GAAP purposes is considered an equivalent of unallocated surplus and consolidated with unallocated surplus on externally prepared shareholder reports.

[4] A System institution must pay at least 20 percent of a qualified patronage refund in cash to borrowers. A System institution must provide the borrowers with a qualified written notice of allocation when they distribute qualified patronage refunds pursuant to the Internal Revenue Code §§ 1381(b) and 1388(c). A System institution redeems qualified allocated equities according to a board-approved plan.

default, including upon an event of receivership, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case, any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than in receivership, conservatorship, resolution under the Federal Deposit Insurance Act, title II of the Dodd-Frank Act, under any similar insolvency law applicable to GSEs, or under the Farm Credit Act;

(3) The agreement does not contain a walkaway clause (that is, a provision that permits a non-defaulting counterparty to make a lower payment than it otherwise would make under the agreement, or no payment at all, to a defaulter or the estate of a defaulter, even if the defaulter or the estate of the defaulter is a net creditor under the agreement); and

(4) In order to recognize an agreement as a qualifying master netting agreement for purposes of this subpart, a System institution must comply with the requirements of § 628.3(d) with respect to that agreement.

Repo-style transaction means a repurchase or reverse repurchase transaction, or a securities borrowing or securities lending transaction, including a transaction in which the System institution acts as agent for a customer and indemnifies the customer against loss, provided that:

(1) The transaction is based solely on liquid and readily marketable securities, cash, or gold;

(2) The transaction is marked-to-fair value daily and subject to daily margin maintenance requirements;

(3)(i) The transaction is a ''securities contract'' or ''repurchase agreement'' under section 555 or 559, respectively, of the Bankruptcy Code (11 U.S.C. 555 or 559) or a qualified financial contract under section 11(e)(8) of the Federal Deposit Insurance Act; or

(ii) If the transaction does not meet the criteria set forth in paragraph (3)(i) of this definition, then either:

(A) The transaction is executed under an agreement that provides the System institution the right to accelerate, terminate, and close-out the transaction on a net basis and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case, any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than in receivership, conservatorship, resolution under the Federal Deposit Insurance Act, title II of the Dodd-Frank Act, under any similar insolvency law applicable to GSEs, or under the Farm Credit Act; or

(B) The transaction is:

(*1*) Either overnight or unconditionally cancelable at any time by the System institution; and

(*2*) Executed under an agreement that provides the System institution the right to accelerate, terminate, and close-out the transaction on a net basis and to liquidate or set-off collateral promptly upon an event of counterparty default; and

(4) In order to recognize an exposure as a repo-style transaction for purposes of this subpart, a System institution must comply with the requirements of § 628.3(e) of this part with respect to that exposure.

Resecuritization means a securitization which has more than one underlying exposure and in which one or more of the underlying exposures is a securitization exposure.

Resecuritization exposure means:

(1) An on- or off-balance sheet exposure to a resecuritization; or

(2) An exposure that directly or indirectly references a resecuritization exposure.

Residential mortgage exposure means an exposure (other than a securitization exposure or equity exposure) that is:

(1) An exposure that is primarily secured by a first or subsequent lien on one-to-four family residential property, provided that the dwelling (including attached components such as garages, porches, and decks) represents at least 50 percent of the total appraised value of the collateral secured by the first or subsequent lien; or

(2)[Reserved]

Revenue obligation means a bond or similar obligation that is an obligation of a PSE, but which the PSE is committed to repay with revenues from the specific project financed rather than general tax funds.

Savings and loan holding company means a savings and loan holding company as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a).

Securities and Exchange Commission (SEC) means the U.S. Securities and Exchange Commission.

Securities Exchange Act means the Securities Exchange Act of 1934 (15 U.S.C. 78).

Securitization exposure means:

(1) An on-balance sheet or off-balance sheet credit exposure (including credit-enhancing representations and warranties) that arises from a traditional securitization or synthetic securitization (including a resecuritization); or

(2) An exposure that directly or indirectly references a securitization exposure described in paragraph (1) of this definition.

Securitization special purpose entity (securitization SPE) means a corporation, trust, or other entity organized for the specific purpose of holding underlying exposures of a securitization, the activities of which are limited to those appropriate to accomplish this purpose, and the structure of which is intended to isolate the underlying exposures held by the entity from the credit risk of the seller of the underlying exposures to the entity.

Senior officer means the Chief Executive Officer, the Chief Operations Officer, the Chief Financial Officer, the Chief Credit Officer, and the General Counsel, or persons in similar positions; and any other person responsible for a major policy-making function.

Servicer cash advance facility means a facility under which the servicer of the underlying exposures of a securitization may advance cash to ensure an uninterrupted flow of payments to investors in the securitization, including advances made to cover foreclosure costs or other expenses to facilitate the timely collection of the underlying exposures.

Small Business Act means the Small Business Act (15 U.S.C. 632).

Small Business Investment Act means the Small Business Investment Act of 1958 (15 U.S.C. 682).

Sovereign means a central government (including the U.S. Government) or an agency, department, ministry, or central bank of a central government.

Sovereign default means noncompliance by a sovereign with its external debt service obligations or the inability or unwillingness of a sovereign government to service an existing loan according to its original terms, as evidenced by failure to pay principal and interest timely and fully, arrearages, or restructuring.

Sovereign exposure means:

(1) A direct exposure to a sovereign; or

(2) An exposure directly and unconditionally backed by the full faith and credit of a sovereign.

Standardized total risk-weighted assets means:

(1) The sum of:

(i) Total risk-weighted assets for general credit risk as calculated under § 628.31;

(ii) Total risk-weighted assets for cleared transactions as calculated under § 628.35;

(iii) Total risk-weighted assets for unsettled transactions as calculated under § 628.38;

(iv) Total risk-weighted assets for securitization exposures as calculated under § 628.42;

(v) Total risk-weighted assets for equity exposures as calculated under §§ 628.52 and 628.53; and

(vi) [Reserved]; minus

(2) Any amount of the System institution's allowance for loan losses that is not included in tier 2 capital.

Subsidiary means, with respect to a company, a company controlled by that company.

System bank means a Farm Credit bank as defined in § 619.9140 of this chapter, which includes Farm Credit Banks, agricultural credit banks, and banks for cooperatives.

System institution means a System bank, an association of the Farm Credit System, Farm Credit Leasing Services Corporation, and their successors, and any other institution chartered by the FCA that the FCA determines should be considered a System institution for the purposes of this part. *Synthetic exposure* means an exposure whose value is linked to the value of an investment in the System institution's own capital instrument.

Synthetic securitization means a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is retained or transferred to one or more third parties through the use of one or more credit derivatives or guarantees (other than a guarantee that transfers only the credit risk of an individual retail exposure);

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends upon the performance of the underlying exposures; and

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities).

Tier 1 capital means the sum of common equity tier 1 capital and additional tier 1 capital.

Tier 2 capital is defined in § 628.20(d).

Total capital means the sum of tier 1 capital and tier 2 capital.

Traditional securitization means a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is transferred to one or more third parties other than through the use of credit derivatives or guarantees;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends upon the performance of the underlying exposures;

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities);

(5) The underlying exposures are not owned by an operating entity;

(6) The underlying exposures are not owned by a rural business investment company described in 7 U.S.C. 2009cc *et seq.;*

(7) The underlying exposures are not owned by a firm an investment in which is authorized by the FCA under § 615.5140(e)of this chapter;

(8) The FCA may determine that a transaction in which the underlying exposures are owned by an investment firm that exercises substantially unfettered control over the size and composition of its assets, liabilities, and off-balance sheet exposures is not a traditional securitization based on the transaction's leverage, risk profile, or economic substance;

(9) The FCA may deem a transaction that meets the definition of a traditional securitization, notwithstanding paragraph (5), (6), or (7) of this definition, to be a traditional securitization based on the transaction's leverage, risk profile, or economic substance; and

(10) The transaction is not:

(i) An investment fund;

(ii) A collective investment fund (as defined in [12 CFR 9.18 (national bank) and 12 CFR 151.40 (Federal saving association) (OCC); 12 CFR 208.34 (Board)];

(iii) An employee benefit plan (as defined in paragraphs (3) and (32) of section 3 of ERISA), a ''governmental plan'' (as defined in 29 U.S.C. 1002(32)) that complies with the tax deferral qualification requirements provided in the Internal Revenue Code, or any similar employee benefit plan established under the laws of a foreign jurisdiction;

(iv) A synthetic exposure to the capital of a System institution to the extent deducted from capital under § 628.22; or

(v) Registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a–1) or foreign equivalents thereof.

Tranche means all securitization exposures associated with a securitization that have the same seniority level.

Two-way market means a market where there are independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within 1 day and settled at that price within a relatively short timeframe conforming to trade custom.

Unallocated retained earnings (URE) means accumulated net income that a System institution has not allocated as patronage refunds.

Unallocated retained earnings (URE) equivalents means nonqualified allocated surplus not subject to retirement except upon dissolution or liquidation. URE equivalents does not include equities allocated by a System institution to other System institutions.

Unconditionally cancelable means, with respect to a commitment that a System institution may, at any time, with or without cause, refuse to extend credit under the commitment (to the extent permitted under applicable law).

Underlying exposures means one or more exposures that have been securitized in a securitization transaction.

U.S. Government agency means an instrumentality of the U.S. Government whose obligations are fully guaranteed as to the timely payment of principal and interest by the full faith and credit of the U.S. Government.

§ 628.3 Operational requirements for certain exposures.

For purposes of calculating risk-weighted assets under subpart D of this part:

(a) *Cleared transaction.* In order to recognize certain exposures as cleared transactions pursuant to paragraph (1)(ii), (1)(iii) or (1)(iv) of the definition of ''cleared transaction'' in § 628.2, the exposures must meet all of the requirements set forth in this paragraph.

(1) The offsetting transaction must be identified by the CCP as a transaction for the clearing member client.

(2) The collateral supporting the transaction must be held in a manner that prevents the System institution from facing any loss due to an event of default, including from a liquidation, receivership, insolvency, or similar proceeding of either the clearing member or the clearing member's other clients. Omnibus accounts established under 17 CFR parts 190 and 300 satisfy the requirements of this paragraph.

(3) The System institution must conduct sufficient legal review to

conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that in the event of a legal challenge (including one resulting from a default or receivership, insolvency, liquidation, or similar proceeding) the relevant court and administrative authorities would find the arrangements of paragraph (a)(2) of this section to be legal, valid, binding and enforceable under the law of the relevant jurisdictions.

(4) The offsetting transaction with a clearing member must be transferable under the transaction documents and applicable laws in the relevant jurisdiction(s) to another clearing member should the clearing member default, become insolvent, or enter receivership, insolvency, liquidation, or similar proceedings.

(b) *Eligible margin loan.* In order to recognize an exposure as an eligible margin loan as defined in § 628.2, a System institution must conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that the agreement underlying the exposure:

(1) Meets the requirements of paragraph (1)(iii) of the definition of ''eligible margin loan'' in § 628.2, and

(2) Is legal, valid, binding, and enforceable under applicable law in the relevant jurisdictions.

(c) [Reserved]

(d) *Qualifying master netting agreement.* In order to recognize an agreement as a qualifying master netting agreement as defined in § 628.2, a System institution must:

(1) Conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that:

(i) The agreement meets the requirements of paragraph (2) of the definition of ''qualifying master netting agreement'' in § 628.2; and

(ii) In the event of a legal challenge (including one resulting from default or from receivership, insolvency, liquidation, or similar proceeding) the relevant court and administrative authorities would find the agreement to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions; and

(2) Establish and maintain written procedures to monitor possible changes in relevant law and to ensure that the agreement continues to satisfy the requirements of the definition of ''qualifying master netting agreement'' in § 628.2.

(e) *Repo-style transaction.* In order to recognize an exposure as a repo-style transaction as defined in § 628.2, a System institution must conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that the agreement underlying the exposure:

(1) Meets the requirements of paragraph (3) of the definition of ''repo-style transaction'' in § 628.2, and

(2) Is legal, valid, binding, and enforceable under applicable law in the relevant jurisdictions.

(f) *Failure of a QCCP to satisfy the rule's requirements.* If a System institution determines that a CCP ceases to be a QCCP due to the failure of the CCP to satisfy one or more of the requirements set forth in paragraph (2)(i) through (2)(iii) of the definition of a ''QCCP'' in § 628.2, the System institution may continue to treat the CCP as a QCCP for up to 3 months following the determination. If the CCP fails to remedy the relevant deficiency within 3 months after the initial determination, or the CCP fails to satisfy the requirements set forth in paragraph (2)(i) through (2)(iii) of the definition of a QCCP continuously for a 3-month period after remedying the relevant deficiency, a System institution may not treat the CCP as a QCCP for the purposes of this part until after the System institution has determined that the CCP has satisfied the requirements in paragraph (2)(i) through (2)(iii) of the definition of a QCCP for 3 continuous months.

§§ 628.4—628.9 [Reserved]

Subpart B—Capital Ratio Requirements and Buffers

§ 628.10 Minimum capital requirements.

(a) *Computation of regulatory capital ratios.* A System institution's regulatory capital ratios are determined on the basis of the financial statements of the institution prepared in accordance with GAAP using average daily balances for the most recent 3 months.

(b) *Minimum capital requirements.* A System institution must maintain the following minimum capital ratios:

(1) A common equity tier 1 (CET1) capital ratio of 4.5 percent.

(2) A tier 1 capital ratio of 6 percent.

(3) A total capital ratio of 8 percent.

(4) A tier 1 leverage ratio of 5 percent, of which at least 1.5 percent must be composed of URE and URE equivalents.

(5) [Reserved]

(6) A permanent capital ratio of 7 percent.

(c) *Capital ratio calculations.* A System institution's regulatory capital ratios are as follows:

(1) *CET1 capital ratio.* A System institution's CET1 capital ratio is the ratio of the System institution's CET1 capital to total risk-weighted assets;

(2) *Tier 1 capital ratio.* A System institution's tier 1 capital ratio is the ratio of the System institution's tier 1 capital to total risk-weighted assets;

(3) *Total capital ratio.* A System institution's total capital ratio is the ratio of the System institution's total (tier 1 and tier 2) capital to total risk-weighted assets; and

(4) *Tier 1 leverage ratio.* A System institution's leverage ratio is the ratio of the institution's tier 1 capital to the institution's average total consolidated assets as reported on the institution's Call Report minus amounts deducted from tier 1 capital under §§ 628.22(a), (c) and (d), and 628.23.

(5) *Permanent capital ratio.* A System institution's permanent capital ratio must be calculated in accordance with the regulations in part 615, subpart H, of this chapter.

(d) [Reserved]

(e) *Capital adequacy.* (1) Notwithstanding the minimum requirements in this part, a System institution must maintain capital commensurate with the level and nature of all risks to which the System institution is exposed. FCA may evaluate a System institution's capital adequacy and require that institution to maintain higher minimum regulatory capital ratios using the factors listed in § 615.5350 of this chapter.

(2) A System institution must have a process for assessing its overall capital adequacy in relation to its risk profile and a comprehensive strategy for maintaining an appropriate level of capital under § 615.5200 of this chapter.

§ 628.11 Capital conservation buffer amount.

(a) *Capital conservation buffer*—(1) *Composition of the capital conservation buffer.* The capital conservation buffer is composed solely of CET1 capital.

(2) *Definitions.* For purposes of this section, the following definitions apply:

(i) *Eligible retained income.* The eligible retained income of a System institution is the System institution's net income for the 4 calendar quarters preceding the current calendar quarter, based on the System institution's quarterly Call Reports, net of any capital distributions and associated tax effects not already reflected in net income.

(ii) *Maximum payout ratio.* The maximum payout ratio is the percentage of eligible retained income that a System institution can pay out in the form of capital distributions and discretionary bonus payments during the current calendar quarter. The maximum payout ratio is based on the

System institution's capital conservation buffer, calculated as of the last day of the previous calendar quarter, as set forth in Table 1 to § 628.11.

(iii) *Maximum payout amount.* A System institution's maximum payout amount for the current calendar quarter is equal to the System institution's eligible retained income, multiplied by the applicable maximum payout ratio, as set forth in Table 1 to § 628.11.

(iv) [Reserved]

(v) *Capital distribution* means:

(A) A reduction of tier 1 capital through the repurchase or redemption of a tier 1 capital instrument or by other means, except when a System institution, within the same quarter when the repurchase is announced, fully replaces a tier 1 capital instrument it has repurchased by issuing another capital instrument that meets the eligibility criteria for:

(*1*) A CET1 capital instrument if the instrument being repurchased was part of the System institution's CET1 capital; or

(*2*) A CET1 or AT1 capital instrument if the instrument being repurchased was part of the System institution's tier 1 capital;

(B) A reduction of tier 2 capital through the repurchase, or redemption prior to maturity, of a tier 2 capital instrument or by other means, except when a System institution, within the same quarter when the repurchase or redemption is announced, fully replaces a tier 2 capital instrument it has repurchased by issuing another capital instrument that meets the eligibility criteria for a tier 1 or tier 2 capital instrument;

(C) A dividend declaration or payment on any tier 1 capital instrument;

(D) A dividend declaration or interest payment on any tier 2 capital instrument if the System institution has full discretion to permanently or temporarily suspend such payments without triggering an event of default;

(E) A cash patronage refund declaration or payment;

(F) A patronage refund declaration in the form of allocated equities that did not qualify as tier 1 or tier 2 capital;[5] or

(G) Any similar transaction that the FCA determines to be in substance a distribution of capital.

(3) *Calculation of capital conservation buffer.* (i) A System institution's capital conservation buffer is equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter based on the System institution's most recent Call Report:

(A) The System institution's CET1 capital ratio minus the System institution's minimum CET1 capital ratio requirement under § 628.10;

(B) The System institution's tier 1 capital ratio minus the System institution's minimum tier 1 capital ratio requirement under § 628.10; and

(C) The System institution's total capital ratio minus the System institution's minimum total capital ratio requirement under § 628.10; or

(ii) Notwithstanding paragraphs (a)(3)(i)(A) through (C) of this section, if the System institution's CET1, tier 1 or total capital ratio is less than or equal to the System institution's minimum CET1, tier 1 or total capital ratio requirement under § 628.10, respectively, the System institution's capital conservation buffer is zero.

(4) *Limits on capital distributions and discretionary bonus payments.* (i) A System institution must not make capital distributions or discretionary bonus payments or create an obligation to make such capital distributions or payments during the current calendar quarter that, in the aggregate, exceed the maximum payout amount.

(ii) A System institution with a capital conservation buffer that is greater than 2.5 percent is not subject to a maximum payout amount under this section.

(iii) *Negative eligible retained income.* Except as provided in paragraph (a)(4)(iv) of this section, a System institution may not make capital distributions or discretionary bonus payments during the current calendar quarter if the System institution's:

(A) Eligible retained income is negative; and

(B) Capital conservation buffer was less than 2.5 percent as of the end of the previous calendar quarter.

(iv) *Prior approval.* Notwithstanding the limitations in paragraphs (a)(4)(i) through (a)(4)(iii) of this section, FCA may permit a System institution to make a capital distribution or discretionary bonus payment upon a request of the System institution, if FCA determines that the capital distribution or discretionary bonus payment would not be contrary to the purposes of this section, or to the safety and soundness of the System institution. In making such a determination, FCA will consider the nature and extent of the request and the particular circumstances giving rise to the request.

TABLE 1 TO § 628.11—CALCULATION OF MAXIMUM PAYOUT AMOUNT

Capital conservation buffer	Maximum payout ratio (as a percentage of eligible retained income)
> 2.500 percent	No limitation
≤ 2.500 percent, and > 1.875 percent	60
≤ 1.875 percent, and > 1.250 percent	40
≤ 1.250 percent, and > 0.625 percent	20
≤ 0.625 percent	0

(v) *Other limitations on capital distributions.* Additional limitations on capital distributions may apply to a System institution under subpart C of this part and under part 615, subparts L and M.

(b) *[Reserved]*

§§ 628.12—628.19 [Reserved]

Subpart C—Definition of Capital

§ 628.20 Capital components and eligibility criteria for regulatory capital instruments other than permanent capital.

(a) *Regulatory capital components.* A System institution's regulatory capital components are:

(1) CET1 capital;

(2) AT1 capital; and

(3) Tier 2 capital.

(b) *CET1 capital.* CET1 capital is the sum of the CET1 capital elements in paragraph (b) of this section, minus regulatory adjustments and deductions in § 628.22. The CET1 capital elements are:

(1) Any common cooperative equity instrument issued by a System institution that meets all of the following criteria:

(i) The instrument is issued directly by the System institution and represents a claim subordinated to general creditors, subordinated debt holders, and preferred stock holders in a receivership, insolvency, liquidation, or similar proceeding of the System institution;

(ii) The holder of the instrument is entitled to a claim on the residual assets of the System institution, the claim will be paid only after all creditors, subordinated debt holders, and preferred stock claims have been satisfied in a receivership, insolvency, liquidation, or similar proceeding;

(iii) The instrument has no maturity date, can be redeemed only at the discretion of the System institution and with the prior approval of FCA, and

[5] A patronage refund declaration or payment in the form of allocated equities that qualifies as tier 1 capital is not a reduction in tier 1 capital. It is just a reclassification from one tier 1 capital element into a different tier 1 capital element.

does not contain any term or feature that creates an incentive to redeem;

(iv) The System institution did not create, through any action or communication, an expectation that it will buy back, cancel, revolve, or redeem the instrument, and the instrument does not include any term or feature that might give rise to such an expectation, except that the establishment of a revolvement period of 10 years or more, or the practice of revolving or redeeming the instrument no less than 10 years after issuance or allocation, will not be considered to create such an expectation;

(v) Any cash dividend payments on the instrument are paid out of the System institution's net income or unallocated retained earnings, and are not subject to a limit imposed by the contractual terms governing the instrument;

(vi) The System institution has full discretion at all times to refrain from paying any dividends without triggering an event of default, a requirement to make a payment-in-kind, or an imposition of any other restrictions on the System institution;

(vii) Dividend payments and other distributions related to the instrument may be paid only after all legal and contractual obligations of the System institution have been satisfied, including payments due on more senior claims;

(viii) The holders of the instrument bear losses as they occur before any losses are borne by holders of preferred stock claims on the System institution and holders of any other claims with priority over common cooperative equity instruments in a receivership, insolvency, liquidation, or similar proceeding;

(ix) The instrument is classified as equity under GAAP;

(x) The System institution, or an entity that the System institution controls, did not purchase or directly or indirectly fund the purchase of the instrument, except that where there is an obligation for a member of the institution to hold an instrument in order to receive a loan or service from the System institution, an amount of that loan equal to the minimum borrower stock requirement under section 4.3A of the Act will not be considered as a direct or indirect funding where:

(A) The purpose of the loan is not the purchase of capital instruments of the System institution providing the loan; and

(B) The purchase or acquisition of one or more member equities of the institution is necessary in order for the beneficiary of the loan to become a member of the System institution;

(xi) The instrument is not secured, not covered by a guarantee of the System institution, and is not subject to any other arrangement that legally or economically enhances the seniority of the instrument;

(xii) The instrument is issued in accordance with applicable laws and regulations and with the institution's capitalization bylaws;

(xiii) The instrument is reported on the System institution's regulatory financial statements separately from other capital instruments; and

(xiv) The System institution's capitalization bylaws provide that it will not offset the instrument against a member's loan in default, that it will not redeem the instrument for a period of at least 10 years after issuance, or if allocated equities at least 10 years after allocation to a member, or reduce the original revolvement period to less than 10 years without the prior approval of the FCA, except that the minimum statutory borrower stock described under paragraph (b)(1)(x) of this section may be redeemed without a minimum period outstanding after issuance and without the prior approval of the FCA.

(2) Unallocated retained earnings.

(3) [Reserved]

(4) [Reserved]

(5) [Reserved]

(c) *AT1 capital.* AT1 capital is the sum of additional tier 1 capital elements and related surplus, minus the regulatory adjustments and deductions in §§ 628.22 and 628.23. AT1 capital elements are:

(1) Instruments and related surplus, other than common cooperative equities, that meet the following criteria:

(i) The instrument is issued and paid-in;

(ii) The instrument is subordinated to general creditors and subordinated debt holders of the System institution in a receivership, insolvency, liquidation, or similar proceeding;

(iii) The instrument is not secured, not covered by a guarantee of the System institution and not subject to any other arrangement that legally or economically enhances the seniority of the instrument;

(iv) The instrument has no maturity date and does not contain a dividend step-up or any other term or feature that creates an incentive to redeem;

(v) If callable by its terms, the instrument may be called by the System institution only after a minimum of 5 years following issuance, except that the terms of the instrument may allow it to be called earlier than 5 years upon the occurrence of a regulatory event that precludes the instrument from being included in AT1 capital, or a tax event. In addition:

(A) The System institution must receive prior approval from FCA to exercise a call option on the instrument.

(B) The System institution does not create at issuance of the instrument, through any action or communication, an expectation that the call option will be exercised.

(C) Prior to exercising the call option, or immediately thereafter, the System institution must either replace the instrument to be called with an equal amount of instruments that meet the criteria under paragraph (b) of this section or this paragraph (c),[6] or demonstrate to the satisfaction of FCA that following redemption, the System institution will continue to hold capital commensurate with its risk;

(vi) Redemption or repurchase of the instrument requires prior approval from FCA;

(vii) The System institution has full discretion at all times to cancel dividends or other distributions on the instrument without triggering an event of default, a requirement to make a payment-in-kind, or an imposition of other restrictions on the System institution except in relation to any distributions to holders of common cooperative equity instruments or other instruments that are *pari passu* with the instrument;

(viii) Any distributions on the instrument are paid out of the System institution's net income, unallocated retained earnings, or surplus related to other AT1 capital instruments and are not subject to a limit imposed by the contractual terms governing the instrument;

(ix) The instrument does not have a credit-sensitive feature, such as a dividend rate that is reset periodically based in whole or in part on the System institution's credit quality, but may have a dividend rate that is adjusted periodically independent of the System institution's credit quality, in relation to general market interest rates or similar adjustments;

(x) The paid-in amount is classified as equity under GAAP;

(xi) The System institution did not purchase or directly or indirectly fund the purchase of the instrument;

(xii) The instrument does not have any features that would limit or discourage additional issuance of capital by the System institution, such as provisions that require the System institution to compensate holders of the

[6] Replacement can be concurrent with redemption of existing AT1 capital instruments.

instrument if a new instrument is issued at a lower price during a specified timeframe;

(xiii) [Reserved]; and

(xiv) The System institution's capitalization bylaws provide that it will not redeem the instrument without the prior approval of the FCA;

(2) [Reserved];

(3) [Reserved];

(4) Notwithstanding the criteria for AT1 capital instruments referenced above:

(i) [Reserved];

(ii) An instrument with terms that provide that the instrument may be called earlier than 5 years upon the occurrence of a rating agency event does not violate the criterion in paragraph (c)(1)(v) of this section provided that the instrument was issued and included in a System institution's core surplus capital prior to the effective date of the final rule, and that such instrument satisfies all other criteria under this § 628.20(c).

(d) *Tier 2 Capital.* Tier 2 capital is the sum of tier 2 capital elements and any related surplus minus regulatory adjustments and deductions in §§ 628.22 and 628.23. Tier 2 capital elements are:

(1) Instruments (plus related surplus) that meet the following criteria:

(i) The instrument is issued and paid-in, is a common cooperative equity, or is member equity purchased in accordance with paragraph (d)(1)(viii) of this section;

(ii) The instrument is subordinated to general creditors of the System institution;

(iii) The instrument is not secured, not covered by a guarantee of the System institution and not subject to any other arrangement that legally or economically enhances the seniority of the instrument in relation to more senior claims;

(iv) The instrument has a minimum original maturity of at least 5 years. At the beginning of each of the last 5 years of the life of the instrument, the amount that is eligible to be included in tier 2 capital is reduced by 20 percent of the original amount of the instrument (net of redemptions) and is excluded from regulatory capital when the remaining maturity is less than 1 year. In addition, the instrument must not have any terms or features that require, or create significant incentives for, the System institution to redeem the instrument prior to maturity; [7]

(v) The instrument, by its terms, may be called by the System institution only after a minimum of 5 years following issuance, except that the terms of the instrument may allow it to be called sooner upon the occurrence of an event that would preclude the instrument from being included in tier 2 capital, or a tax event. In addition:

(A) The System institution must receive the prior approval of FCA to exercise a call option on the instrument.

(B) The System institution does not create at issuance, through action or communication, an expectation the call option will be exercised.

(C) Prior to exercising the call option, or immediately thereafter, the System institution must either: replace any amount called with an equivalent amount of an instrument that meets the criteria for regulatory capital under this section; [8] or demonstrate to the satisfaction of FCA that following redemption, the System institution would continue to hold an amount of capital that is commensurate with its risk;

(vi) The holder of the instrument must have no contractual right to accelerate payment of principal, dividends, or interest on the instrument, except in the event of a receivership, insolvency, liquidation, or similar proceeding of the System institution;

(vii) The instrument has no credit-sensitive feature, such as a dividend or interest rate that is reset periodically based in whole or in part on the System institution's credit standing, but may have a dividend rate that is adjusted periodically independent of the System institution's credit standing, in relation to general market interest rates or similar adjustments;

(viii) The System institution has not purchased and has not directly or indirectly funded the purchase of the instrument, except that where common cooperative equity instruments are held by a member of the institution in connection with a loan, and the institution funds the acquisition of such instruments, that loan shall not be considered as a direct or indirect funding where:

(A) The purpose of the loan is not the purchase of capital instruments of the System institution providing the loan;

(B) The purchase or acquisition of one or more capital instruments of the institution is necessary in order for the beneficiary of the loan to become a member of the System institution; and

(C) The capital instruments are in excess of the statutory minimum stock purchase amount.

(ix) [Reserved]

(x) Redemption of the instrument prior to maturity or repurchase is at the discretion of the System institution and requires the prior approval of the FCA;

(xi) If the instrument is a common cooperative equity, the System institution's capitalization bylaws provide that it will not, except with the prior approval of the FCA, redeem such equity included in tier 2 capital for a period of at least 5 years after allocating it to a member.

(2) [Reserved]

(3) ALL up to 1.25 percent of the System institution's total risk-weighted assets not including any amount of the ALL.

(4) [Reserved]

(5) [Reserved]

(6) [Reserved]

(e) *FCA approval of a capital element.* (1) A System institution must receive FCA prior approval to include a capital element (as listed in this section) in its CET1 capital, AT1 capital, or tier 2 capital unless the element is equivalent, in terms of capital quality and ability to absorb losses with respect to all material terms, to a regulatory capital element FCA determined may be included in regulatory capital pursuant to paragraph (e)(3) of this section.

(i) [Reserved]

(ii) [Reserved]

(2) [Reserved]

(3) After determining that a regulatory capital element may be included in a System institution's CET1 capital, AT1 capital, or tier 2 capital, FCA will make its decision publicly available.

(f) *FCA prior approval of capital redemptions and dividends included in tier 1 and tier 2 capital.* (1) Subject to the provisions of paragraph (f)(5) of this section, a System institution must obtain the prior approval of the FCA before paying cash dividends or patronage refunds or redeeming equities included in tier 1 or tier 2 capital, other than term equities redeemed on their maturity date.

(2) At least 30 days prior to the intended action, the System institution must submit a request for approval to the FCA. The FCA's 30-day review period begins on the date on which the FCA receives the request.

(3) The request is deemed to be granted if the FCA does not notify the System institution to the contrary before the end of the 30-day review period.

(4)(i) A System institution may request advance approval to cover several anticipated redemptions and dividend and patronage payments,

[7] An instrument that by its terms automatically converts into a tier 1 capital instrument prior to 5 years after issuance complies with the 5-year maturity requirement of this criterion.

[8] A System institution may replace tier 2 capital instruments concurrent with the redemption of existing tier 2 capital instruments.

provided that the institution projects sufficient current net income during those periods to support the amount of the dividends declared, patronage refunds and redemptions. In determining whether to grant advance approval, the FCA will consider:

(A) The reasonableness of the institution's request, including its historical and projected patronage refunds, redemptions and dividend payments;

(B) The institution's historical trends and current projections for capital growth through earnings retention;

(C) The overall condition of the institution, with particular emphasis on current and projected capital adequacy as described in § 628.10(e); and

(D) Any other information that the FCA deems pertinent to reviewing the institution's request.

(ii) After considering these standards, the FCA may grant prior approval for an institution's patronage refunds, redemptions and dividends request in advance of the periods in which the patronage refunds, redemptions and dividends will be declared. Notwithstanding any such approval, an institution may not declare or pay a patronage refund, redeem equities or declare or pay a dividend if, after making the patronage refunds, redemptions or dividend payments, the institution would not meet its regulatory capital requirements set forth in parts 615 and 628.

(5) Subject to any capital distribution restrictions specified in § 628.11, a System institution is deemed to have FCA prior approval for cash payments of dividends, patronage refunds, or revolvements and redemptions of common cooperative equities provided that:

(i) For revolvements or redemptions of common cooperative equities included in CET1 capital other than a member's statutory minimum borrower stock purchase requirement described in § 628.20(b)(1)(x), the institution issued or allocated such equities at least 10 years ago;

(ii) For revolvements or redemptions of common cooperative equities included in Tier 2 capital, the institution issued or allocated such equities at least 5 years ago;

(iii) After such cash distributions the dollar amount of the System institution's CET1 capital equals or exceeds the dollar amount of CET1 capital on the same date in the previous calendar year; and

(B) The System institution continues to comply with all regulatory capital requirements and supervisory or enforcement actions.

§ 628.21 [Reserved]

§ 628.22 Regulatory capital adjustments and deductions.

(a) *Regulatory capital deductions from CET1 capital.* A System institution must deduct from the sum of its CET1 capital elements the items set forth in this paragraph:

(1) Goodwill, net of associated deferred tax liabilities (DTLs) in accordance with paragraph (e) of this section;

(2) Intangible assets, other than mortgage servicing assets (MSAs), net of associated DTLs in accordance with paragraph (e) of this section;

(3) Deferred tax assets (DTAs) that arise from net operating loss and tax credit carryforwards net of any related valuation allowances and net of DTLs in accordance with paragraph (e) of this section; [9]

(4) Any gain-on-sale in connection with a securitization exposure;

(5) Any defined benefit pension fund net asset, net of any associated DTL in accordance with paragraph (e) of this section;

(6) The System institution's allocated equity investment in another System institution;

(7) [Reserved]; and

(8) If, without the required prior FCA approval, during the 12 previous quarters, the System institution redeemed or revolved allocated equities included in its CET1 capital that it had allocated during the previous 10 years or retired purchased stock that it had issued in the previous 10 years, the institution must deduct 30 percent of its purchased and allocated equities for 3 years otherwise includable in CET1 capital. However, no deduction will be made of allocated equities that are URE equivalents unless the institution redeemed or revolved URE equivalents.

(b) [Reserved]

(c) *Deductions from regulatory capital.*[10]

(1) [Reserved]

(2) *Corresponding deduction approach.* For purposes of subpart C of this part, the corresponding deduction approach is the methodology used for the deductions from regulatory capital related to purchased equity investments in another System institution (as described in paragraph (c)(5) of this section). Under the corresponding deduction approach, a System institution must make deductions from the component of capital for which the underlying instrument would qualify if it were issued by the System institution itself. If the System institution does not have a sufficient amount of a specific component of capital to effect the required deduction, the shortfall must be deducted according to paragraph (f) of this section.

(i) [Reserved]

(ii) [Reserved]

(iii) [Reserved]

(3) [Reserved]

(4) [Reserved]

(5) *Purchased equity investments in another System institution.* System institutions must deduct all purchased equity investments in another System institution, service corporation, or the Funding Corporation by applying the corresponding deduction approach. [11] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section.

(d) [Reserved]

(e) *Netting of DTLs against assets subject to deduction.* (1) The netting of DTLs against assets that are subject to deduction under § 628.22 is required, if the following conditions are met:

(i) The DTL is associated with the asset; and

(ii) The DTL would be extinguished if the associated asset becomes impaired or is derecognized under GAAP.

(2) A DTL may only be netted against a single asset.

(3) [Reserved]

(4) [Reserved]

(5) [Reserved]

(f) *Insufficient amounts of a specific regulatory capital component to effect deductions.* Under the corresponding deduction approach, if a System institution does not have a sufficient amount of a specific component of capital to effect the required deduction after completing the deductions required under § 628.22(c), the System institution must deduct the shortfall from the next higher (that is, more subordinated) component of regulatory capital.

(g) *Treatment of assets that are deducted.* A System institution must exclude from total risk-weighted assets any item deducted from regulatory capital under paragraphs (a) and (c) of this section.

(h) [Reserved]

[9] *See* § 628.30(a) for DTAs arising from temporary differences that a System institution could not realize through net operating loss carrybacks.

[10] The System institution must calculate amounts deducted under §§ 628.22(c) through (f) and 628.23 after it calculates the amount of ALL includable in tier 2 capital under § 628.20(d)(3).

[11] With prior written approval of FCA, for the period stipulated by FCA, a System institution is not required to deduct an investment in the capital of another institution in distress if such investment is made to provide financial support to the System institution as determined by FCA.

§ 628.23 Limits on third-party capital.

(a) *Limit on inclusion of third-party capital in tier 1 capital.* The combined amount of third-party capital instruments that a System institution may include in tier 1 capital is equal to the greater of the following:

(1) The then existing limit, if any, or

(2) One third of the average of the previous 4 quarters for the previous year of the tier 1 capital reported on its Call Report filed with FCA less any amounts of third-party capital reported in tier 1 capital.

(b) *Limit on inclusion of third-party capital in total (tier 1 and tier 2) capital.* The combined amount of third-party capital instruments that a System institution may include in its total (tier 1 and tier 2) capital is equal to the lesser of the following:

(1) An amount equal to 40 percent of its total capital outstanding, or

(2) An amount equal to 100 percent of its tier 1 capital outstanding.

(c) *Treatment of assets that are deducted.* A System institution must exclude from total risk-weighted assets any item deducted from regulatory capital under this section.

§§ 628.24–628.29 [Reserved]

Subpart D—Risk-Weighted Assets—Standardized Approach

§ 628.30 Applicability.

(a) This subpart sets forth methodologies for determining risk-weighted assets for purposes of the generally applicable risk-based capital requirements for all System institutions.

(b) [Reserved]

Risk-Weighted Assets for General Credit Risk

§ 628.31 Mechanics for calculating risk-weighted assets for general credit risk.

(a) *General risk-weighting requirements.* A System institution must apply risk weights to its exposures as follows:

(1) A System institution must determine the exposure amount of each on-balance sheet exposure, each OTC derivative contract, and each off-balance sheet commitment, trade and transaction-related contingency, guarantee, repo-style transaction, financial standby letter of credit, forward agreement, or other similar transaction that is not:

(i) An unsettled transaction subject to § 628.38;

(ii) A cleared transaction subject to § 628.35;

(iii) [Reserved];

(iv) A securitization exposure subject to §§ 628.41 through 628.45; or

(v) An equity exposure (other than an equity OTC derivative contract) subject to §§ 628.51 through 628.53.

(2) The System institution must multiply each exposure amount by the risk weight appropriate to the exposure based on the exposure type or counterparty, eligible guarantor, or financial collateral to determine the risk-weighted asset amount for each exposure.

(b) Total risk-weighted assets for general credit risk equals the sum of the risk-weighted asset amounts calculated under this section.

§ 628.32 General risk weights.

(a) *Sovereign exposures*—(1) *Exposures to the U.S. Government.* (i) Notwithstanding any other requirement in this subpart, a System institution must assign a 0-percent risk weight to:

(A) An exposure to the U.S. Government, its central bank, or a U.S. Government agency; and

(B) The portion of an exposure that is directly and unconditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency. This includes a deposit or other exposure, or the portion of a deposit or other exposure, that is insured or otherwise unconditionally guaranteed by the Federal Deposit Insurance Corporation or National Credit Union Administration.

(ii) A System institution must assign a 20-percent risk weight to the portion of an exposure that is conditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency. This includes an exposure, or the portion of an exposure, that is conditionally guaranteed by the Federal Deposit Insurance Corporation or National Credit Union Administration.

(2) *Other sovereign exposures.* In accordance with Table 1 to § 628.32, a System institution must assign a risk weight to a sovereign exposure based on the Country Risk Classification (CRC) applicable to the sovereign or the sovereign's Organization for Economic Cooperation and Development (OECD) membership status if there is no CRC applicable to the sovereign.

TABLE 1 TO § 628.32—RISK WEIGHTS FOR SOVEREIGN EXPOSURES

	Risk weight (in percent)
CRC:	
0–1	0
2	20
3	50
4–6	100
7	150
OECD Member with no CRC	0
Non-OECD Member with no CRC	100
Sovereign Default	150

(3) *Certain sovereign exposures.* Notwithstanding paragraph (a)(2) of this section, a System institution may assign to a sovereign exposure a risk weight that is lower than the applicable risk weight in Table 1 to § 628.32 if:

(i) The exposure is denominated in the sovereign's currency;

(ii) The System institution has at least an equivalent amount of liabilities in that currency; and

(iii) The risk weight is not lower than the risk weight that the sovereign allows banking organizations under its jurisdiction to assign to the same exposures to the sovereign.

(4) *Exposures to a non-OECD member sovereign with no CRC.* Except as provided in paragraph (a)(3), (a)(5), and (a)(6) of this section, a System institution must assign a 100-percent risk weight to a sovereign exposure if the sovereign does not have a CRC.

(5) *Exposures to an OECD member sovereign with no CRC.* Except as provided in paragraph (a)(6) of this section, a System institution must assign a 0-percent risk weight to an exposure to a sovereign that is a member of the OECD if the sovereign does not have a CRC.

(6) *Sovereign default.* A System institution must assign a 150-percent risk weight to a sovereign exposure immediately upon determining that an event of sovereign default has occurred, or if an event of sovereign default has occurred during the previous 5 years.

(b) *Certain supranational entities and multilateral development banks (MDBs).* A System institution must assign a 0-percent risk weight to an exposure to the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, or an MDB.

(c) *Exposures to Government-sponsored enterprises (GSEs).* (1) A System institution must assign a 20-percent risk weight to an exposure to a GSE other than an equity exposure or preferred stock.

(2) A System institution must assign a 100-percent risk weight to preferred stock issued by a GSE.

(d) *Exposures to depository institutions, foreign banks, and credit unions*—(1) *Exposures to U.S.*

depository institutions and credit unions. A System institution must assign a 20-percent risk weight to an exposure to a depository institution or credit union that is organized under the laws of the United States or any state thereof, except as otherwise provided in this paragraph. This risk weight applies to an exposure a System bank has to an other financing institution (OFI) that is a depository institution or credit union organized under the laws of the United States or any state thereof or owned and controlled by such an entity that guarantees the exposure. If the OFI exposure does not satisfy these requirements, it must be assigned a risk weight as a corporate exposure pursuant to paragraph (f)(2) of this section.

(2) *Exposures to foreign banks.* (i) Except as otherwise provided under paragraphs (d)(2)(iv) of this section, a System institution must assign a risk weight to an exposure to a foreign bank, in accordance with Table 2 to § 628.32, based on the CRC rating that corresponds to the foreign bank's home country or the OECD membership status of the foreign bank's home country if there is no CRC applicable to the foreign bank's home country.

TABLE 2 TO § 628.32—RISK WEIGHTS FOR EXPOSURES TO FOREIGN BANKS

	Risk weight (in percent)
CRC:.	
0–1	20
2	50
3	100
4–7	150
OECD Member with No CRC	20
Non-OECD with No CRC	100
Sovereign Default	150

(ii) A System institution must assign a 20-percent risk weight to an exposure to a foreign bank whose home country is a member of the OECD and does not have a CRC.

(iii) A System institution must assign a 100-percent risk weight to an exposure to a foreign bank whose home country is not a member of the OECD and does not have a CRC, with the exception of self-liquidating, trade-related contingent items that arise from the movement of goods, and that have a maturity of 3 months or less, which may be assigned a 20-percent risk weight.

(iv) A System institution must assign a 150-percent risk weight to an exposure to a foreign bank immediately upon determining that an event of sovereign default has occurred in the bank's home country, or if an event of sovereign default has occurred in the foreign bank's home country during the previous 5 years.

(3) [Reserved]

(e) *Exposures to public sector entities (PSEs).*—(1) *Exposures to U.S. PSEs.* (i) A System institution must assign a 20-percent risk weight to a general obligation exposure to a PSE that is organized under the laws of the United States or any state or political subdivision thereof.

(ii) A System institution must assign a 50-percent risk weight to a revenue obligation exposure to a PSE that is organized under the laws of the United States or any state or political subdivision thereof.

(2) *Exposures to foreign PSEs.* (i) Except as provided in paragraphs (e)(1) and (e)(3) of this section, a System institution must assign a risk weight to a general obligation exposure to a foreign PSE, in accordance with Table 3 to § 628.32, based on the CRC that corresponds to the PSE's home country or the OECD membership status of the PSE's home country if there is no CRC applicable to the PSE's home country.

(ii) Except as provided in paragraphs (e)(1) and (e)(3) of this section, a System institution must assign a risk weight to a revenue obligation exposure to a foreign PSE, in accordance with Table 4 to § 628.32, based on the CRC that corresponds to the PSE's home country; or the OECD membership status of the PSE's home country if there is no CRC applicable to the PSE's home country.

(3) A System institution may assign a lower risk weight than would otherwise apply under Tables 3 and 4 to § 628.32 to an exposure to a foreign PSE if:

(i) The PSE's home country supervisor allows banks under its jurisdiction to assign a lower risk weight to such exposures; and

(ii) The risk weight is not lower than the risk weight that corresponds to the PSE's home country in accordance with Table 1 to § 628.32.

TABLE 3 TO § 628.32—RISK WEIGHTS FOR NON–U.S. PSE GENERAL OBLIGATIONS

	Risk weight (in percent)
CRC:	
0–1	20
2	50
3	100
4–7	150
OECD Member with No CRC	20
Non-OECD Member with No CRC	100
Sovereign Default	150

TABLE 4 TO § 628.32—RISK WEIGHTS FOR NON–U.S. PSE REVENUE OBLIGATIONS

	Risk weight (in percent)
CRC:	
0–1	50
2–3	100
4–7	150
OECD Member with No CRC	50
Non-OECD Member with No CRC	100
Sovereign Default	150

(4) *Exposures to PSEs from an OECD member sovereign with no CRC.* (i) A System institution must assign a 20-percent risk weight to a general obligation exposure to a PSE whose home country is a OECD member sovereign with no CRC.

(ii) A System institution must assign a 50-percent risk weight to a revenue obligation exposure to a PSE whose country is an OECD member sovereign with no CRC.

(5) *Exposures to PSEs whose home country is not an OECD member sovereign with no CRC.* A System institution must assign a 100-percent risk weight to an exposure to a PSE whose home country is not a member of the OECD and does not have a CRC.

(6) A System institution must assign a 150-percent risk weight to a PSE exposure immediately upon determining that an event of sovereign default has occurred in a PSE's home country or if an event of sovereign default has occurred in the PSE's home country during the previous 5 years.

(f) *Corporate exposures.* A System institution must assign a 100-percent risk weight to all its corporate exposures. Assets assigned a risk weight under this provision include:

(1) Borrower loans such as agricultural loans and consumer loans, regardless of the corporate form of the borrower, unless those loans qualify for different risk weights under other provisions of this subpart D;

(2) System bank exposures to OFIs that do not satisfy the requirements for a 20-percent risk weight pursuant to paragraph (d)(1) of this section; and

(3) Premises, fixed assets, and other real estate owned.

(g) *Residential mortgage exposures.* (1) A System institution must assign a 50-percent risk weight to a first-lien residential mortgage exposure that:

(i) Is secured by a property that is either owner-occupied or rented;

(ii) Is made in accordance with prudent underwriting standards suitable for residential property, including standards relating to the loan amount as

a percent of the appraised value of the property;

(iii) Is not 90 days or more past due or carried in nonaccrual status; and

(iv) Is not restructured or modified.

(2) A System institution must assign a 100-percent risk weight to a first-lien residential mortgage exposure that does not meet the criteria in paragraph (g)(1) of this section, and to junior-lien residential mortgage exposures.

(3) For the purpose of this paragraph (g), if a System institution holds the first-lien and junior-lien(s) residential mortgage exposures, and no other party holds an intervening lien, the System institution must combine the exposures and treat them as a single first-lien residential mortgage exposure.

(4) A loan modified or restructured solely pursuant to the U.S. Treasury's Home Affordable Mortgage Program is not modified or restructured for purposes of this section.

(h) [Reserved]

(i) [Reserved]

(j) *High-volatility commercial real estate (HVCRE) exposures.* A System institution must assign a 150-percent risk weight to an HVCRE exposure.

(k) *Past due exposures.* Except for a sovereign exposure or a residential mortgage exposure, a System institution must determine a risk weight for an exposure that is 90 days or more past due or in nonaccrual status according to the requirements set forth in this paragraph.

(1) A System institution must assign a 150-percent risk weight to the portion of the exposure that is not guaranteed or that is not secured by financial collateral.

(2) A System institution may assign a risk weight to the guaranteed portion of a past due exposure based on the risk weight that applies under § 628.36 if the guarantee or credit derivative meets the requirements of that section.

(3) A System institution may assign a risk weight to the portion of a past due exposure that is collateralized by financial collateral based on the risk weight that applies under § 628.37 if the financial collateral meets the requirements of that section.

(l) *Other assets.* (1) A System institution must assign a 0-percent risk weight to cash owned and held in all offices of the System institution, in transit, or in accounts at a depository institution or a Federal Reserve Bank; to gold bullion held in a depository institution's vaults on an allocated basis, to the extent the gold bullion assets are offset by gold bullion liabilities; and to exposures that arise from the settlement of cash transactions (such as equities, fixed income, spot foreign exchange (FX) and spot commodities) with a central counterparty where there is no assumption of ongoing counterparty credit risk by the central counterparty after settlement of the trade.

(2) A System institution must assign a 20-percent risk weight to cash items in the process of collection.

(3) A System institution must assign a 100-percent risk weight to deferred tax assets (DTAs) arising from temporary differences that the System institution could realize through net operating loss carrybacks.

(4) A System institution must assign a 100-percent risk weight to all MSAs.

(5) A System institution must assign a 100-percent risk weight to all assets that are not specifically assigned a different risk weight under this subpart and that are not deducted from tier 1 or tier 2 capital pursuant to § 628.22.

(6) [Reserved]

(m) *System institution exposure to other System institutions.* A System bank must assign a 20-percent risk weight to loans made to an association.

§ 628.33 Off-balance sheet exposures.

(a) *General.* (1) A System institution must calculate the exposure amount of an off-balance sheet exposure using the credit conversion factors (CCFs) in paragraph (b) of this section.

(2) Where a System institution commits to provide a commitment, the System institution may apply the lower of the two applicable CCFs.

(3) Where a System institution provides a commitment structured as a syndication or participation, the System institution is only required to calculate the exposure amount for its pro rata share of the commitment.

(4) Where a System institution provides a commitment, enters into a repurchase agreement, or provides a credit enhancing representation and warranty, and such commitment, repurchase agreement, or credit-enhancing representation and warranty is not a securitization exposure, the exposure amount shall be no greater than the maximum contractual amount of the commitment, repurchase agreement, or credit-enhancing representation and warranty, as applicable.

(5) The exposure amount of a System bank's commitment to an association is the difference between the association's maximum credit limit with the System bank (as established by the general financing agreement or promissory note, as required by § 614.4125(d)) and the amount the association has borrowed from the System bank.

(b) *Credit conversion factors*—(1) *Zero-percent (0%) CCF.* A System institution must apply a 0-percent CCF to the unused portion of a commitment that is unconditionally cancelable by the System institution.

(2) *Twenty-percent (20%) CCF.* A System institution must apply a 20-percent CCF to the amount of:

(i) Commitments with an original maturity of 14 months or less that are not unconditionally cancelable by the System institution.

(ii) Self-liquidating, trade-related contingent items that arise from the movement of goods, with an original maturity of 14 months or less.

(3) *Fifty-percent (50%) CCF.* A System institution must apply a 50-percent CCF to the amount of:

(i) Commitments with an original maturity of more than 14 months that are not unconditionally cancelable by the System institution.

(ii) Transaction-related contingent items, including performance bonds, bid bonds, warranties, and performance standby letters of credit.

(4) *One hundred-percent (100%) CCF.* A System institution must apply a 100-percent CCF to the following off-balance sheet items and other similar transactions:

(i) Guarantees;

(ii) Repurchase agreements (the off-balance sheet component of which equals the sum of the current fair values of all positions the System institution has sold subject to repurchase);

(iii) Credit-enhancing representations and warranties that are not securitization exposures;

(iv) Off-balance sheet securities lending transactions (the off-balance sheet component of which equals the sum of the current fair values of all positions the System institution has lent under the transaction);

(v) Off-balance sheet securities borrowing transactions (the off-balance sheet component of which equals the sum of the current fair values of all non-cash positions the System institution has posted as collateral under the transaction);

(vi) Financial standby letters of credit; and

(vii) Forward agreements.

§ 628.34 OTC derivative contracts.

(a) *Exposure amount*—(1) *Single OTC derivative contract.* Except as modified by paragraph (b) of this section, the exposure amount for a single OTC derivative contract that is not subject to a qualifying master netting agreement is equal to the sum of the System institution's current credit exposure and potential future credit exposure (PFE) on the OTC derivative contract.

(i) *Current credit exposure.* The current credit exposure for a single OTC derivative contract is the greater of the mark-to-fair value of the OTC derivative contract or 0.

(ii) *PFE.* (A) The PFE for a single OTC derivative contract, including an OTC derivative contract with a negative mark-to-fair value, is calculated by multiplying the notional principal amount of the OTC derivative contract by the appropriate conversion factor in Table 1 to § 628.34.

(B) For purposes of calculating either the PFE under this paragraph or the gross PFE under paragraph (a)(2) of this section for exchange rate contracts and other similar contracts in which the notional principal amount is equivalent to the cash flows, notional principal amount is the net receipts to each party falling due on each value date in each currency.

(C) For an OTC derivative contract that does not fall within one of the specified categories in Table 1 to § 628.34, the PFE must be calculated using the appropriate ''other'' conversion factor.

(D) A System institution must use an OTC derivative contract's effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the OTC derivative contract) rather than the apparent or stated notional principal amount in calculating PFE.

(E) The PFE of the protection provider of a credit derivative is capped at the net present value of the amount of unpaid premiums.

TABLE 1 TO § 628.34—CONVERSION FACTOR MATRIX FOR DERIVATIVE CONTRACTS [1]

Remaining maturity [2]	Interest rate	Foreign exchange rate and gold	Credit (investment grade reference asset) [3]	Credit (non-investment grade reference asset)	Equity	Precious metals (except gold)	Other
One (1) year or less	0.00	0.01	0.05	0.10	0.06	0.07	0.10
Greater than one (1) year and less than or equal to five (5) years	0.005	0.05	0.05	0.10	0.08	0.07	0.12
Greater than five (5) years	0.015	0.075	0.05	0.10	0.10	0.08	0.15

[1] For a derivative contract with multiple exchanges of principal, the conversion factor is multiplied by the number of remaining payments in the derivative contract.

[2] For an OTC derivative contract that is structured such that on specified dates any outstanding exposure is settled and the terms are reset so that the fair value of the contract is 0, the remaining maturity equals the time until the next reset date. For an interest rate derivative contract with a remaining maturity of greater than 1 year that meets these criteria, the minimum conversion factor is 0.005.

[3] A System institution must use the column labeled ''Credit (investment-grade reference asset)'' for a credit derivative whose reference asset is an outstanding unsecured long-term debt security without credit enhancement that is investment grade. A System institution must use the column labeled ''Credit (non-investment-grade reference asset)'' for all other credit derivatives.

(2) *Multiple OTC derivative contracts subject to a qualifying master netting agreement.* Except as modified by paragraph (b) of this section, the exposure amount for multiple OTC derivative contracts subject to a qualifying master netting agreement is equal to the sum of the net current credit exposure and the adjusted sum of the PFE amounts for all OTC derivative contracts subject to the qualifying master netting agreement.

(i) *Net current credit exposure.* The net current credit exposure is the greater of the net sum of all positive and negative mark-to-fair values of the individual OTC derivative contracts subject to the qualifying master netting agreement or 0.

(ii) *Adjusted sum of the PFE amounts.* The adjusted sum of the PFE amounts, Anet, is calculated as

$A_{net} = (0.4 \times A_{gross}) + (0.6 \times NGR \times A_{gross})$, where:

(A) A_{gross} = the gross PFE (that is, the sum of the PFE amounts (as determined under paragraph (a)(1)(ii) of this section for each individual derivative contract subject to the qualifying master netting agreement); and

(B) Net-to-gross Ratio (NGR) = the ratio of the net current credit exposure to the gross current credit exposure. In calculating the NGR, the gross current credit exposure equals the sum of the positive current credit exposures (as determined under paragraph (a)(1)(i) of this section) of all individual derivative contracts subject to the qualifying master netting agreement.

(b) *Recognition of credit risk mitigation of collateralized OTC derivative contracts.* (1) A System institution may recognize the credit risk mitigation benefits of financial collateral that secures an OTC derivative contract or multiple OTC derivative contracts subject to a qualifying master netting agreement (netting set) by using the simple approach in § 628.37(b).

(2) Alternatively, if the financial collateral securing a contract or netting set described in paragraph (b)(1) of this section is marked-to-fair value on a daily basis and subject to a daily margin maintenance requirement, a System institution may recognize the credit risk mitigation benefits of financial collateral that secures the contract or netting set by using the collateral haircut approach in § 628.37(c).

(c) *Counterparty credit risk for OTC credit derivatives*—(1) *Protection purchasers.* A System institution that purchases an OTC credit derivative that is recognized under § 628.36 as a credit risk mitigant is not required to compute a separate counterparty credit risk capital requirement under § 628.32 provided that the System institution does so consistently for all such credit derivatives. The System institution must either include all or exclude all such credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

(2) *Protection providers.* (i) A System institution that is the protection provider under an OTC credit derivative must treat the OTC credit derivative as an exposure to the underlying reference asset. The System institution is not required to compute a counterparty credit risk capital requirement for the OTC credit derivative under § 628.32, provided that this treatment is applied consistently for all such OTC credit derivatives. The System institution must either include all or exclude all such OTC credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure.

(ii) The provisions of paragraph (c)(2) of this section apply to all relevant counterparties for risk-based capital purposes.

(d) *Counterparty credit risk for OTC equity derivatives.* (1) A System institution must treat an OTC equity derivative contract as an equity exposure and compute a risk-weighted asset amount for the OTC equity derivative contract under §§ 628.51 through 628.53.

(2) [Reserved]

(3) If the System institution risk weights the contract under the Simple Risk-Weight Approach (SRWA) in § 628.52, the System institution may choose not to hold risk-based capital against the counterparty credit risk of the OTC equity derivative contract, as long as it does so for all such contracts. Where the OTC equity derivative contracts are subject to a qualified master netting agreement, a System institution using the SRWA must either include all or exclude all of the contracts from any measure used to determine counterparty credit risk exposure.

(e) [Reserved]

§ 628.35 Cleared transactions.

(a) *General requirements*—(1) *Clearing member clients.* A System institution that is a clearing member client must use the methodologies described in paragraph (b) of this section to calculate risk-weighted assets for a cleared transaction.

(2) [Reserved]

(b) *Clearing member client System institutions*—(1) *Risk-weighted assets for cleared transactions.* (i) To determine the risk-weighted asset amount for a cleared transaction, a System institution that is a clearing member client must multiply the trade exposure amount for the cleared transaction, calculated in accordance with paragraph (b)(2) of this section, by the risk weight appropriate for the cleared transaction, determined in accordance with paragraph (b)(3) of this section.

(ii) A clearing member client System institution's total risk-weighted assets for cleared transactions is the sum of the risk-weighted asset amounts for all its cleared transactions.

(2) *Trade exposure amount.* (i) For a cleared transaction that is either a derivative contract or netting set of derivative contracts, the trade exposure amount equals:

(A) The exposure amount for the derivative contract or netting set of derivative contracts, calculated using the current exposure method (CEM) for OTC derivative contracts under § 628.34, plus

(B) The fair value of the collateral posted by the clearing member client System institution and held by the central counterparty (CCP), clearing member, or custodian in a manner that is not bankruptcy remote.

(ii) For a cleared transaction that is a repo-style transaction, the trade exposure amount equals:

(A) The exposure amount for the repo-style transaction calculated using the collateral haircut methodology under § 628.37(c), plus

(B) The fair value of the collateral posted by the clearing member client System institution and held by the CCP or a clearing member in a manner that is not bankruptcy remote.

(3) *Cleared transaction risk weights.* (i) For a cleared transaction with a qualifying CCP (QCCP), a clearing member client System institution must apply a risk weight of:

(A) Two (2) percent if the collateral posted by the System institution to the QCCP or clearing member is subject to an arrangement that prevents any losses to the clearing member client System institution due to the joint default or a concurrent insolvency, liquidation, or receivership proceeding of the clearing member and any other clearing member clients of the clearing member; and the clearing member client System institution has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that in the event of a legal challenge (including one resulting from default or from liquidation, insolvency, or receivership proceeding) the relevant court and administrative authorities would find the arrangements to be legal, valid, binding and enforceable under the law of the relevant jurisdictions; or

(B) Four (4) percent if the requirements of paragraph (b)(3)(i)(A) of this section are not met.

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client System institution must apply the risk weight appropriate for the CCP according to § 628.32.

(4) *Collateral.* (i) Notwithstanding any other requirements in this section, collateral posted by a clearing member client System institution that is held by a custodian (in its capacity as custodian) in a manner that is bankruptcy remote from the CCP, the custodian, clearing member and other clearing member clients of the clearing member, is not subject to a capital requirement under this section.

(ii) A clearing member client System institution must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member, or custodian in connection with a cleared transaction in accordance with the requirements under § 628.32.

(c) [Reserved]

(d) [Reserved]

§ 628.36 Guarantees and credit derivatives: substitution treatment.

(a) *Scope*—(1) *General.* A System institution may recognize the credit risk mitigation benefits of an eligible guarantee or eligible credit derivative by substituting the risk weight associated with the protection provider for the risk weight assigned to an exposure, as provided under this section.

(2) This section applies to exposures for which:

(i) Credit risk is fully covered by an eligible guarantee or eligible credit derivative; or

(ii) Credit risk is covered on a pro rata basis (that is, on a basis in which the System institution and the protection provider share losses proportionately) by an eligible guarantee or eligible credit derivative.

(3) Exposures on which there is a tranching of credit risk (reflecting at least two different levels of seniority) generally are securitization exposures subject to §§ 628.41 through 628.45.

(4) If multiple eligible guarantees or eligible credit derivatives cover a single exposure described in this section, a System institution may treat the hedged exposure as multiple separate exposures each covered by a single eligible guarantee or eligible credit derivative and may calculate a separate risk-weighted asset amount for each separate exposure as described in paragraph (c) of this section.

(5) If a single eligible guarantee or eligible credit derivative covers multiple hedged exposures described in paragraph (a)(2) of this section, a System institution must treat each hedged exposure as covered by a separate eligible guarantee or eligible credit derivative and must calculate a separate risk-weighted asset amount for each exposure as described in paragraph (c) of this section.

(b) *Rules of recognition.* (1) A System institution may only recognize the credit risk mitigation benefits of eligible guarantees and eligible credit derivatives.

(2) A System institution may only recognize the credit risk mitigation benefits of an eligible credit derivative to hedge an exposure that is different from the credit derivative's reference exposure used for determining the derivative's cash settlement value,

deliverable obligation, or occurrence of a credit event if:

(i) The reference exposure ranks *pari passu* with, or is subordinated to, the hedged exposure; and

(ii) The reference exposure and the hedged exposure are to the same legal entity, and legally enforceable cross-default or cross-acceleration clauses are in place to ensure payments under the credit derivative are triggered when the obligated party of the hedged exposure fails to pay under the terms of the hedged exposure.

(c) *Substitution approach*—(1) *Full coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is greater than or equal to the exposure amount of the hedged exposure, a System institution may recognize the guarantee or credit derivative in determining the risk-weighted asset amount for the hedged exposure by substituting the risk weight applicable to the guarantor or credit derivative protection provider under § 628.32 for the risk weight assigned to the exposure.

(2) *Partial coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in §§ 628.36(a) and 628.37(b) and the protection amount (P) of the guarantee or credit derivative is less than the exposure amount of the hedged exposure, the System institution must treat the hedged exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the guarantee or credit derivative.

(i) The System institution may calculate the risk-weighted asset amount for the protected exposure under § 628.32, where the applicable risk weight is the risk weight applicable to the guarantor or credit derivative protection provider.

(ii) The System institution must calculate the risk-weighted asset amount for the unprotected exposure under § 628.32, where the applicable risk weight is that of the unprotected portion of the hedged exposure.

(iii) The treatment provided in this section is applicable when the credit risk of an exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the guarantee or credit derivative under paragraphs (d), (e), or (f) of this section.

(d) *Maturity mismatch adjustment.* (1) A System institution that recognizes an eligible guarantee or eligible credit derivative in determining the risk-weighted asset amount for a hedged exposure must adjust the effective notional amount of the credit risk mitigant to reflect any maturity mismatch between the hedged exposure and the credit risk mitigant.

(2) A maturity mismatch occurs when the residual maturity of a credit risk mitigant is less than that of the hedged exposure(s).

(3) The residual maturity of a hedged exposure is the longest possible remaining time before the obligated party of the hedged exposure is scheduled to fulfill its obligation on the hedged exposure. If a credit risk mitigant has embedded options that may reduce its term, the System institution (protection purchaser) must use the shortest possible residual maturity for the credit risk mitigant. If a call is at the discretion of the protection provider, the residual maturity of the credit risk mitigant is at the first call date. If the call is at the discretion of the System institution (protection purchaser), but the terms of the arrangement at origination of the credit risk mitigant contain a positive incentive for the System institution to call the transaction before contractual maturity, the remaining time to the first call date is the residual maturity of the credit risk mitigant.

(4) A credit risk mitigant with a maturity mismatch may be recognized only if its original maturity is greater than or equal to 1 year and its residual maturity is greater than 3 months.

(5) When a maturity mismatch exists, the System institution must apply the following adjustment to reduce the effective notional amount of the credit risk mitigant: $P_m = E \times [(t - 0.25)/(T - 0.25)]$,

where:

(i) P_m = effective notional amount of the credit risk mitigant, adjusted for maturity mismatch;

(ii) E = effective notional amount of the credit risk mitigant;

(iii) t = the lesser of T or the residual maturity of the credit risk mitigant, expressed in years; and

(iv) T = the lesser of 5 or the residual maturity of the hedged exposure, expressed in years.

(e) *Adjustment for credit derivatives without restructuring as a credit event.* If a System institution recognizes an eligible credit derivative that does not include as a credit event a restructuring of the hedged exposure involving forgiveness or postponement of principal, interest, or fees that results in a credit loss event (that is, a charge-off, specific provision, or other similar debit to the profit and loss account), the System institution must apply the following adjustment to reduce the effective notional amount of the credit derivative: $P_r = P_m \times 0.60$,

where:

(1) P_r = effective notional amount of the credit risk mitigant, adjusted for lack of restructuring event (and maturity mismatch, if applicable); and

(2) P_m = effective notional amount of the credit risk mitigant (adjusted for maturity mismatch, if applicable).

(f) *Currency mismatch adjustment.* (1) If a System institution recognizes an eligible guarantee or eligible credit derivative that is denominated in a currency different from that in which the hedged exposure is denominated, the System institution must apply the following formula to the effective notional amount of the guarantee or credit derivative: $P_c = P_r \times (1 - H_{fx})$,

where:

(i) P_c = effective notional amount of the credit risk mitigant, adjusted for currency mismatch (and maturity mismatch and lack of restructuring event, if applicable);

(ii) P_r = effective notional amount of the credit risk mitigant (adjusted for maturity mismatch and lack of restructuring event, if applicable); and

(iii) H_{fx} = haircut appropriate for the currency mismatch between the credit risk mitigant and the hedged exposure.

(2) A System institution must set H_{fx} equal to 8 percent.

(3) A System institution must adjust H_{fx} calculated in paragraph (f)(2) of this section upward if the System institution revalues the guarantee or credit derivative less frequently than once every 10 business days using the following square root of time formula:

$$H_{FX} = 8\% \sqrt{\frac{T_M}{10}},$$

where T_M equals the greater of 10 or the number of days between revaluation.

§ 628.37 Collateralized transactions.

(a) *General.* (1) To recognize the risk-mitigating effects of financial collateral, a System institution may use:

(i) The simple approach in paragraph (b) of this section for any exposure.

(ii) The collateral haircut approach in paragraph (c) of this section for repo-style transactions, eligible margin loans, collateralized derivative contracts, and single-product netting sets of such transactions.

(2) A System institution may use any approach described in this section that is valid for a particular type of exposure or transaction; however, it must use the same approach for similar exposures or transactions.

(b) *The simple approach*—(1) *General requirements.*

(i) A System institution may recognize the credit risk mitigation benefits of financial collateral that secures any exposure.

(ii) To qualify for the simple approach, the financial collateral must meet the following requirements:

(A) The collateral must be subject to a collateral agreement for at least the life of the exposure;

(B) The collateral must be revalued at least every 6 months; and

(C) The collateral (other than gold) and the exposure must be denominated in the same currency.

(2) *Risk-weight substitution.* (i) A System institution may apply a risk weight to the portion of an exposure that is secured by the fair value of financial collateral (that meets the requirements of paragraph (b)(1) of this section) based on the risk weight assigned to the collateral under § 628.32. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral is the instruments, gold, and cash the System institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. Except as provided in paragraph (b)(3) of this section, the risk weight assigned to the collateralized portion of the exposure may not be less than 20 percent.

(ii) A System institution must apply a risk weight to the unsecured portion of the exposure based on the risk weight assigned to the exposure under this subpart.

(3) *Exceptions to the 20-percent risk-weight floor and other requirements.* Notwithstanding paragraph (b)(2)(i) of this section:

(i) A System institution may assign a 0-percent risk weight to an exposure to an OTC derivative contract that is marked-to-fair on a daily basis and subject to a daily margin maintenance requirement, to the extent the contract is collateralized by cash on deposit.

(ii) A System institution may assign a 10-percent risk weight to an exposure to an OTC derivative contract that is marked-to-fair value daily and subject to a daily margin maintenance requirement, to the extent that the contract is collateralized by an exposure to a sovereign that qualifies for a 0-percent risk weight under § 628.32.

(iii) A System institution may assign a 0-percent risk weight to the collateralized portion of an exposure where:

(A) The financial collateral is cash on deposit; or

(B) The financial collateral is an exposure to a sovereign that qualifies for a 0-percent risk weight under § 628.32, and the System institution has discounted the fair value of the collateral by 20 percent.

(c) *Collateral haircut approach* — (1) *General.* A System institution may recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, repo-style transaction, collateralized derivative contract, or single-product netting set of such transactions by using the standard supervisory haircuts in paragraph (c)(3) of this section.

(2) *Exposure amount equation.* A System institution must determine the exposure amount for an eligible margin loan, repo-style transaction, collateralized derivative contract, or a single-product netting set of such transactions by setting the exposure amount equal to max $\{0, [(\Sigma E—\Sigma C) + \Sigma(E_s \times H_s) + \Sigma(E_{fx} \times H_{fx})]\}$,

where:

(i)(A) For eligible margin loans and repo-style transactions and netting sets thereof, ΣE equals the value of the exposure (the sum of the current fair values of all instruments, gold, and cash the System institution has lent, sold subject to repurchase, or posted as collateral to the counterparty under the transaction (or netting set)); and

(B) For collateralized derivative contracts and netting sets thereof, ΣE equals the exposure amount of the OTC derivative contract (or netting set) calculated under § 628.34(c) or (d).

(ii) ΣC equals the value of the collateral (the sum of the current fair values of all instruments, gold and cash the System institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction (or netting set));

(iii) E_s equals the absolute value of the net position in a given instrument or in gold (where the net position in the instrument or gold equals the sum of the current fair values of the instrument or gold the System institution has lent, sold subject to repurchase, or posted as collateral to the counterparty minus the sum of the current fair values of that same instrument or gold the System institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty);

(iv) H_s equals the fair value price volatility haircut appropriate to the instrument or gold referenced in Es;

(v) E_{fx} equals the absolute value of the net position of instruments and cash in a currency that is different from the settlement currency (where the net position in a given currency equals the sum of the current fair values of any instruments or cash in the currency the System institution has lent, sold subject to repurchase, or posted as collateral to the counterparty minus the sum of the current fair values of any instruments or cash in the currency the System institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty); and

(vi) H_{fx} equals the haircut appropriate to the mismatch between the currency referenced in Efx and the settlement currency.

(3) *Standard supervisory haircuts.* (i) A System institution must use the haircuts for fair value price volatility (Hs) provided in Table 1 to § 628.37, as adjusted in certain circumstances in accordance with the requirements of paragraphs (c)(3)(iii) and (iv) of this section:

TABLE 1 TO § 628.37—STANDARD SUPERVISORY MARKET PRICE VOLATILITY HAIRCUT [1]

Residual maturity	Haircut (in percent) assigned based on						Investment grade securization exposures (in percent)
	Sovereign issuers risk weight under § 628.3 [2]			Non-sovereign issuers risk weight under § 628.32			
	Zero	20% or −50%	100%	20%	50%	100%	
Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	25.0	4%
Greater than 1 years and less than and equal to 5 years	2.0	3.0	15.0	4.0	6.0	25.0	12%
Greater than 5 years	4.0	6.0	15.0	8.0	12.0	25.0	24%
Main index equities (including convertible bonds) and gold				15%			
Other publically traded equities (including convertible bonds)				25%			

TABLE 1 TO § 628.37—STANDARD SUPERVISORY MARKET PRICE VOLATILITY HAIRCUT [1]—Continued

Residual maturity	Haircut (in percent) assigned based on						Investment grade securization exposures (in percent)
	Sovereign issuers risk weight under § 628.3 [2]			Non-sovereign issuers risk weight under § 628.32			
	Zero	20% or −50%	100%	20%	50%	100%	
Mutual funds	Highest haircut applicable to any security in which the fund can invest						
Cash collateral	0%						

[1] The market price volatility haircut in Table 1 to § 628.37 are based on 10-day holding period.
[2] Includes a foreign PSE that receives a 0-percent risk weight.

(ii) For currency mismatches, a System institution must use a haircut for foreign exchange rate volatility (Hfx) of 8 percent, as adjusted in certain circumstances under paragraphs (c)(3)(iii) and (iv) of this section.

(iii) For repo-style transactions, a System institution may multiply the standard supervisory haircuts provided in paragraphs (c)(3)(i) and (ii) of this section by the square root of ½ (which equals 0.707107).

(iv) If the number of trades in a netting set exceeds 5,000 at any time during a quarter, a System institution must adjust the supervisory haircuts provided in paragraphs (c)(3)(i) and (ii) of this section upward on the basis of a holding period of 20 business days for the following quarter except in the calculation of the exposure amount for purposes of § 628.35. If a netting set contains one or more trades involving illiquid collateral or an OTC derivative that cannot be easily replaced, a System institution must adjust the supervisory haircuts upward on the basis of a holding period of 20 business days. If over the 2 previous quarters more than two margin disputes on a netting set have occurred that lasted more than the holding period, then the System institution must adjust the supervisory haircuts upward for that netting set on the basis of a holding period that is at least two times the minimum holding period for that netting set. A System institution must adjust the standard supervisory haircuts upward using the following formula:

$$H_A = H_S \sqrt{\frac{T_M}{T_S}}, \text{ where}$$

where

(A) T_M equals a holding period of longer than 10 business days for eligible margin loans and derivative contracts or longer than 5 business days for repo-style transactions;

(B) H_S equals the standard supervisory haircut; and

(C) T_S equals 10 business days for eligible margin loans and derivative contracts or 5 business days for repo-style transactions.

(v) If the instrument a System institution has lent, sold subject to repurchase, or posted as collateral does not meet the definition of financial collateral in § 628.2, the System institution must use a 25-percent haircut for fair value price volatility (H_s).

(4) [Reserved]

Risk-Weighted Assets for Unsettled Transactions

§ 628.38 Unsettled transactions.

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

(1) Delivery-versus-payment (DvP) transaction means a securities or commodities transaction in which the buyer is obligated to make payment only if the seller has made delivery of the securities or commodities and the seller is obligated to deliver the securities or commodities only if the buyer has made payment.

(2) Payment-versus-payment (PvP) transaction means a foreign exchange transaction in which each counterparty is obligated to make a final transfer of one or more currencies only if the other counterparty has made a final transfer of one or more currencies.

(3) A transaction has a normal settlement period if the contractual settlement period for the transaction is equal to or less than the fair value standard for the instrument underlying the transaction and equal to or less than 5 business days.

(4) Positive current exposure of a System institution for a transaction is the difference between the transaction value at the agreed settlement price and the current fair value price of the transaction, if the difference results in a credit exposure of the System institution to the counterparty.

(b) *Scope.* This section applies to all transactions involving securities, foreign exchange instruments, and commodities that have a risk of delayed settlement or delivery. This section does not apply to:

(1) Cleared transactions that are marked-to-fair value daily and subject to daily receipt and payment of variation margin;

(2) Repo-style transactions, including unsettled repo-style transactions;

(3) One-way cash payments on OTC derivative contracts; or

(4) Transactions with a contractual settlement period that is longer than the normal settlement period (which are treated as OTC derivative contracts as provided in § 628.34).

(c) *System-wide failures.* In the case of a system-wide failure of a settlement, clearing system or central counterparty, the FCA may waive risk-based capital requirements for unsettled and failed transactions until the situation is rectified.

(d) *Delivery-versus-payment (DvP) and payment-versus-payment (PvP) transactions.* A System institution must hold risk-based capital against any DvP or PvP transaction with a normal settlement period if the System institution's counterparty has not made delivery or payment within 5 business days after the settlement date. The System institution must determine its risk-weighted asset amount for such a transaction by multiplying the positive current exposure of the transaction for the System institution by the appropriate risk weight in Table 1 to § 628.38.

TABLE 1 TO § 628.38—RISK WEIGHTS FOR UNSETTLED DVP AND PVP TRANSACTIONS

Number of business days after contractual settlement date	Risk weight to be applied to positive current exposure (in percent)
From 5 to 15	100.0
From 16 to 30	625.0
From 31 to 45	937.5

TABLE 1 TO § 628.38—RISK WEIGHTS FOR UNSETTLED DVP AND PVP TRANSACTIONS—Continued

Number of business days after contractual settlement date	Risk weight to be applied to positive current exposure (in percent)
46 or more	1,250.0

(e) *Non-DvP/non-PvP (non-delivery-versus-payment/non-payment-versus-payment) transactions.* (1) A System institution must hold risk-based capital against any non-DvP/non-PvP transaction with a normal settlement period if the System institution has delivered cash, securities, commodities, or currencies to its counterparty but has not received its corresponding deliverables by the end of the same business day. The System institution must continue to hold risk-based capital against the transaction until the System institution has received its corresponding deliverables.

(2) From the business day after the System institution has made its delivery until 5 business days after the counterparty delivery is due, the System institution must calculate the risk-weighted asset amount for the transaction by treating the current fair value of the deliverables owed to the System institution as an exposure to the counterparty and using the applicable counterparty risk weight under § 628.32.

(3) If the System institution has not received its deliverables by the 5th business day after counterparty delivery was due, the System institution must assign a 1,250-percent risk weight to the current fair value of the deliverables owed to the System institution.

(f) *Total risk-weighted assets for unsettled transactions.* Total risk-weighted assets for unsettled transactions is the sum of the risk-weighted asset amounts of all DvP, PvP, and non- DvP/non-PvP transactions. ≤ §§ 628.39 through 628.40 [Reserved]

Risk-Weighted Assets for Securitization Exposures

§ 628.41 Operational requirements for securitization exposures.

(a) *Operational criteria for traditional securitizations.* A System institution that transfers exposures it has originated or purchased to a third party in connection with a traditional securitization may exclude the exposures from the calculation of its risk-weighted assets only if each condition in this section is satisfied. A System institution that meets these conditions must hold risk-based capital against any credit risk it retains in connection with the securitization. A System institution that fails to meet these conditions must hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from CET1 capital, pursuant to § 628.22, any after-tax gain-on-sale resulting from the transaction. The conditions are:

(1) The exposures are not reported on the System institution's consolidated balance sheet under GAAP;

(2) The System institution has transferred to one or more third parties credit risk associated with the underlying exposures;

(3) Any clean-up calls relating to the securitization are eligible clean-up calls; and

(4) The securitization does not:

(i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and

(ii) Contain an early amortization provision.

(b) *Operational criteria for synthetic securitizations.* For synthetic securitizations, a System institution may recognize for risk-based capital purposes the use of a credit risk mitigant to hedge underlying exposures only if each condition in this paragraph is satisfied. A System institution that meets these conditions must hold risk-based capital against any credit risk of the exposures it retains in connection with the synthetic securitization. A System institution that fails to meet these conditions or chooses not to recognize the credit risk mitigant for purposes of this section must instead hold risk-based capital against the underlying exposures as if they had not been synthetically securitized. The conditions are:

(1) The credit risk mitigant is:

(i) Financial collateral;

(ii) A guarantee that meets all criteria set forth in the definition of ''eligible guarantee'' in § 628.2, except for the criteria in paragraph (3) of that definition; or

(iii) A credit derivative that meets all criteria as set forth in the definition of ''eligible credit derivative'' in § 628.2, except for the criteria in paragraph (3) of the definition of ''eligible guarantee'' in § 628.2.

(2) The System institution transfers credit risk associated with the underlying exposures to one or more third parties, and the terms and conditions in the credit risk mitigants employed do not include provisions that:

(i) Allow for the termination of the credit protection due to deterioration in the credit quality of the underlying exposures;

(ii) Require the System institution to alter or replace the underlying exposures to improve the credit quality of the pool of underlying exposures;

(iii) Increase the System institution's cost of credit protection in response to deterioration in the credit quality of the underlying exposures;

(iv) Increase the yield payable to parties other than the System institution in response to a deterioration in the credit quality of the underlying exposures; or

(v) Provide for increases in a retained first loss position or credit enhancement provided by the System institution after the inception of the securitization;

(3) The System institution obtains a well-reasoned opinion from legal counsel that confirms the enforceability of the credit risk mitigant in all relevant jurisdictions; and

(4) Any clean-up calls relating to the securitization are eligible clean-up calls.

(c) *Due diligence requirements.* (1) Except for exposures that are deducted from CET1 capital (pursuant to § 628.22) and exposures subject to § 628.42(h), if a System institution is unable to demonstrate to the satisfaction of the FCA a comprehensive understanding of the features of a securitization exposure that would materially affect the performance of the exposure, the System institution must assign the securitization exposure a risk weight of 1,250 percent. The System institution's analysis must be commensurate with the complexity of the securitization exposure and the materiality of the exposure in relation to its capital.

(2) A System institution must demonstrate its comprehensive understanding of a securitization exposure under paragraph (c)(1) of this section for each securitization exposure by:

(i) Conducting an analysis of the risk characteristics of a securitization exposure prior to acquiring the exposure, and documenting such analysis within 3 business days after acquiring the exposure, considering:

(A) Structural features of the securitization that would materially impact the performance of the exposure, for example, the contractual cash flow waterfall, waterfall-related triggers, credit enhancements, liquidity enhancements, fair value triggers, the performance of organizations that service the exposure, and deal-specific definitions of default;

(B) Relevant information regarding the performance of the underlying credit

exposure(s), for example, the percentage of loans 30, 60, and 90 days past due; default rates; prepayment rates; loans in foreclosure; property types; occupancy; average credit score or other measures of creditworthiness; average loan-to-value (LTV) ratio; and industry and geographic diversification data on the underlying exposure(s);

(C) Relevant market data of the securitization, for example, bid-ask spread, most recent sales price and historic price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the securitization; and

(D) For resecuritization exposures, performance information on the underlying securitization exposures, for example, the issuer name and credit quality, and the characteristics and performance of the exposures; and

(ii) On an on-going basis (no less frequently than quarterly), evaluating, reviewing, and updating as appropriate the analysis required under paragraph (c)(1) of this section for each securitization exposure.

§ 628.42 Risk-weighted assets for securitization exposures.

(a) *Securitization risk weight approaches.* Except as provided elsewhere in this section or in § 628.41:

(1) A System institution must deduct from CET1 capital any after-tax gain-on-sale resulting from a securitization (as provided in § 628.22) and must apply a 1,250-percent risk weight to the portion of a credit-enhancing interest-only strip (CEIO) that does not constitute after-tax gain-on-sale.

(2) If a securitization exposure does not require deduction under paragraph (a)(1) of this section, a System institution may assign a risk weight to the securitization exposure using the simplified supervisory formula approach (SSFA) in accordance with § 628.43(a) through (d) and subject to the limitation under § 628.42(e). Alternatively, a System institution may assign a risk weight to the purchased securitization exposure using the gross-up approach in accordance with § 628.43(e), provided however, that such System institution must apply either the SSFA or the gross-up approach consistently across all of its securitization exposures, except as provided in paragraphs (a)(1), (a)(3), and (a)(4) of this section.

(3) If a securitization exposure does not require deduction under paragraph (a)(1) of this section and the System institution cannot or chooses not to apply the SSFA or the gross-up approach to the exposure, the System institution must assign a risk weight to the exposure as described in § 628.44.

(4) If a securitization exposure is a derivative contract (other than protection provided by a System institution in the form of a credit derivative) that has a first priority claim on the cash flows from the underlying exposures (notwithstanding amounts due under interest rate or currency derivative contracts, fees due, or other similar payments), a System institution may choose to set the risk-weighted asset amount of the exposure equal to the amount of the exposure as determined in paragraph (c) of this section.

(b) *Total risk-weighted assets for securitization exposures.* A System institution's total risk-weighted assets for securitization exposures equals the sum of the risk-weighted asset amount for securitization exposures that the System institution risk weights under §§ 628.41(c), 628.42(a)(1), and 628.43, 628.44, or 628.45, except as provided in § 628.42(e) through (j) of this section, as applicable.

(c) *Exposure amount of a securitization exposure.*

(1) [Reserved]

(2) *On-balance sheet securitization exposures (available-for-sale or held-to-maturity securities).* The exposure amount of an on-balance sheet securitization exposure that is an available-for-sale or held-to-maturity security is the System institution's carrying value (including net accrued but unpaid interest and fees), less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

(3) *Off-balance sheet securitization exposures.* (i) Except as provided in paragraph (j) of this section, the exposure amount of an off-balance sheet securitization that is not a repo-style transaction, an eligible margin loan, a cleared transaction (other than a credit derivative), or an OTC derivative contract (other than a credit derivative) is the notional amount of the exposure.

(ii) [Reserved]

(iii) [Reserved]

(4) *Repo-style transactions, eligible margin loans, and derivative contracts.* The exposure amount of a securitization exposure that is a repo-style transaction, an eligible margin loan, or a derivative contract (other than a credit derivative) is the exposure amount of the transaction as calculated under § 628.34 or § 628.37 as applicable.

(d) *Overlapping exposures.* If a System institution has multiple securitization exposures that provide duplicative coverage to the underlying exposures of a securitization, the System institution is not required to hold duplicative risk-based capital against the overlapping position. Instead, the System institution may apply to the overlapping position the applicable risk-based capital treatment that results in the highest risk-based capital requirement.

(e) *Implicit support.* If a System institution provides support to a securitization in excess of the System institution's contractual obligation to provide credit support to the securitization (implicit support):

(1) The System institution must include in risk-weighted assets all of the underlying exposures associated with the securitization as if the exposures had not been securitized and must deduct from CET1 capital (pursuant to § 628.22) any after-tax gain-on-sale resulting from the securitization; and

(2) The System institution must disclose publicly:

(i) That it has provided implicit support to the securitization; and

(ii) The risk-based capital impact to the System institution of providing such implicit support.

(f) *Undrawn portion of an eligible servicer cash advance facility.* (1) Notwithstanding any other provision of this subpart, a System institution that is a servicer under an eligible servicer cash advance facility is not required to hold risk-based capital against potential future cash advance payments that it may be required to provide under the contract governing the facility.

(2) For a System institution that acts as a servicer, the exposure amount for a servicer cash advance facility that is not an eligible cash advance facility is equal to the amount of all potential future cash payments that the System institution may be contractually required to provide during the subsequent 12-month period under the governing facility.

(g) *Interest-only mortgage-backed securities.* Regardless of any other provisions of this subpart, the risk weight for a non-credit-enhancing interest-only mortgage-backed security may not be less than 100 percent.

(h) *Small-business loans and leases on personal property transferred with retained contractual exposure.* (1) Regardless of any other provisions of this subpart, a System institution that has transferred small-business loans and leases on personal property (small-business obligations) must include in risk-weighted assets only its contractual exposure to the small-business obligations if all the following conditions are met:

(i) The transaction must be treated as a sale under GAAP.

(ii) The System institution establishes and maintains, pursuant to GAAP, a non-capital reserve sufficient to meet the System institution's reasonably estimated liability under the contractual obligation.

(iii) The small business obligations are to businesses that meet the criteria for a small-business concern established by the Small Business Administration under section 3(a) of the Small Business Act.

(iv) [Reserved]

(2) The total outstanding amount of contractual exposure retained by a System institution on transfers of small-business obligations receiving the capital treatment specified in paragraph (h)(1) of this section cannot exceed 15 percent of the System institution's total capital.

(3) If a System institution exceeds the 15-percent capital limitation provided in paragraph (h)(2) of this section, the capital treatment under paragraph (h)(1) of this section will continue to apply to any transfers of small-business obligations with retained contractual exposure that occurred during the time that the System institution did not exceed the capital limit.

(4) [Reserved]

(i) [Reserved]; and

(ii) [Reserved]

(i) *N^{th}-to-default credit derivatives.* (1) *Protection provider.* A System institution must assign a risk weight to an Nth-to-default credit derivative in accordance with FCA guidance.

(2) [Reserved]

(3) [Reserved]

(4) *Protection purchaser* — (i) *First-to-default credit derivatives.* A System institution that obtains credit protection on a group of underlying exposures through a first-to-default credit derivative that meets the rules of recognition of § 628.36(b) must determine its risk-based capital requirement for the underlying exposures as if the System institution synthetically securitized the underlying exposure with the smallest risk-weighted asset amount and had obtained no credit risk mitigant on the other underlying exposures. A System institution must calculate a risk-based capital requirement for counterparty credit risk according to § 628.34 for a first-to-default credit derivative that does not meet the rules of recognition of § 628.36(b).

(ii) *Second-or-subsequent-to-default credit derivatives.* (A) A System institution that obtains credit protection on a group of underlying exposures through a Nth-to-default credit derivative that meets the rules of recognition of § 628.36(b) (other than a first-to-default credit derivative) may recognize the credit risk mitigation benefits of the derivative only if:

(*1*) The System institution also has obtained credit protection on the same underlying exposures in the form of first-through-(n-1)-to-default credit derivatives; or

(*2*) If n-1 of the underlying exposures have already defaulted.

(B) If a System institution satisfies the requirements of paragraph (i)(4)(ii)(A) of this section, the System institution must determine its risk-based capital requirement for the underlying exposures as if the System institution had only symetically securitized the underlying exposure with the Nth smallest risk-weighted asset amount and had obtained no credit risk mitigant on the underlying exposures.

(C) A System institution must calculate a risk-based capital requirement for counterparty credit risk according to § 628.34 for a Nth -to-default credit derivative that does not meet the rules of recognition of § 628.36(b).

(j) *Guarantees and credit derivatives other than N^{th} - to-default credit derivatives* — (1) *Protection provider.* For a guarantee or credit derivative (other than an Nth-to-default credit derivative) provided by a System institution that covers the full amount or a pro rata share of a securitization exposure's principal and interest, the System institution must risk weight the guarantee or credit derivative in accordance with FCA guidance.

(2) *Protection purchaser.* (i) A System institution that purchases a guarantee or OTC credit derivative (other than an Nth -to-default credit derivative) that is recognized under § 628.45 as a credit risk mitigant (including via collateral recognized under § 628.37) is not required to compute a separate credit risk capital requirement under § 628.31, in accordance with § 628.34(c).

(ii) If a System institution cannot, or chooses not to, recognize a purchased credit derivative as a credit risk mitigant under § 628.45, the System institution must determine the exposure amount of the credit derivative under § 628.34.

(A) If the System institution purchases credit protection from a counterparty that is not a securitization special purpose entity (SPE), the System institution must determine the risk weight for the exposure according to general risk weights under § 628.32.

(B) If the System institution purchases the credit protection from a counterparty that is a securitization SPE, the System institution must determine the risk weight for the exposure according to § 628.42, including § 628.42(a)(4) for a credit derivative that has a first priority claim on the cash flows from the underlying exposures of the securitization SPE (notwithstanding amounts due under interest rate or currency derivative contracts, fees due, or other similar payments).

§ 628.43 Simplified supervisory formula approach (SSFA) and the gross-up approach.

(a) *General requirements for the SSFA.* To use the SSFA to determine the risk weight for a securitization exposure, a System institution must have data that enables it to assign accurately the parameters described in paragraph (b) of this section. Data used to assign the parameters described in paragraph (b) of this section must be the most currently available data; if the contract governing the underlying exposures of the securitization require payment on a monthly or quarterly basis, the data used to assign the parameters described in paragraph (b) of this section must be no more than 91 calendar days old. A System institution that does not have the appropriate data to assign the parameters described in paragraph (b) of this section must assign a risk weight of 1,250 percent to the exposure.

(b) *SSFA parameters.* To calculate the risk weight for a securitization exposure using the SSFA, a System institution must have accurate information on the following five inputs to the SSFA calculation:

(1) K_G is the weighted-average (with unpaid principal used as the weight for each exposure) total capital requirement of the underlying exposures calculated using this subpart. K_G is expressed as a decimal value between 0 and 1 (that is, an average risk weight of 100 percent represents a value of K_G equal to .08).

(2) Parameter *W* is expressed as a decimal value between 0 and 1. Parameter *W* is the ratio of the sum of the dollar amounts of any underlying exposures within the securitized pool that meet any of the criteria as set forth in paragraphs (b)(2)(i) through (vi) of this section to the balance, measured in dollars, of underlying exposures:

(i) Ninety (90) days or more past due;

(ii) Subject to a bankruptcy or insolvency proceeding;

(iii) In the process of foreclosure;

(iv) Held as real estate owned;

(v) Has contractually deferred interest payments for 90 days or more, other than principal or interest payments deferred on:

(A) Federally guaranteed student loans, in accordance with the terms of those guarantee programs; or

(B) Consumer loans, including non-federally guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for periods(s) of deferral that are not initiated based on changes in the creditworthiness of the borrower; or

(vi) Is in default.

(3) Parameter *A* is the attachment point for the exposure, which represents the threshold at which credit losses will first be allocated to the exposure. Except as provided in § 628.42(i) for n^{th} –to-default credit derivatives, parameter *A* equals the ratio of the current dollar amount of underlying exposures that are subordinated to the exposure of the System institution to the current dollar amount of underlying exposures. Any reserve account funded by the accumulated cash flows from the underlying exposures that is subordinated to the System institution's securitization exposure may be included in the calculation of parameter *A* to the extent that cash is present in the account. Parameter *A* is expressed as a decimal value between 0 and 1.

(4) Parameter *D* is the detachment point for the exposure, which represents the threshold at which credit losses of principal allocated to the exposure would result in a total loss of principal. Except as provided in § 628.42(i) for n^{th}-to-default credit derivatives, parameter *D* equals parameter *A* plus the ratio of the current dollar amount of the securitization exposures that are *pari passu* with the exposure (that is, have equal seniority with respect to credit risk) to the current dollar amount of the underlying exposures. Parameter *D* is expressed as a decimal value between 0 and 1.

(5) A supervisory calibration parameter, *p,* is equal to 0.5 for securitization exposures that are not resecuritization exposures and equal to 1.5 for resecuritization exposures.

(c) *Mechanics of the SSFA.* K_g and *W* are used to calculate K_A, the augmented value of K_g, which reflects the observed credit quality of the underlying pool of exposures. K_A is defined in paragraph (d) of this section. The values of parameters *A* and *D*, relative to K_A determine the risk weight assigned to a securitization exposure as described in paragraph (d) of this section. The risk weight assigned to a securitization exposure, or portion of a exposure, as appropriate, is the larger of the risk weight determined in accordance with this paragraph (d) of this section and a risk weight of 20 percent.

(1) When the detachment point, parameter *D*, for a securitization exposure is less than or equal to K_A the exposure must be assigned a risk weight of 1,250 percent.

(2) When the attachment point, parameter *A*, for a securitization exposure is greater than or equal to K_A the System institution must calculate the risk weight in accordance with paragraph (d) of this section.

(3) When *A* is less than K_A and *D* is greater than K_A, the risk weight is a weighted average of 1,250 percent and 1,250 percent times K_{SSFA} calculated in accordance with paragraph (d) of this section. For the purpose of this weighted-average calculation:

(i) The weight assigned to 1,250 percent equals $\frac{K_A - A}{D - A}$.

(ii) The weight assigned to 1,250 percent times K_{SSFA} equals $\frac{D - K_A}{D - A}$.

(iii) The risk weight will be set equal to:

$$RW = \left[\left(\frac{K_A - A}{D - A}\right) \times 1{,}250 \text{ percent}\right] + \left[\left(\frac{D - K_A}{D - A}\right) \times 1{,}250 \text{ percent} \times K_{SSFA}\right]$$

(d) *SSFA equation.*

(1) The System institution must define the following parameters:

$$K_A = (1 - W) \times K_G + (0.5 \times W)$$

$$a = \frac{1}{p \times K_A}$$

$$u = D - K_A$$

$$l = max\ (A - K_A, 0)$$

e=2.71828 , the base of the natural logarithms.

(2) Then the System institution must calculate K_{SSFA} according to the following equation:

$$K_{SSFA}=\frac{e^{au}-e^{al}}{a(u\times l)}$$

(3) The risk weight for the exposure (expressed as a percent) is equal to $K_{SSFA} \times 1{,}250$.

(e) *Gross-up approach* — (1) *Applicability.* A System institution may apply the gross-up approach set forth in this section instead of the SSFA to determine the risk weight of its securitization exposures, provided that it applies the gross-up approach to all of its securitization exposures, except as otherwise provided for certain securitization exposures in §§ 628.44 and 628.45.

(2) To use the gross-up approach, a System institution must calculate the following four inputs:

(i) Pro rata share *A*, which is the par value of the System institution's securitization exposure *X* as a percent of the par value of the tranche in which the securitization exposure resides Y; $A=X/Y$ expressed as a percent;

(ii) Enhanced amount *B*, which is the value of tranches that are more senior to the tranche in which the System institution's securitization resides; are more senior to the tranche in which the System institution's securitization resides;

(iii) Exposure amount of the System institution's securitization exposure calculated under § 628.42(c) *C=carrying value of exposure*; and

(iv) Risk weight (*RW*) which is the weighted-average risk weight of underlying exposures in the securitization pool as calculated under this subpart. For example, *RW* for an asset-backed security with underlying car loans would be 100 percent.

(3) *Credit equivalent amount (CEA).* The CEA of a securitization exposure under this section equals the sum of:

(i) The exposure amount *C* of the System institution's securitization exposure, plus

(ii) the pro rata share *A* multiplied by the enhanced amount *B*, each calculated in accordance with paragraph (e)(2) of this section.

$CEA = C + (A \times B)$

(4) *Risk-weighted assets (RWA).* To calculate *RWA* for a securitization exposure under the gross-up approach, a System institution must apply the *RW* calculated under paragraph (e)(2) of this section to the *CEA* calculated in paragraph (e)(3) of this section.

$RWA = RW \times CEA$

(f) *Limitations.* Notwithstanding any other provision of this section, a System institution must assign a risk weight of not less than 20 percent to a securitization exposure.

§ 628.44 Securitization exposures to which the SSFA and gross-up approach do not apply.

(a) *General requirement.* A System institution must assign a 1,250-percent risk weight to all securitization exposures to which the System institution does not apply the SSFA or the gross up approach under § 628.43.

(b) [Reserved]

(c) [Reserved]

§ 628.45 Recognition of credit risk mitigants for securitization exposures.

(a) *General.* (1) An originating System institution that has obtained a credit risk mitigant to hedge its exposure to a synthetic or traditional securitization that satisfies the operational criteria provided in § 628.41 may recognize the credit risk mitigant under §§ 628.36 or 628.37, but only as provided in this section.

(2) An investing System institution that has obtained a credit risk mitigant to hedge a securitization exposure may recognize the credit risk mitigant under §§ 628.36 or 628.37, but only as provided in this section.

(b) *Mismatches.* A System institution must make any applicable adjustment to the protection amount of an eligible guarantee or credit derivative as required in § 628.36(d), (e), and (f) for any hedged securitization exposure. In the context of a synthetic securitization, when an eligible guarantee or eligible credit derivative covers multiple hedged exposures that have different residual maturities, the System institution must use the longest residual maturity of any of the hedged exposures as the residual maturity of all hedged exposures.

§§ 628.46 through 628.50 [Reserved]

Risk-Weighted Assets for Equity Exposures

§ 628.51 Introduction and exposure measurement.

(a) *General.* (1) To calculate its risk-weighted asset amounts for equity exposures that are not equity exposures to an investment fund, a System institution must use the Simple Risk-Weight Approach (SRWA) provided in § 628.52. A System institution must use the look-through approaches provided in § 628.53 to calculate its risk-weighted asset amounts for equity exposures to investment funds.

(2) [Reserved]

(3) [Reserved]

(b) *Adjusted carrying value.* For purposes of §§ 628.51 through 628.53, the adjusted carrying value of an equity exposure is:

(1) For the on-balance sheet component of an equity exposure (other than an equity exposure that is classified as available-for-sale), the System institution's carrying value of the exposure;

(2) For the on-balance sheet component of an equity exposure that is classified as available-for-sale, the System institution's carrying value of the exposure less any net unrealized gains on the exposure that are reflected in such carrying value but excluded from the System institution's regulatory capital components;

(3) For the off-balance sheet component of an equity exposure that is not an equity commitment, the effective notional principal amount of the exposure, the size of which is equivalent to a hypothetical on-balance sheet position in the underlying equity instrument that would evidence the same change in fair value (measured in dollars) given a small change in the price of the underlying equity instrument, minus the adjusted carrying value of the on-balance sheet component of the exposure as calculated in paragraph (b)(1) of this section; and

(4) For a commitment to acquire an equity exposure (an equity commitment), the effective notional principal amount of the exposure is multiplied by the following conversion factors (CFs):

(i) Conditional equity commitments with an original maturity of 14 months or less receive a CF of 20 percent.

(ii) Conditional equity commitments with an original maturity of over 14 months receive a CF of 50 percent.

(iii) Unconditional equity commitments receive a CF of 100 percent.

§ 628.52 Simple risk-weight approach (SRWA).

(a) *General.* Under the SRWA, a System institution's total risk-weighted assets for equity exposures equals the sum of the risk-weighted asset amounts for each of the System institution's individual equity exposures (other than equity exposures to an investment fund) as determined under this section and the risk-weighted asset amounts for each of the System institution's individual equity exposures to an investment fund as determined under § 628.53.

(b) *SRWA computation for individual equity exposures.* A System institution must determine the risk-weighted asset amount for an individual equity

exposure (other than an equity exposure to an investment fund) by multiplying the adjusted carrying value of the equity exposure or the effective portion and ineffective portion of a hedge pair (as defined in paragraph (c) of this section) by the lowest applicable risk weight in this paragraph.

(1) *Zero-percent (0%) risk weight equity exposures.* An equity exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, an MDB, and any other entity whose credit exposures receive a 0-percent risk weight under § 628.32 may be assigned a 0-percent risk weight.

(2) *Twenty-percent (20%) risk weight equity exposures.* An equity exposure to a PSE or the Federal Agricultural Mortgage Corporation (Farmer Mac) must be assigned a 20-percent risk weight.

(3) *One hundred-percent (100%) risk weight equity exposures.* The equity exposures set forth in this paragraph (b)(3) must be assigned a 100-percent risk weight:

(i) *Certain equity exposures authorized under § 615.5140(e) of this chapter.* An equity exposure that the FCA has authorized pursuant to § 615.5140(e) for a purpose other than those specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations) of this chapter, unless the equity exposure is assigned a different risk weight under this section.

(ii) *Effective portion of hedge pairs.* The effective portion of a hedge pair.

(iii) *Non-significant equity exposures.* Equity exposures, excluding exposures to an investment firm that would meet the definition of a traditional securitization in § 628.2 were it not for the application of paragraph (8) of that definition and has greater than immaterial leverage, to the extent that aggregate adjusted carrying value of the exposures does not exceed 10 percent of the System institution's total capital.

(A) Equity exposures subject to paragraph (b)(3)(iii) of this section include:

(*1*) Equity exposures to unconsolidated unincorporated business entities and equity exposures held through consolidated unincorporated business entities, as authorized by subpart J of part 611 of this chapter;

(*2*) Equity exposures that the FCA has authorized pursuant to § 615.5140(e) for a purpose specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations) of this chapter, unless the equity exposures are assigned a different risk weight under this section; and

(*3*) Equity exposures to an unconsolidated rural business investment company and equity exposures held through a consolidated rural business investment company described in 7 U.S.C. 2009cc *et seq.*

(B) To compute the aggregate adjusted carrying value of a System institution's equity exposures for purposes of this section, the System institution may exclude equity exposures described in paragraphs (b)(1), (b)(2), (b)(3)(i), and (b)(3)(ii) of this section, the equity exposure in a hedge pair with the smaller adjusted carrying value, and a proportion of each equity exposure to an investment fund equal to the proportion of the assets of the investment fund that are not equity exposures or that meet the criterion of paragraph (b)(3)(i) of this section. If a System institution does not know the actual holdings of the investment fund, the System institution may calculate the proportion of the assets of the fund that are not equity exposures based on the terms of the prospectus, partnership agreement, or similar contract that defines the fund's permissible investments. If the sum of the investment limits for all exposure classes within the fund exceeds 100 percent, the System institution must assume for purposes of this section that the investment fund invests to the maximum extent possible in equity exposures.

(C) When determining which of a System institution's equity exposures qualify for a 100-percent risk weight under this paragraph, a System institution first must include equity exposures to unconsolidated rural business investment companies or held through consolidated rural business investment companies described in 7 U.S.C. 2009cc *et seq.;* then must include equity exposures that the FCA has authorized pursuant to § 615.5140(e) for a purpose specified in § 615.5132(a) (for System banks) or § 615.5142 (for associations) of this chapter (unless the equity exposures are assigned a different risk weight under this section); then must include equity exposures to unconsolidated unincorporated business entities and equity exposures held through consolidated unincorporated business entities, as authorized by subpart J of part 611 of this chapter; then must include publicly traded equity exposures (including those held indirectly through investment funds); and then must include non-publicly traded equity exposures (including those held indirectly through investment funds).

(4) *Other equity exposures.* The risk weight for any equity exposure that does not qualify for a risk weight under paragraph (b)(1), paragraph (b)(2), paragraph (b)(3), or paragraph (b)(7) of this section will be determined by the FCA.

(5) [Reserved]

(6) [Reserved]

(7) *Six hundred-percent (600%) risk weight equity exposures.* An equity exposure to an investment firm must be assigned a 600-percent risk weight, provided that the investment firm:

(i) Would meet the definition of a traditional securitization in § 628.2 were it not for the application of paragraph (8) of that definition; and

(ii) Has greater than immaterial leverage.

(c) *Hedge transactions*—(1) *Hedge pair.* A hedge pair is two equity exposures that form an effective hedge so long as each equity exposure is publicly traded or has a return that is primarily based on a publicly traded equity exposure.

(2) *Effective hedge.* Two equity exposures form an effective hedge if the exposures either have the same remaining maturity or each has a remaining maturity of at least 3 months; the hedge relationship is formally documented in a prospective manner (that is, before the System institution acquires at least one of the equity exposures); the documentation specifies the measure of effectiveness (E) the System institution will use for the hedge relationship throughout the life of the transaction; and the hedge relationship has an E greater than or equal to 0.8. A System institution must measure E at least quarterly and must use one of three alternative measures of E as set forth in this paragraph (c):

(i) Under the dollar-offset method of measuring effectiveness, the System institution must determine the ratio of value change (RVC). The RVC is the ratio of the cumulative sum of the changes in value of one equity exposure to the cumulative sum of the changes in the value of the other equity exposure. If RVC is positive, the hedge is not effective and E equals 0. If RVC is negative and greater than or equal to -1 (that is, less than 0 and greater than or equal to -1), then E equals the absolute value of RVC. If RVC is negative and less than -1, then E equals 2 plus RVC.

(ii) Under the variability-reduction method of measuring effectiveness:

$$E = 1 - \frac{\sum_{t-1}^{T}\left(X_t - X_{t-1}\right)^2}{\sum_{t-1}^{T}\left(A_t - A_{t-1}\right)^2}, \text{ where}$$

(A) $X_t = A_t - B_t$,
(B) A_t = the value at time t of one exposure in a hedge pair; and
(C) Bt = the value at time t of the other exposure in a hedge pair.

(iii) Under the regression method of measuring effectiveness, E equals the coefficient of determination of a regression in which the change in value of one exposure in a hedge pair is the dependent variable and the change in value of the other exposure in a hedge pair is the independent variable. However, if the estimated regression coefficient is positive, then E equals 0.

(3) The effective portion of a hedge pair is E multiplied by the greater of the adjusted carrying values of the equity exposures forming a hedge pair.

(4) The ineffective portion of a hedge pair is (1–E) multiplied by the greater of the adjusted carrying values of the equity exposures forming a hedge pair.

§ 628.53 Equity exposures to investment funds.

(a) *Available approaches.* (1) Unless the exposure meets the requirements for an equity exposure under § 628.52(b)(3)(i), a System institution must determine the risk-weighted asset amount of an equity exposure to an investment fund under the full look-through approach described in paragraph (b) of this section, the simple modified look-through approach described in paragraph (c) of this section, or the alterative modified look-through approach described paragraph (d) of this section, provided, however, that the minimum risk weight that may be assigned to an equity exposure under this section is 20 percent.

(2) The risk-weighted asset amount of an equity exposure to an investment fund that meets the requirements for an equity exposure in § 628.52(b)(3)(i) is its adjusted carrying value.

(3) If an equity exposure to an investment fund is part of a hedge pair and the System institution does not use the full look-through approach, the System institution must use the ineffective portion of the hedge pair as determined under § 628.52(c) as the adjusted carrying value for the equity exposure to the investment fund. The risk-weighted asset amount of the effective portion of the hedge pair is equal to its adjusted carrying value.

(b) *Full look-through approach.* A System institution that is able to calculate a risk-weighted asset amount for its proportional ownership share of each exposure held by the investment fund (as calculated under this subpart as if the proportional ownership share of the adjusted carrying value of each exposure were held directly by the System institution) may set the risk-weighted asset amount of the System institution's exposure to the fund equal to the product of:

(1) The aggregate risk-weighted asset amounts of the exposures held by the fund as if they were held directly by the System institution; and

(2) The System institution's proportional ownership share of the fund.

(c) *Simple modified look-through approach.* Under the simple modified look-through approach, the risk-weighted asset amount for a System institution's equity exposure to an investment fund equals the adjusted carrying value of the equity exposure multiplied by the highest risk weight that applies to any exposure the fund is permitted to hold under the prospectus, partnership agreement, or similar agreement that defines the fund's permissible investments (excluding derivative contracts that are used for hedging rather than speculative purposes and that do not constitute a material portion of the fund's exposures).

(d) *Alternative modified look-through approach.* Under the alternative modified look-through approach, a System institution may assign the adjusted carrying value of an equity exposure to an investment fund on a pro rata basis to different risk weight categories under this subpart based on the investment limits in the fund's prospectus, partnership agreement, or similar contract that defines the fund's permissible investments. The risk-weighted asset amount for the System institution's equity exposure to the investment fund equals the sum of each portion of the adjusted carrying value assigned to an exposure type multiplied by the applicable risk weight under this subpart. If the sum of the investment limits for all exposure types within the fund exceeds 100 percent, the System institution must assume that the fund invests to the maximum extent permitted under its investment limits in the exposure type with the highest applicable risk weight under this subpart and continues to make investments in order of the exposure type with the next highest applicable risk weight under this subpart until the maximum total investment level is reached. If more than one exposure type applies to an exposure, the System institution must use the highest applicable risk weight. A System institution may exclude derivative contracts held by the fund that are used for hedging rather than for speculative purposes and do not constitute a material portion of the fund's exposures.

§§ 628.54 through 628.60 [Reserved]

Disclosures.

§ 628.61 Purpose and scope.

Sections 628.62 and 628.63 of this subpart establish public disclosure requirements for each System bank related to the capital requirements contained in this part.

§ 628.62 Disclosure requirements.

(a) A System bank must provide timely public disclosures each calendar quarter of the information in the applicable tables in § 628.63. The System bank must make these disclosures in its quarterly and annual reports to shareholders required in part 620 of this chapter. The System bank need not make these disclosures in the format set out in the applicable tables or all in the same location in a report, as long as a summary table specifically indicating the location(s) of all such disclosures is provided. If a significant change occurs, such that the most recent reported amounts are no longer reflective of the System bank's capital adequacy and risk profile, then a brief discussion of this change and its likely impact must be disclosed as soon as practicable thereafter. This disclosure requirement may be satisfied by providing a notice under § 620.15 of this chapter. Qualitative disclosures that typically do not change each quarter (for example, a general summary of the System bank's risk management objectives and policies, reporting system, and definitions) may be disclosed annually after the end of the 4th calendar quarter, provided that any

significant changes are disclosed in the interim.

(b) A System bank must have a formal disclosure policy approved by the board of directors that addresses its approach for determining the disclosures it makes. The policy must address the associated internal controls and disclosure controls and procedures. The board of directors and senior management are responsible for establishing and maintaining an effective internal control structure over financial reporting, including the disclosures required by this subpart, and must ensure that appropriate review of the disclosures takes place. The chief executive officer, the chief financial officer (CFO), and a designated board member must attest that the disclosures meet the requirements of this subpart.

(c) If a System bank concludes that disclosure of specific proprietary or confidential commercial or financial information that it would otherwise be required to disclose under this section would compromise its position, then the System bank is not required to disclose that specific information pursuant to this section, but must disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed.

§ 628.63 Disclosures.

(a) Except as provided in § 628.62, a System bank must make the disclosures described in Tables 1 through 10 of this section. The System bank must make these disclosures publicly available for each of the last 3 years (that is, 12 quarters) or such shorter period beginning on the effective date of this subpart D of this part.

(b) A System bank must publicly disclose each quarter the following:

(1) CET1 capital, AT1 capital, tier 2 capital, tier 1 and total capital ratios, including the regulatory capital elements and all the regulatory adjustments and deductions needed to calculate the numerator of such ratios;

(2) Total risk-weighted assets, including the different regulatory adjustments and deductions needed to calculate total risk-weighted assets;

(3) Regulatory capital ratios during the transition period, including a description of all the regulatory capital elements and all regulatory adjustments and deductions needed to calculate the numerator and denominator of each capital ratio during the transition period; and

(4) A reconciliation of regulatory capital elements as they relate to its balance sheet in any audited consolidated financial statements.

TABLE 1 TO § 628.63—SCOPE OF APPLICATION

Qualitative Disclosures	(a) The name of the top corporate entity in the group to which subpart D of this part applies.[1] (b) A brief description of the differences in the basis for consolidating entities[2] for accounting and regulatory purposes, with a description of those entities: (1) That are fully consolidated; (2) That are deconsolidated and deducted from total capital; (3) For which the total capital requirement is deducted; and (4) That are neither consolidated nor deducted (for example, where the investment in the entity is assigned a risk weight in accordance with this subpart). (c) Any restrictions, or other major impediments, on transfer of funds or total capital within the group.
Quantitative Disclosures	(d) [Reserved] (e) The aggregate amount by which actual total capital is less than the minimum total capital requirement in all subsidiaries, with total capital requirements and the name(s) of the subsidiaries with such deficiencies.

[1] The System bank is the top corporate entity.

[2] Entities include any subsidiaries authorized by the FCA, including operating subsidiaries, service corporations, and unincorporated business entities.

TABLE 2 TO § 628.63—CAPITAL STRUCTURE

Qualitative Disclosures	(a) Summary information on the terms and conditions of the main features of all regulatory capital instruments.
Quantitative Disclosures	(b) The amount of common equity tier 1 capital, with separate disclosure of: (1) Common cooperative equities a. Statutory minimum borrower stock; b. Other required member stock; c. Allocated equity (stock or surplus); (2) Unallocated retained earnings (URE) and URE equivalents; and (3) Regulatory adjustments and deductions made to common equity tier 1 capital. (c) The amount of tier 1 capital, with separate disclosure of: (1) Additional tier 1 capital elements; and (2) Regulatory adjustments and deductions made to tier 1 capital. (d) The amount of total capital, with separate disclosure of: (1) Common cooperative equities not included in common equity tier 1 capital (2) Tier 2 capital elements, including tier 2 apital instruments; and (3) Regulatory adjustments and deductions made to total capital.

TABLE 3 TO § 628.63—CAPITAL ADEQUACY

Qualitative disclosures	(a) A summary discussion of the System bank's approach to assessing the adequacy of its capital to support current and future activities.
Quantitative disclosures	(b) Risk-weighted assets for: (1) Exposures to sovereign entities; (2) Exposures to certain supranational entities and MDBs; (3) Exposures to GSEs;

TABLE 3 TO § 628.63—CAPITAL ADEQUACY—Continued

	(4) Exposures to depository institutions, foreign banks, and credit unions, including OFI exposures that are risk weighted as exposures to U.S. depository institutions and credit unions; (5) Exposures to PSEs; (6) Corporate exposures, including borrower loans (including agricultural and consumer loans) and OFI exposures that are risk weighted as corporate exposures; (7) Residential mortgage exposures; (8) HVCRE exposures; (9) Past due exposures; (10) Exposures to other assets; (11) Loans from System banks to associations; (12) Cleared transactions; (13) Unsettled transactions; (14) Securitization exposures; and (15) Equity exposures. (c) [Reserved] (d) Common equity tier 1, tier 1 and total risk-based capital ratios for the System bank. (e) Total standardized risk-weighted assets.

TABLE 4 TO § 628.63—CAPITAL CONSERVATION BUFFER

Quantitative Disclosures	(a) At least quarterly, the System bank must calculate and publicly disclose the capital conservation buffer as described under § 628.11. (b) At least quarterly, the System bank must calculate and publicly disclose the eligible retained income of the System bank, as described under § 628.11. (c) At least quarterly, the System bank must calculate and publicly disclose any limitations it has on distributions and discretionary bonus payments resulting from the capital conservation buffer framework described under § 628.11, including the maximum payout amount for the quarter.

(c) General qualitative disclosure requirement. For each separate risk area described in Tables 5 through 10, the System bank must describe its risk management objectives and policies, including: Strategies and processes; the structure and organization of the relevant risk management function; the scope and nature of risk reporting and/or measurement systems; policies for hedging and/or mitigating risk and strategies and processes for monitoring the continuing effectiveness of hedges/mitigants.

TABLE 5 TO § 628.63[1]—CREDIT RISK: GENERAL DISCLOSURES

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to credit risk (excluding counterparty credit risk disclosed in accordance with Table 6), including the: (1) Policy for determining past due or delinquency status; (2) Policy for placing loans in nonaccrual status; (3) Policy for returning loans to accrual status; (4) Definition of and policy for identifying impaired loans (for financial accounting purposes); (5) Description of the methodology that the System bank uses to estimate its allowance for loan losses, including statistical methods used where applicable; (6) Policy for charging-off uncollectible amounts; and (7) Discussion of the System bank's credit risk management policy.
Quantitative Disclosures	(b) Total credit risk exposures and average credit risk exposures, after accounting offsets in accordance with GAAP, without taking into account the effects of credit risk mitigation techniques (for example, collateral and netting not permitted under GAAP), over the period categorized by major types of credit exposure. For example, System banks could use categories similar to that used for financial statement purposes. Such categories might include, for instance: (1) Loans, off-balance sheet commitments, and other non-derivative off-balance sheet exposures; (2) Debt securities; and (3) OTC derivatives.[2] (c) Geographic distribution of exposures, categorized in significant areas by major types of credit exposure.[3] (d) Industry or counterparty type distribution of exposures, categorized by major types of credit exposure. (e) By major industry or counterparty type: (1) Amount of impaired loans for which there was a related allowance under GAAP; (2) Amount of impaired loans for which there was no related allowance under GAAP; (3) Amount of loans past due 90 days and in nonaccrual status; (4) Amount of loans past due 90 days and still accruing; [4] (5) The balance in the allowance for loan losses at the end of each period according to GAAP; and (6) Charge-offs during the period. (f) Amount of impaired loans and, if available, the amount of past due loans categorized by significant geographic areas including, if practical, the amounts of allowances related to each geographical area,[5] further categorized as required by GAAP. (g) Reconciliation of changes in allowances for loan losses.[6]

TABLE 5 TO § 628.63[1]—CREDIT RISK: GENERAL DISCLOSURES—Continued

	(h) Remaining contractual maturity delineation (for example, one year or less) of the whole portfolio, categorized by credit exposure.

[1] Table 5 does not cover equity exposures, which should be reported in Table 9.
[2] *See,* for example, ASC Topic 815–10 and 210, as they may be amended from time to time.
[3] A System bank can satisfy this requirement by describing the geographic distribution of its loan portfolio by State or other significant geographic division, if any.
[4] A System bank is encouraged also to provide an analysis of the aging of past-due loans.
[5] The portion of the general allowance that is not allocated to a geographical area should be disclosed separately.
[6] The reconciliation should include the following: a description of the allowance; the opening balance of the allowance; charge-offs taken against the allowance during the period; amounts provided (or reversed) for estimated probable loan losses during the period; any other adjustments (for example, exchange rate differences, business combinations, acquisitions and disposals of subsidiaries), including transfers between allowances; and the closing balance of the allowance. Charge-offs and recoveries that have been recorded directly to the income statement should be disclosed separately.

TABLE 6 TO § 628.63—GENERAL DISCLOSURE FOR COUNTERPARTY CREDIT RISK-RELATED EXPOSURES

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to OTC derivatives, eligible margin loans, and repo-style transactions, including a discussion of: (1) The methodology used to assign credit limits for counterparty credit exposures; (2) Policies for securing collateral, valuing and managing collateral, and establishing credit reserves; (3) The primary types of collateral taken; and (4) The impact of the amount of collateral the System bank would have to provide given deterioration in the System bank's own creditworthiness.
Quantitative Disclosures	(b) Gross positive fair value of contracts, collateral held (including type, for example, cash, government securities), and net unsecured credit exposure.[1] A System bank also must disclose the notional value of credit derivative hedges purchased for counterparty credit risk protection and the distribution of current credit exposure by exposure type.[2] (c) Notional amount of purchased credit derivatives used for the System bank's own credit portfolio.

[1] Net unsecured credit exposure is the credit exposure after considering both the benefits from legally enforceable netting agreements and collateral arrangements without taking into account haircuts for price volatility, liquidity, etc.
[2] This may include interest rate derivative contracts, foreign exchange derivative contracts, equity derivative contracts, credit derivatives, commodity or other derivative contracts, repo-style transactions, and eligible margin loans.

TABLE 7 TO § 628.63—CREDIT RISK MITIGATION [1] [2]

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to credit risk mitigation, including: (1) Policies and processes for collateral valuation and management; (2) A description of the main types of collateral taken by the System bank; (3) The main types of guarantors/credit derivative counterparties and their creditworthiness; and (4) Information about (market or credit) risk concentrations with respect to credit risk mitigation.
Quantitative Disclosures	(b) For each separately disclosed credit risk portfolio, the total exposure that is covered by eligible financial collateral, and after the application of haircuts. (c) For each separately disclosed portfolio, the total exposure that is covered by guarantees/credit derivatives and the risk-weighted asset amount associated with that exposure.

[1] At a minimum, a System bank must provide the disclosures in Table 7 in relation to credit risk mitigation that has been recognized for the purposes of reducing capital requirements under this subpart. Where relevant, System banks are encouraged to give further information about mitigants that have not been recognized for that purpose.
[2] Credit derivatives that are treated, for the purposes of this subpart, as synthetic securitization exposures should be excluded from the credit risk mitigation disclosures and included within those relating to securitization (Table 8).

TABLE 8 TO § 628.63—SECURITIZATION [1]

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to a securitization (including synthetic securitizations), including a discussion of: (1) The System bank's objectives for securitizing assets, including the extent to which these activities transfer credit risk of the underlying exposures away from the System bank to other entities and including the type of risks assumed and retained with resecuritization activity; [2] (2) The nature of the risks (*e.g.* liquidity risk) inherent in the securitized assets; (3) The roles played by the System bank in the securitization process [3] and an indication of the extent of the System bank's involvement in each of them; (4) The processes in place to monitor changes in the credit and market risk of securitization exposures including how those processes differ for resecuritization exposures; (5) The System bank's policy for mitigating the credit risk retained through securitization and resecuritization exposures; and (6) The risk-based capital approaches that the System bank follows for its securitization exposures including the type of securitization exposure to which each approach applies. (b) [Reserved] (c) Summary of the System bank's accounting policies for securitization activities, including: (1) Whether the transactions are treated as sales or financings; (2) Recognition of gain-on-sale; (3) Methods and key assumptions applied in valuing retained or purchased interests;

TABLE 8 TO § 628.63—SECURITIZATION [1]—Continued

	(4) Changes in methods and key assumptions from the previous period for valuing retained interests and impact of the changes; (5) Treatment of synthetic securitizations; (6) How exposures intended to be securitized are valued and whether they are recorded under subpart D of this part; and (7) Policies for recognizing liabilities on the balance sheet for arrangements that could require the System bank to provide financial support for securitized assets.
Quantitative Disclosures	(d) An explanation of significant changes to any quantitative information since the last reporting period. (e) The total outstanding exposures securitized by the System bank in securitizations that meet the operational criteria provided in § 628.41 (categorized into traditional and synthetic securitizations), by exposure type.[4] (f) For exposures securitized by the System bank in securitizations that meet the operational criteria in § 628.41: (1) Amount of securitized assets that are impaired/past due categorized by exposure type; [5] and (2) Losses recognized by the System bank during the current period categorized by exposure type.[6] (g) The total amount of outstanding exposures intended to be securitized categorized by exposure type. (h) Aggregate amount of: (1) On-balance sheet securitization exposures retained or purchased categorized by exposure type; and (2) Off-balance sheet securitization exposures categorized by exposure type. (i)(1) Aggregate amount of securitization exposures retained or purchased and the associated capital requirements for these exposures, categorized between securitization and resecuritization exposures, further categorized into a meaningful number of risk weight bands and by risk-based capital approach (*e.g.,* SSFA); and (2) Exposures that have been deducted entirely from tier 1 capital, CEIOs deducted from total capital (as described in § 628.42(a)(1)), and other exposures deducted from total capital should be disclosed separately by exposure type. (j) Summary of current year's securitization activity, including the amount of exposures securitized (by exposure type), and recognized gain or loss on sale by exposure type. (k) Aggregate amount of resecuritization exposures retained or purchased categorized according to: (1) Exposures to which credit risk mitigation is applied and those not applied; and (2) Exposures to guarantors categorized according to guarantor creditworthiness categories or guarantor name.

[1] A System bank is not authorized to perform every role in a securitization, and nothing in these capital rules authorizes a System bank to engage in activities relating to securitizations that are not otherwise authorized.

[2] The System bank should describe the structure of resecuritizations in which it participates; this description should be provided for the main categories of resecuritization products in which the System bank is active.

[3] Roles in securitizations generally could include originator, investor, servicer, provider of credit enhancement, sponsor, liquidity provider, or swap provider. As noted in footnote 1, however, a System bank is not authorized to perform all of these roles.

[4] ''Exposures securitized'' include underlying exposures originated by the System bank, whether generated by them or purchased, and recognized in the balance sheet, from third parties, and third-party exposures included in sponsored transactions. Securitization transactions (including underlying exposures originally on the System bank's balance sheet and underlying exposures acquired by the System bank from third-party entities) in which the originating System bank (as an originating System institution) does not retain any securitization exposure should be shown separately but need only be reported for the year of inception. System banks are required to disclose exposures regardless of whether there is a capital charge under this part.

[5] Include credit-related other than temporary impairment (OTTI).

[6] For example, charge-offs/allowances (if the assets remain on the System bank's balance sheet) or credit-related OTTI of interest-only strips and other retained residual interests, as well as recognition of liabilities for probable future financial support required of the System bank with respect to securitized assets.

TABLE 9 TO § 628.63—EQUITIES

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to equity risk: (1) Differentiation between holdings on which capital gains are expected and those taken under other objectives including for relationship and strategic reasons; and (2) Discussion of important policies covering the valuation of and accounting for equity. This includes the accounting techniques and valuation methodologies used, including key assumptions and practices affecting valuation as well as significant changes in these practices.
Quantitative Disclosures	(b) Value disclosed on the balance sheet of investments, as well as the fair value of those investments; for securities that are publicly traded, a comparison to publicly quoted share values where the share price is materially different from fair value. (c) The types and nature of investments, including the amount that is: (1) Publicly traded; and (2) Non-publicly traded. (d) The cumulative realized gains (losses) arising from sales and liquidations in the reporting period. (e)(1) Total unrealized gains (losses).[1] (2) Total latent revaluation gains (losses).[2] (3) Any amounts of the above included in tier 1 or tier 2 capital. (f) [Reserved]

[1] Unrealized gains (losses) recognized on the balance sheet but not through earnings.

[2] Unrealized gains (losses) not recognized either on the balance sheet or through earnings.

TABLE 10 TO § 628.63—INTEREST RATE RISK FOR NON-TRADING ACTIVITIES

Qualitative disclosures	(a) The general qualitative disclosure requirement, including the nature of interest rate risk for non-trading activities and key assumptions, including assumptions regarding loan prepayments and behavior of non-maturity deposits, and frequency of measurement of interest rate risk for non-trading activities.
Quantitative disclosures	(b) The increase (decline) in earnings or economic value (or relevant measure used by management) for upward and downward rate shocks according to management's method for measuring interest rate risk for non-trading activities, categorized by currency (as appropriate).

§§ 628.64 through 628.99 [Reserved]

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Transition Provisions

§ 628.300 Transitions.

(a) *Capital conservation buffer.*

(1) [Reserved]

(2) Beginning January 1, 2016 through December 31, 2018 a System institution's maximum payout ratio must be determined as set forth in Table 1 to § 628.300.

TABLE 1 TO § 628.300

Transition period	Capital conservation buffer	Maximum payout ratio (as a percentage of eligible retained income)
Calendar year 2016	> 0.625 percent	No limitation.
	≤ 0.625 percent, and > 0.469 percent	60 percent.
	≤ 0.469 percent, and > 0.313 percent	40 percent.
	≤ 0.313 percent, and > 0.156 percent	20 percent.
	≤ 0.156 percent	0 percent.
Calendar year 2017	> 1.25 percent	No limitation.
	≤ 1.25 percent, and > 0.938 percent	60 percent.
	≤ 0.938 percent, and > 0.625 percent	40 percent.
	≤ 0.625 percent, and > 0.313 percent	20 percent.
	≤ 0.313 percent	0 percent.
Calendar year 2018	> 1.875 percent	No limitation
	≤ 1.875 percent, and > 1.406 percent	60 percent.
	≤ 1.406 percent, and > 0.938 percent	40 percent.
	≤ 0.938 percent, and > 0.469 percent	20 percent.
	≤ 0.469 percent	0 percent.

(b) through (e) [Reserved]

§ 628.301 Initial compliance and reporting requirements.

(a) A System institution that fails to satisfy one or more of its minimum applicable CET1, AT1, tier 1, tier 2, or total capital ratios at the end of the quarter in which these regulations become effective shall report its initial noncompliance to the FCA within 20 days following such quarterend and shall also submit a capital restoration plan for achieving and maintaining the standards, demonstrating appropriate annual progress toward meeting the goal, to the FCA within 60 days following such quarterend. If the capital restoration plan is not approved by the FCA, the FCA will inform the institution of the reasons for disapproval, and the institution shall submit a revised capital restoration plan within the time specified by the FCA.

(b) *Approval of compliance plans.* In determining whether to approve a capital restoration plan submitted under this section, the FCA shall consider the following factors, as applicable:

(1) The conditions or circumstances leading to the institution's falling below minimum levels, the exigency of those circumstances, and whether or not they were caused by actions of the institution or were beyond the institution's control;

(2) The overall condition, management strength, and future prospects of the institution and, if applicable, affiliated System institutions;

(3) The institution's capital, adverse assets (including nonaccrual and nonperforming loans), ALL, and other ratios compared to the ratios of its peers or industry norms;

(4) How far an institution's ratios are below the minimum requirements;

(5) The estimated rate at which the institution can reasonably be expected to generate additional earnings;

(6) The effect of the business changes required to increase capital;

(7) The institution's previous compliance practices, as appropriate;

(8) The views of the institution's directors and senior management regarding the plan; and

(9) Any other facts or circumstances that the FCA deems relevant.

(c) An institution shall be deemed to be in compliance with the regulatory capital requirements of this subpart if it is in compliance with a capital restoration plan that is approved by the FCA within 180 days following the end of the quarter in which these regulations become effective.

Dated: August 8, 2014.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2014–19179 Filed 9–3–14; 8:45 am]

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Part III

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Part 495

45 CFR Part 170

Medicare and Medicaid Programs; Modifications to the Medicare and Medicaid Electronic Health Record (EHR) Incentive Program for 2014 and Other Changes to the EHR Incentive Program; and Health Information Technology: Revisions to the Certified EHR Technology Definition and EHR Certification Changes Related to Standards; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 495

[CMS–0046–F and CMS–0052–F]

RINs 0938–AR71 and 0938–AS30

Office of the Secretary

45 CFR Part 170

RINs 0991–AB89 and 0991–AB97

Medicare and Medicaid Programs; Modifications to the Medicare and Medicaid Electronic Health Record (EHR) Incentive Program for 2014 and Other Changes to the EHR Incentive Program; and Health Information Technology: Revisions to the Certified EHR Technology Definition and EHR Certification Changes Related to Standards

ACTION: Final rule.

AGENCY: Centers for Medicare & Medicaid Services (CMS), and Office of the National Coordinator for Health Information Technology (ONC), HHS.

SUMMARY: This final rule changes the meaningful use stage timeline and the definition of certified electronic health record technology (CEHRT) to allow options in the use of CEHRT for the EHR reporting period in 2014. It also sets the requirements for reporting on meaningful use objectives and measures as well as clinical quality measure (CQM) reporting in 2014 for providers who use one of the CEHRT options finalized in this rule for their EHR reporting period in 2014. In addition, it finalizes revisions to the Medicare and Medicaid EHR Incentive Programs to adopt an alternate measure for the Stage 2 meaningful use objective for hospitals to provide structured electronic laboratory results to ambulatory providers; to correct the regulation text for the measures associated with the objective for hospitals to provide patients the ability to view online, download, and transmit information about a hospital admission; and to set a case number threshold exemption for CQM reporting applicable for eligible hospitals and critical access hospitals (CAHs) beginning with FY 2013. Finally, this rule finalizes the provisionally adopted replacement of the Data Element Catalog (DEC) and the Quality Reporting Document Architecture (QRDA) Category III standards with updated versions of these standards.

DATES: These regulations are effective on October 1, 2014.

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SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Basis

1. Standards, Implementation Specifications, and Certification Criteria

The Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111–5) was enacted on February 17, 2009. The HITECH Act amended the Public Health Service Act (PHSA) and created ''Title XXX—Health Information Technology and Quality'' to improve health care quality, safety, and efficiency through the promotion of health IT and electronic health information exchange.

Section 3004(b)(3) of the PHSA titled ''Subsequent Standards Activity'' provides that the ''Secretary shall adopt additional standards, implementation specifications, and certification criteria as necessary and consistent'' with the schedule published by the HIT Standards Committee. We consider this provision in the broader context of the HITECH Act to grant the Secretary the authority and discretion to adopt standards, implementation specifications, and certification criteria that have been recommended by the HIT Standards Committee and endorsed by the National Coordinator, as well as other appropriate and necessary health IT standards, implementation specifications, and certification criteria.

In the September 4, 2012 **Federal Register** (77 FR 54163), the Secretary issued a final rule (the ''2014 Edition EHR certification criteria final rule'') that adopted the 2014 Edition EHR certification criteria and a revised Certified EHR Technology (CEHRT) definition. The standards, implementation specifications, and certification criteria adopted by the Secretary in the final rule established the capabilities that CEHRT must include in order to, at a minimum, support the achievement of meaningful use by eligible professionals (EPs), eligible hospitals, and CAHs under the Medicare and Medicaid EHR Incentive Programs beginning with the EHR reporting periods in FY/CY 2014.

2. Health IT Certification Programs

Section 3001(c)(5) of the PHSA provides the National Coordinator with the authority to establish a certification program or programs for the voluntary certification of health IT. Specifically, section 3001(c)(5)(A) specifies that the ''National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall keep or recognize a program or programs for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle'' (that is, certification criteria adopted by the Secretary under section 3004 of the PHSA). The certification program(s) must also ''include, as appropriate, testing of the technology in accordance with section 13201(b) of the [HITECH] Act.''

Section 13201(b) of the HITECH Act requires that with respect to the development of standards and implementation specifications, the Director of the National Institute of Standards and Technology (NIST), in coordination with the HIT Standards Committee, ''shall support the establishment of a conformance testing infrastructure, including the development of technical test beds.'' The HITECH Act also indicates that ''[t]he development of this conformance testing infrastructure may include a program to accredit independent, non-Federal laboratories to perform testing.'' ONC has established the ONC HIT Certification Program for the purpose of testing and certifying health information technology, related to the compliance of health IT with adopted standards, implementation, and certification criteria. (see 76 FR 1262 and 77 FR 54268). EHR technology capabilities certified through the ONC HIT Certification Program are required for use with the EHR Incentive Programs (see 76 FR 1262).

3. Medicare and Medicaid EHR Incentive Programs

The American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111–5) amended Titles XVIII and XIX of the Social Security Act (the Act) to authorize incentive payments to EPs, eligible hospitals, CAHs, and Medicare Advantage (MA) organizations to promote the adoption and meaningful use of certified electronic health record (EHR) technology. Sections 1848(o), 1853(l) and (m), 1886(n), and 1814(l) of the Act provide the statutory basis for the Medicare incentive payments made to meaningful EHR users. These statutory provisions govern EPs, MA

organizations (for certain qualifying EPs and hospitals that meaningfully use CEHRT, subsection (d) hospitals, and CAHs, respectively. Sections 1848(a)(7), 1853(l) and (m), 1886(b)(3)(B), and 1814(l) of the Act also establish downward payment adjustments, beginning with calendar or fiscal year 2015, for EPs, MA organizations, subsection (d) hospitals, and CAHs that are not meaningful users of CEHRT for certain associated reporting periods. Sections 1903(a)(3)(F) and 1903(t) of the Act provide the statutory basis for Medicaid incentive payments.

II. Provisions of the December 7, 2012 Interim Final Rule With Comment Period and Analysis of and Responses to Public Comments

In the December 7, 2012 **Federal Register** (77 FR 72985), CMS and ONC jointly published an interim final rule with comment period (IFC) titled ''Health Information Technology: Revisions to the 2014 Edition Electronic Health Record Certification Criteria; and Medicare and Medicaid Programs; Revisions to the Electronic Health Record Incentive Program'' (the ''December 7, 2012 IFC''). The Department of Health and Human Services (HHS) issued the December 7, 2012 IFC to replace the Data Element Catalog (DEC) standard and the Quality Reporting Document Architecture (QRDA) Category III standard adopted in the final rule published on September 4, 2012 in the **Federal Register** with updated versions of those standards. The December 7, 2012 IFC also revised the Medicare and Medicaid EHR Incentive Programs by: adding an alternative measure for the Stage 2 meaningful use objective for hospitals to provide structured electronic laboratory results to ambulatory providers; correcting the regulation text for the measures associated with the objective for hospitals to provide patients the ability to view online, download, and transmit information about a hospital admission; and making the case number threshold exemption for CQM reporting applicable for eligible hospitals and CAHs beginning with FY 2013. This December 7, 2012 IFC also provided notice of CMS's intention to issue technical corrections to the electronic specifications for CQMs released on October 25, 2012.

In this final rule, we discuss the provisions of the December 7, 2012 IFC and describe our final policy. No comments within the scope of the IFC were timely received. However, we received some comments outside the scope of the December 7, 2012 IFC which provided recommendations for potential standards and policies to adopt in rulemaking for future stages of meaningful use. We are not addressing these comments in this rule. However, we will retain these comments for consideration in future rulemaking for the EHR Incentive Programs.

A. Adoption and Incorporation by Reference of Newer Versions of the DEC and QRDA III Standards

In the 2014 Edition EHR certification criteria final rule (77 FR 54163), we adopted the Data Element Catalog (DEC), August 2012 version, standard at 45 CFR 170.204(c) and incorporated the standard by reference at 45 CFR 170.299(m)(5). The DEC is included in the certification criterion at 45 CFR 170.314(c)(1), which requires EHR technology presented for certification to be able to electronically record all of the data identified in the DEC that would be necessary to calculate each CQM.

Prior to the December 7, 2012 IFC (77 FR 72987), we performed a gap analysis to determine whether the August 2012 version of DEC (now referred to as ''DEC version 1.0'') still appropriately specified all of the data that EHR technology would need to capture to support the final 2014 CQM e-specifications. Based on that analysis, we determined that the version of the DEC we adopted in the final rule needed to be updated in order to correctly align with data capture expectations expressed by numerous 2014 CQM e-specifications. Therefore, we provisionally adopted replacing Version 1.0 of the DEC incorporated by reference at 45 CFR 170.299(m)(5) with the updated version (DEC, Version 1.1 (October 2012)) as the standard referenced by the 2014 Edition EHR certification criterion at 45 CFR 170.314(c)(1).

We also replaced the version of the Quality Reporting Document Architecture (QRDA) Category III (QRDA III) standard incorporated by reference at 45 CFR 170.299(f)(14) with the November 2012 balloted version of QRDA III as the standard referenced by the 2014 Edition EHR certification criterion at 45 CFR 170.314(c)(3). The November 2012 balloted version of QRDA III clarifies ambiguities in the August version we had previously adopted in the 2014 Edition EHR certification criteria final rule (77 FR 54232); specifically, certain data that would need to be included in any QRDA III file submitted to CMS, such as a provider's National Provider Identifier (NPI) or Taxpayer Identification Number (TIN) in order for the electronic submission to be properly processed. Additionally, some of the required components have been changed to optional in the November 2012 balloted version of the standard, which may reduce the burden for EHR technology developers.

While ONC is not required by statute to publish a final rule based on the previous publication of an interim final rule, we are using this joint rulemaking as an opportunity to respond to comments received on the December 7, 2012 IFC provisions concerning 45 CFR 170.299.

We received no comments on the provisions concerning the DEC and QRDA III standards. For the reasons stated in the December 7, 2012 IFC, we are finalizing these provisions without modification.

B. Revisions to the Medicare and Medicaid EHR Incentive Programs

1. Meaningful Use Criteria

a. Stage 2 Hospital Objective for Providing Electronic Lab Results to Ambulatory Providers

In the Stage2 final rule (77 FR 54041 through 54043), we included an objective and measure in the Stage 2 menu set for eligible hospitals and CAHs at 42 CFR 495.6(m)(6)(i) and (ii) to provide structured electronic lab results to ambulatory providers for more than 20 percent of electronic lab orders received.

In the December 7, 2012 IFC we added an alternative measure allowing a method for calculating the denominator using all lab orders received rather than only those received electronically. This change was provisionally adopted to accommodate cases where hospitals send a large number of lab results electronically in response to orders they receive through non-electronic means or where a hospital receives a very small percentage of its total lab orders electronically and therefore could have difficulty meeting the measure threshold regardless of the number of lab results it sends electronically to ordering providers.

We received no comments on this provision and are finalizing this provision without modification for the reasons previously stated.

b. Stages 1 and 2 Hospital Objective for View, Download, and Transmit

In the Stage 2 final rule (77 FR 54041 through 54043), we included the following objective in the Stage 2 core set for eligible hospitals and CAHs at 42 CFR 495.6(l)(8)(i) and (ii). We also included the objective in the Stage 1 core set for eligible hospitals and CAHs at 42 CFR 495.6(f)(12)(i)(B) and (ii)(B).

Objective: Provide patients the ability to view online, download, and transmit information about a hospital admission.

In the Stage 2 final rule (77 FR 53968), we inadvertently omitted the word ''unique'' from the regulation text for the denominators of the measures associated with this objective.

In the December 7, 2012 IFC we made corrections to § 495.6(f)(12)(ii)(B), (l)(8)(ii)(A), and (l)(8)(ii)(B) to clarify that the measures for that objective for eligible hospitals and CAHs are based on the number of unique patients discharged from a hospital's inpatient or emergency department during the EHR reporting period.

We received no comments on this provision and are finalizing this provision without modification for the reasons previously stated.

2. Case Number Threshold Exemption for CQM Reporting for Hospitals

In the Stage 2 proposed rule, we solicited comments on whether a case number threshold would be appropriate for hospital CQM reporting, given the apparent burden on hospitals that very seldom have the types of cases addressed by certain measures. As we stated in the Stage 2 final rule (77 FR 54080), many commenters noted that the implementation of a case number threshold for hospital CQM reporting would help reduce the burden placed on hospitals that very seldom have cases that would be counted in the denominator of certain CQMs.

In the December 7, 2012 IFC we provisionally adopted a case threshold exemption applicable for eligible hospitals and CAHs in all stages of meaningful use beginning with FY 2013. Eligible hospitals and CAHs that demonstrate meaningful use for the first time and submit their CQMs using attestation would be able to qualify for the exemption. Eligible hospitals and CAHs with 5 or fewer discharges during the relevant EHR reporting period (if attesting to a 90-day EHR reporting period), or 20 or fewer discharges during the year (if attesting to a full year EHR reporting period) as defined by the CQM's denominator population could claim an exemption for that CQM.

To be eligible for the exemption, Medicare-eligible hospitals and CAHs must use the same process outlined in the Stage 2 final rule (see 77 FR 54080). This process includes submitting aggregate population and sample size counts for Medicare and non-Medicare discharges as defined by the CQM's denominator population for the EHR reporting period no later than November 30 after the end of the fiscal year containing the EHR reporting period (for example, November 30, 2013 for the hospital's EHR reporting period that occurs in FY 2013). Medicaid-only hospitals, including children's hospitals, must report this same information to the state to which they attest, in a manner specified by that state.

We received no comments on this provision and we are finalizing this provision without modification for the reasons previously stated.

3. Technical Corrections to CQM Electronic Specifications

In the interim final rule with comment period, we announced our intent to issue technical corrections to the electronic specifications for the 2014 CQMs on or around December 21, 2012.

We received no comments on this provision and we are finalizing this provision without modification for the reasons previously stated.

III. Provisions of the May 23, 2014 Proposed Rule and Analysis of and Responses to Public Comments

In the May 23, 2014 **Federal Register** (79 FR 29732), we published a proposed rule titled ''Medicare and Medicaid Programs; Modifications to the Medicare and Medicaid Electronic Health Record Incentive Programs for 2014; and Health Information Technology: Revisions to the Certified EHR Technology Definition.'' In this final rule, we discuss the provisions of that proposed rule, summarize and respond to the public comments timely received, and describe our final policy.

In sections 1848(o)(2)(A) and 1886(n)(3)(A) of the Act, the Congress identified the broad goal of expanding the use of EHRs through the concept of meaningful use. Section 1903(t)(6)(C) of the Act also requires Medicaid providers adopt, implement, upgrade, or meaningfully use CEHRT if they are to receive incentives under Title XIX of the Act. CEHRT used in a meaningful way is one piece of the broader health information technology infrastructure needed to reform the health care system and improve health care quality, efficiency, and patient safety. This vision of reforming the health care system and improving health care quality, efficiency, and patient safety should inform the definition of meaningful use.

Certified EHR technology is defined for the Medicare and Medicaid EHR Incentive Programs at 42 CFR 495.4, which references the Office of the National Coordinator for Health Information Technology's (ONC) definition of CEHRT under 45 CFR 170.102. For Stages 1 and 2 of meaningful use, CMS and ONC worked closely to ensure that the definition of meaningful use of CEHRT and the standards and certification criteria for CEHRT were coordinated. The definition of CEHRT under 45 CFR 170.102 requires, beginning with Federal fiscal year (FY) and calendar year (CY) 2014, EHR technology certified to the 2014 Edition EHR certification criteria. Therefore, all EPs, eligible hospitals, and CAHs must use 2014 Edition CEHRT to meet meaningful use under the Medicare and Medicaid EHR Incentive Programs beginning with FY 2014 and CY 2014.

On September 4, 2012, we published in the **Federal Register** (77 FR 53968 through 54162) a final rule titled ''Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 2,'' that established, among other final policies, the timeline for the stages of meaningful use through 2021 and the EHR reporting periods in 2014, as shown in Table 1 (77 FR 53973 through 53975).

TABLE 1—STAGE OF MEANINGFUL USE CRITERIA BY FIRST PAYMENT YEAR

First payment year	Stage of meaningful use										
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
2011	1	1	1	*2	2	3	3	TBD	TBD	TBD	TBD
2012	.....	1	1	*2	2	3	3	TBD	TBD	TBD	TBD
2013	.....	.....	1	*1	2	2	3	3	TBD	TBD	TBD
2014	.....	.....	.....	*1	1	2	2	3	3	TBD	TBD
2015	.....	.....	.....	.....	1	1	2	2	3	3	TBD
2016	.....	.....	.....	.....	.....	1	1	2	2	3	3

TABLE 1—STAGE OF MEANINGFUL USE CRITERIA BY FIRST PAYMENT YEAR—Continued

First payment year	Stage of meaningful use										
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
2017	.....	.....	.....	.....	.....	.....	1	1	2	2	3

*3-Month quarter EHR reporting period for Medicare and continuous 90-day EHR reporting period (or 3 months at state option) for Medicaid EPs. All providers in their first year in 2014 use any continuous 90-day EHR reporting period.

EPs, eligible hospitals, and CAHs that attest to meaningful use for an EHR reporting period in 2014 for their first year of Stage 2 or their second year of Stage 1 have a 3-month quarter EHR reporting period in CY 2014 (EPs) or FY 2014 (eligible hospitals and CAHs). For the Medicaid incentive payments for meaningful use, EPs have an EHR reporting period of any continuous 90-day period in CY 2014 as defined by the state Medicaid program, or, if the state so chooses, any 3-month CY quarter in 2014. EPs, eligible hospitals, and CAHs that demonstrate meaningful use for the first time in 2014 have an EHR reporting period of any continuous 90-day period in CY 2014 or FY 2014, respectively.

A. Proposed Changes to Meaningful Use Stage Timeline and the Use of CEHRT

1. Reporting in 2014

We are revisiting some of the requirements for the Medicare and Medicaid EHR Incentive Programs for 2014. Many EHR vendors have indicated, through letters to CMS, public forums, listening sessions, survey data, and information related to the certification and testing process, that the amount of time available after the publication of the Stage 2 final rule was too short to make the required coding changes to enable their EHR products to be certified to the 2014 Edition of EHR certification criteria. We understand, based on information gained from EHR technology developers and ONC-Authorized Certification Bodies on timing, backlogs, and the certification case load, that many EHR products were certified later than anticipated. These late certifications impacted the corresponding time available to providers to effectively deploy 2014 Edition CEHRT and to make the necessary patient safety, staff training, system testing and workflow revisions in order to be prepared to demonstrate meaningful use in 2014. The availability of 2014 Edition CEHRT is further limited by the large number of providers needing to upgrade to 2014 Edition CEHRT. By the end of February 2014, over 350,000 providers received an EHR incentive payment for adopting, implementing, upgrading, or successfully demonstrating meaningful use with 2011 Edition CEHRT. In 2014, in order for providers to successfully demonstrate meaningful use for Stages 1 or 2, all eligible providers needed to adopt, implement, or upgrade to 2014 Edition CEHRT. However, through letters to CMS, public forums, listening sessions, and public comment at CMS meetings, many provider associations expressed concern that, although 2014 Edition CEHRT may be available for adoption, a several month backlog exists for the updated version to be installed and implemented so providers can successfully demonstrate meaningful use for an EHR reporting period in 2014. We also understand that the delay in availability may limit a provider's ability to fully implement 2014 Edition CEHRT across the facility. For example, a hospital may have different systems in multiple settings, which all require an update and integration. Alternatively, a provider may have certain 2014 Edition CEHRT functionality that, once implemented in a live setting, requires software patches or workflow changes.

Accordingly, in an effort to grant more flexibility to providers who experienced 2014 Edition CEHRT product availability issues that impact the ability to fully implement 2014 Edition CEHRT to meet meaningful use, we proposed some changes for the Medicare and Medicaid EHR Incentive Programs for 2014. We proposed to allow EPs, eligible hospitals, and CAHs that could not fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 due to delays in 2014 Edition CEHRT availability to continue to use 2011 Edition CEHRT or a combination of 2011 Edition and 2014 Edition CEHRT for the EHR reporting periods in CY 2014 and FY 2014, respectively. These proposed alternatives are available only for those providers that could not fully implement 2014 Edition CEHRT to meet meaningful use for an EHR reporting period in 2014 due to delays in 2014 Edition CEHRT availability.

We proposed these options for the use of CEHRT to meet meaningful use for an EHR reporting period in 2014 only. We will maintain the existing policy that all providers must use 2014 Edition CEHRT for the EHR reporting periods in CY 2015, FY 2015, and in subsequent years, or until new certification requirements are adopted in subsequent rulemaking.

Furthermore, in order to avoid inadvertently incentivizing the purchase of an outdated product that cannot be used to demonstrate meaningful use in a subsequent year, we proposed that to qualify for an incentive payment under Medicaid for 2014 for adopting, implementing, or upgrading CEHRT, a provider must adopt, implement, or upgrade to 2014 Edition CEHRT only. A provider would not be able to qualify for a Medicaid incentive payment for 2014 for adopting, implementing, or upgrading to 2011 Edition CEHRT or a combination of 2011 and 2014 Edition CEHRT. We proposed to revise the definition of ''Adopt, Implement or Upgrade'' under 42 CFR 495.302 to reflect this proposal.

The edition of certified EHR technology available to a provider dictates the stage and version of the meaningful use objectives and measures the provider will be able to meet. For example, 2011 Edition CEHRT alone does not have the necessary functionality required to meet the Stage 2 objectives and measures. In addition, the edition of CEHRT determines which CQMs a provider calculates and reports because calculations are part of the software programming within the CEHRT system.

The 3 options for the use of CEHRT editions and the available Stage of meaningful use objectives and measures associated with each option are as follows:

a. Using 2011 Edition CEHRT Only

We proposed that all EPs, eligible hospitals, and CAHs that use only 2011 Edition CEHRT for their EHR reporting period in 2014 must meet the meaningful use objectives and associated measures for Stage 1 under 42 CFR 495.6 that applied for the 2013 payment year, regardless of their current stage of meaningful use. We note that in the Stage 2 final rule (77 FR 53975 through 53979), we finalized certain changes to the Stage 1 objectives and associated measures, with some changes applying beginning with 2013, while other changes applying beginning with

2014. For ease of reference, we refer to the Stage 1 objectives and associated measures under 42 CFR 495.6 applicable for 2013 as the ''2013 Stage 1 objectives and measures,'' and refer to the Stage 1 objectives and associated measures under 42 CFR 495.6 applicable for 2014 as the ''2014 Stage 1 objectives and measures.'' Providers who choose this option must attest that they are unable to fully implement 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability delays when they attest to the meaningful use objectives and measures.

b. Using a Combination of 2011 and 2014 Edition CEHRT

We proposed that all EPs, eligible hospitals, and CAHs using a combination of 2011 Edition CEHRT and 2014 Edition CEHRT for their EHR reporting period in 2014 may choose to meet the 2013 Stage 1 objectives and measures or the 2014 Stage 1 objectives and measures, or if they are scheduled to begin Stage 2 in 2014 under the timeline shown in Table 1, they may choose to meet the Stage 2 objectives and associated measures under 42 CFR 495.6. Providers who choose this option must attest that they are unable to fully implement 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability delays when they attest to the meaningful use objectives and measures.

c. Using 2014 Edition CEHRT for 2014 Stage 1 Objectives and Measures in 2014 for Providers Scheduled to Begin Stage 2

A provider's ability to fully implement all of the functionality of 2014 Edition CEHRT may be limited by the availability and timing of product installation, deployment of new processes and workflows, and employee training. This effect is compounded for providers in Stage 2 as some providers may not be able to fully implement all of the functions included in 2014 Edition CEHRT necessary to meet the Stage 2 objectives and measures in time to complete the EHR reporting period in 2014. Therefore, under our proposal, providers scheduled to begin Stage 2 for the EHR reporting period in 2014 who cannot fully implement all the functions of their 2014 Edition CEHRT required for Stage 2 objectives and measures due to issues related to 2014 Edition CEHRT availability delays could use 2014 Edition CEHRT to attest to the 2014 Stage 1 objectives and measures for the EHR reporting period in 2014. Providers scheduled to begin Stage 2 in 2014 who choose this option must attest that they are unable to fully implement 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability delays when they attest to the meaningful use objectives and measures.

The EHR reporting periods in 2014 already have been established, and we did not propose any changes. Under the current timeline shown in Table 1, providers that first demonstrated meaningful use Stage 1 in 2011 or 2012 must begin Stage 2 in 2014. We proposed that the options regarding use of the various editions of CEHRT outlined earlier applies only to the EHR reporting periods in 2014 for the EHR Incentive Program. Providers scheduled to begin Stage 2 in 2014 that instead meet the Stage 1 criteria in 2014 must begin Stage 2 in 2015 as noted in Table 3. In 2015, all providers, except those in their first year of demonstrating meaningful use, must report based on a full year EHR reporting period. In addition, in 2015, all providers must have 2014 Edition CEHRT in order to successfully demonstrate meaningful use.

TABLE 2—PROPOSED CEHRT SYSTEMS AVAILABLE FOR USE IN 2014

If you were scheduled to demonstrate:	You would be able to attest for Meaningful Use:		
	Using 2011 Edition CEHRT to do:	Using 2011 & 2014 Edition CEHRT to do:	Using 2014 Edition CEHRT to do:
Stage 1 in 2014	2013 Stage 1 objectives and measures*.	2013 Stage 1 objectives and measures* —OR— 2014 Stage 1 objectives and measures*	2014 Stage 1 objectives and measures.
Stage 2 in 2014	2013 Stage 1 objectives and measures*.	2013 Stage 1 objectives and measures* —OR— 2014 Stage 1 objectives and measures* —OR— Stage 2 objectives and measures*	2014 Stage 1 objectives and measures* —OR— Stage 2 objectives and measures.

* Only providers that could not fully implement 2014 Edition CEHRT for the EHR reporting period in 2014 due to delays in 2014 Edition CEHRT availability.

The following are example scenarios under our proposal.

Example A: An EP initiated participation in the Medicare EHR Incentive Program in 2011. The EP successfully demonstrated meaningful use and received incentive payments for 2011, 2012, and 2013. Based on the timeline in the Stage 2 final rule, the EP is required to use 2014 Edition CEHRT and demonstrate Stage 2 of meaningful use in 2014. Under our proposal, this EP who is scheduled to begin Stage 2 in 2014 would have the following options:

- Attest to the Stage 2 objectives and measures of meaningful use using 2014 Edition CEHRT in 2014 as scheduled.
- Attest to the Stage 2 objectives and measures of meaningful use using a combination of 2011 and 2014 Edition CEHRT in 2014 if they are unable to fully implement 2014 Edition CEHRT due to delays in 2014 Edition CEHRT availability.
- Attest to the 2014 Stage 1 objectives and measures using 2014 Edition CEHRT or a combination of 2011 and 2014 Edition CEHRT in 2014 if they are unable to fully implement 2014 Edition CEHRT due to issues related to 2014 Edition CEHRT availability delays.
- Attest to the 2013 Stage 1 objectives and measures using 2011 Edition CEHRT or a combination of 2011 and 2014 Edition CEHRT in 2014 if they are unable to fully implement 2014 Edition CEHRT due to issues related to 2014 Edition CEHRT availability delays. Clinical quality measures must be submitted through attestation if attesting to the 2013 Stage 1 objectives and measures as discussed in section III.B. of this final rule.

Example B: An EP initiated participation in the Medicare EHR Incentive Program in 2013. The EP successfully demonstrated meaningful use and received an incentive payment for 2013. Based on the timeline in the Stage 2 final rule, the EP is required to use 2014 Edition CEHRT and demonstrate Stage 1 of meaningful use in 2014. Under our proposal, this EP would have 1 of the following options:

- Attest using 2014 Edition CEHRT to the 2014 Stage 1 objectives and measures of meaningful use in 2014 as scheduled.
- Attest using a combination of 2011 and 2014 Edition CEHRT and meet the 2014 Stage 1 objectives and measures of meaningful use in 2014 if they are unable to fully implement

2014 Edition CEHRT due to delays in 2014 Edition CEHRT availability.

• Attest using 2011 Edition CEHRT or a combination of 2011 and 2014 Edition CEHRT and meet the 2013 Stage 1 objectives and measures of meaningful use in 2014 if they are unable to fully implement 2014 Edition CEHRT due to delays in 2014 Edition CEHRT availability. Clinical quality measures must be submitted through attestation if attesting to the 2013 Stage 1 objectives and measures as discussed in section II.B. of this rule.

Comment: The majority of commenters supported the proposals presented. Commenters explained that a wide range of EHR vendor and developer issues impeded successful implementation of 2014 Edition CEHRT. These issues include software installation difficulties, testing delays, repeated updates, and software issues that required costly and time-consuming manual corrections. Commenters also raised patient safety concerns about the potential for errors stemming from software glitches and crashes associated with 2014 Edition CEHRT. Some commenters explained that these software installation and implementation problems had a negative effect on productivity, record accuracy, and overall EHR operations because essential functions were not ready on time. Commenters stated that these EHR software delays and other problems have rendered it impossible for providers to adequately implement 2014 Edition CEHRT, train their staff, and test all the required functions in time to demonstrate meaningful use for an EHR reporting period in 2014. Other commenters, many with several years of Stage 1 experience, further point out their EHR vendors do not even have 2014 Edition CEHRT available for them to install so they have been unable to upgrade their CEHRT edition.

Many commenters added that waiting until 2015 to require the use of 2014 Edition CEHRT for an EHR reporting period will give everyone enough time to get their EHRs stabilized. This stabilization would allow providers to implement additional features, products, and workflows to successfully meet the objectives and measures of meaningful use. Accordingly, the overwhelming majority of commenters welcome the changes proposed.

Response: We appreciate the commenters and all stakeholders for the suggestions provided on the EHR Incentive Program. The large number of public comments received is a testament to the continued commitment among the health care and health IT industry to improving access to quality care for patients. We understand the changes required to move the EHR Incentive Program forward take time; and we have heard your concerns over the challenges of successfully implementing 2014 Edition CEHRT in time for an EHR reporting period in 2014. It is for this reason we proposed to offer providers options for the use of certified EHR technology in 2014. As confirmed by the overwhelming number of comments received in support of these proposals, we believe the changes proposed give providers the flexibility and time needed to adequately upgrade and fully implement 2014 Edition CEHRT. We look forward to working further with stakeholders as the next stages of the EHR Incentive Programs evolve, cognizant that stakeholder involvement remains critical to the continued success of this program.

We also note that throughout this final rule, as in the proposed rule, we use the term ''vendor.'' We have added the term developer to this reference as some commenters used this term, and we note that in some cases, the developer and the vendor may be different entities. In other cases, products may be developed by the provider which means that the products were not purchased from an external vendor. For purposes of this final rule, we clarify that the term ''vendor'' shall include developers who create or develop health IT.

Comment: Some commenters opposed the options for the use of CEHRT outlined in the proposed rule. These commenters explained that they successfully tested, upgraded, and implemented 2014 Edition CEHRT and characterized the proposals as unfair to those providers and EHR vendors who worked hard to ensure all Stage 2 requirements and software were ready on time. Some categorized these proposals as unfair to early adopters of EHR technology. These commenters believed the changes as proposed may provide a free pass to those who waited until the last minute to implement 2014 Edition CEHRT, and provide no benefit to those who are ready to move forward. Some commenters requested that we do not finalize this rule in any form, stating that although they acknowledge the EHR Incentive Programs presents some challenges, they believe some difficulties stem from stakeholders being simply unwilling to put in any effort.

Other commenters stated that we should not finalize the proposals because they believe the EHR Incentive Programs are already too complicated given the different stages and requirements. These commenters believed adding more changes only further complicates a program already in need of simplification.

Other commenters explained that the proposed rule should not be finalized because it does not support the effort to move the health care system forward, which is a clear goal of the EHR Incentive Programs and the meaningful use objectives and measures. These commenters expressed concern that the proposed changes might hinder the expansion of health information exchange; limit patients' access to their health care information; or delay the momentum of the EHR Incentive Program. These commenters stated that the changes supported by meaningful use, like providing beneficiaries with online access to their health information, represent a monumental achievement in health IT; and they expressed concern that the options for the use of CEHRT in 2014 may result in delays in this effort. Similarly, commenters were concerned that this would delay forward progress in interoperability, which would be contrary to Congress' intent in passing the HITECH Act and would limit the exchange of health care data between providers which supports the coordination of care.

Response: We appreciate those stakeholders who fully implemented 2014 Edition CEHRT and are able to meet the objectives and measures of meaningful use for an EHR reporting period in 2014. We understand the challenges faced in accomplishing that goal and wish to recognize the tremendous amount of work from providers and EHR vendors in meeting these objectives and helping to move health IT forward.

However, we disagree with these commenters to the extent the changes proposed somehow give providers that waited until the last minute a ''free pass'', or punish those providers who were early adopters. We received numerous comments, and verified through internal research on implementation and readiness, that EHR development and implementation delays caused many providers to be unable to fully implement 2014 Edition CEHRT. Our analysis further showed no identifiable correlation between a provider's efforts to prepare to demonstrate meaningful use—including successful past participation—and the ability to obtain and implement CEHRT in a practice setting. Many providers had no control over their position in their vendor's queue for CEHRT installation, no influence on a product's development timeline, and no participation in the product's movement through the certification process. All of

which may have also contributed to the overall delay in 2014 Edition CEHRT availability. It is for these reasons we proposed these changes. Our intent in proposing these options was not to further complicate the program, to provide a benefit to certain providers, or to penalize other providers. Rather, we sought to be responsive to stakeholder concerns by proposing options for providers who were unable to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 because of issues related to 2014 Edition CEHRT availability delays.

We note that several commenters raised concerns about the potential impact of these proposals on health IT interoperability. However, we believe that the proposed options for the use of CEHRT in the short term will support moving interoperability forward over the long term. Allowing providers additional time to fully implement the 2014 Edition CEHRT required for health information exchange will support efforts to expand the use of this technology on the whole and continue providers' efforts to incorporate electronic health information exchange and care coordination into their practices.

We also recognize the concerns expressed by commenters about how our proposals may affect patients and their families if progress on patient engagement initiatives is slowed. We understand that patients' electronic access to health information, supported by the meaningful use of EHR technology, comprises an integral part of improving patient-provider engagement and patient health literacy. Again, we believe that the short-term delay will allow for more providers to continue forward progress and begin providing essential health information to their patients through certified EHR technology.

In addition, we cannot ignore the overwhelming concern from providers, or the supporting data showing that many providers cannot successfully meet meaningful use for an EHR reporting period in 2014 using 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability delays. We believe that giving additional time to providers who have not otherwise been able to fully implement 2014 Edition CEHRT in their practice will help them continue to make progress toward more advanced use of EHRs including the health information exchange and patient engagement objectives.

In addition, requiring providers to rush implementation despite significant obstacles does not improve health care outcomes or best serve patient safety as a whole. Rather, we believe that the options proposed will allow providers and EHR vendors sufficient time to upgrade and safely and effectively implement the 2014 Edition CEHRT, which, in turn, will result in better health outcomes for patients.

Finally, the actions involved in meeting the objectives and measures of meaningful use are not simply part of a reporting program, they are also based on changing behaviors and setting standards that drive toward improved clinical process and better outcomes for patients. For providers who could not otherwise participate because of a lack of 2014 Edition CEHRT, the allowance of flexibility in the use of CEHRT Editions means they may continue to be actively engaged in the processes and actions required by the program. For the 2013 Stage 1 objectives and measures, this includes providing important information to patients about their care, implementing patient safety measures like automated drug interaction and drug allergy checks, and reporting on public health data. These objectives help to move the EHR Incentive Programs forward and to support delivery system transformation efforts through health IT.

Comment: While most commenters support the proposal to provide options for providers using CEHRT to meet meaningful use in 2014, some commenters expressed concern about the cost and time required to modify state Medicaid EHR attestation systems to accommodate the program changes specified in the proposed rule. Some commenters requested that CMS allow states the flexibility to decline the changes proposed, or to make additional changes within state Medicaid EHR Incentive Programs beyond those proposed by CMS.

Response: We recognize the potential burden that these changes may have on state system development and enhancement activity, and are aware that the changes specified in the proposed rule may have implications for cost, timing, and system changes. In order to accommodate these changes, we are committed to working with individual states to update contracts and funding requests in Implementation-Advance Planning Documents (I–APDs) to enact the systems changes needed to support these policy changes. We remind states that enhanced Federal financial participation is available for EHR Incentive Program administration costs. We do not believe these concerns outweigh the benefits of the proposed options for the use of CEHRT, which we believe would enable providers who would otherwise be unable to meet meaningful use, to be able to do so in 2014.

Comment: Several commenters reported that the proposed rule would increase the complexity of an already difficult transition from Stage 1 to Stage 2 for many Medicaid EPs, and requested that we provide guidance to clarify any changes to the program that result from this final rule. Commenters requested clarification on whether this change is limited to the use of CEHRT for an EHR reporting period in 2014 for Medicaid given that state Medicaid programs must make administrative, system, and operational changes in response to the changes proposed, which may take significant time to complete.

Response: We recognize the additional complexity introduced under these proposals for providers participating in the Medicaid EHR Incentive Program, but we believe that the benefits of giving providers option for using CEHRT in 2014 to meet meaningful use will outweigh any additional confusion that may occur. We will provide ongoing technical assistance and appropriate materials to state staff and providers to help them understand how the changes in this rule affect participation in the Medicaid EHR Incentive Program. We stress that the changes regarding the options for using CEHRT are limited to the EHR reporting period in 2014 for both Medicare and Medicaid. For 2015 and subsequent years, we proposed no changes regarding the use of CEHRT or the stage of meaningful use a provider must attest to, except for the change in the Stage 3 start date.

Comment: Several commenters encouraged CMS to not adopt any changes or exclusions which affect the ability of providers serving patients residing in correctional facilities to meet the requirements of meaningful use.

Response: We appreciate the commenters' feedback. However, we did not propose any changes that would uniquely affect providers serving patients in correctional facilities.

Comment: We received numerous comments during this public comment period that were either unrelated to the EHR Incentive Program or outside the scope of the proposed rule. These comments included changes to Stage 2, requests for revisions to EHR reporting periods in years other than 2014, and suggestions for implementation of Stage 3.

Response: We thank all the commenters for their suggestions and feedback on the EHR Incentive Programs. However, comments

unrelated to the proposals fall outside the scope of the proposed rule and are not be addressed in this final rule.

Instead, we urge readers, especially those who provided comments pertaining to Stage 3, to wait until the release of the Stage 3 proposed rule to provide comments on this particular area.

Comment: We received multiple comments from providers on the delays in service and a perceived lack of communication from EHR vendors. Commenters stated that some vendors are still unable to provide them with 2014 Edition CEHRT, or that products they have in place have not yet been certified. Another provider requested that CMS compel EHR vendors to better communicate with their clients, especially in cases where they are not actively pursuing certification. These commenters stressed the need to be able to rely on EHR vendors, and the perceived lack of communication often inhibits trust in a business relationship. However, another commenter believed the proposed rule forced providers to blame vendors and system developers, in order to take advantage of the options for using CEHRT. This commenter added that such behavior did not foster a cooperative relationship between vendor and provider.

Response: We recognize the concern and need for effective and timely communication with EHR vendors during the EHR certification process. We are committed to working with our federal partners at the ONC and industry stakeholder groups representing EHR vendors to create and disseminate meaningful use related resources for use in supporting providers.

We stress that in this proposed rule, we did not intend to attribute fault to any stakeholder, including EHR vendors, always recognizing the success of this program hinges upon the cooperation of all stakeholders. Rather, the options we proposed recognize the overall difficulties and delays in the industry as a whole in getting 2014 Edition CEHRT fully certified and implemented in time for providers to use for an EHR reporting period in 2014.

Comment: Several commenters requested that we finalize this rule as quickly as possible and questioned the public comment period. A commenter stated that we did not specify the end of the comment period in the proposed rule. Other commenters requested that CMS either shorten or eliminate the public comment period entirely, or provide a definitive date for final rule implementation. In general, these commenters expressed concern that the comment period ending on July 21, 2014 would delay the implementation of the rule and effectively limit providers to using the 4th quarter as their EHR reporting period. These commenters expressed concern that this timeframe is not feasible for eligible hospitals because the fourth quarter of FY 2014 began on July 1, 2014, prior to the end of the comment period.

Response: We thank the commenters for their suggestions but respectfully disagree with the concerns raised. First, we disagree with the commenter that stated that we did not specify the end of the public comment period. The proposed rule, as pointed out by other commenters, specified that the comment period ended on July 21, 2014. The comment period allows us to receive invaluable feedback on the proposals and gain a better understanding of the impact they may have on providers and the health care industry.

Second, we acknowledge a perceived concern that the timing of this final rule effectively limits a provider's EHR reporting period in 2014 to the fourth quarter. However, we believe this concern stems largely from a misunderstanding of the EHR reporting periods and the time allowed for attestation. There are two related actions required to report on the objectives and measures to demonstrate meaningful use. The first is to capture data for an EHR reporting period, the second is to attest to that data in the EHR Incentive Programs Registration and Attestation System. First, providers may capture data for any EHR reporting period of a three-month quarter within 2014 (CY for EPs, FY for eligible hospitals and CAHs) using the options in this final rule. For example, a provider may meet the meaningful use objectives and measures using the options in this final rule during the first quarter EHR reporting period in 2014 (October 2013 through December 2013 for eligible hospitals and CAHs, January 2014 through March 2014 for EPs). Second, a provider may submit their data and attest to meaningful use at any point from the end of the selected EHR reporting period through the end of the attestation period. The attestation period does not open and close after each reporting period. The attestation period opens at the end of the first reporting period of the year and is open the remainder of the year and finally closes 2 months after the end of the year (CY for EPs, FY for eligible hospitals and CAHs), not at the end of any given EHR reporting period.

Therefore if an eligible hospital were unable to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 because of issues related to 2014 Edition CEHRT availability delays, the options provided in this rule would allow that eligible hospital to use 2011 Edition CEHRT, or a combination of 2011 and 2014 Edition CEHRT to meet meaningful use during any 3-month quarter EHR reporting period in FY 2014. That eligible hospital could select the first, second, third, or fourth quarter of FY 2014 as its EHR reporting period and attest to meeting the meaningful use objectives and measures at the end of the year. Therefore, the last quarter of the year is not the only available quarter which a provider may use for their EHR reporting period in 2014.

Comment: Some commenters wanted us to extend the options for the use of CEHRT we proposed for 2014 into 2015. These commenters stated the additional flexibility would allow time for providers and EHR vendors to adequately implement the technology. Another commenter suggested extending the options for using CEHRT into 2015 in order to align the program with the upcoming ICD–10 transition.

Response: The options detailed in the proposed rule apply to the use of CEHRT for the EHR reporting period in 2014 and do not extend to 2015 or subsequent years. We believe the options proposed for 2014 allow providers to continue moving forward with the meaningful use of certified EHR technology. However, to extend the proposed options for using CEHRT beyond the EHR reporting period in 2014 puts ongoing program goals at risk. We set the new standards for 2014 Edition CEHRT to achieve more advanced functionalities and drive toward enhanced information exchange and interoperability. We acknowledged in previous comment and response discussion that even these proposed options for the use of CEHRT represent some delay to forward progress. However, we believe our proposals would mitigate that delay by enabling more providers to participate in the program in 2014 while maintaining the requirement to use 2014 Edition CEHRT in 2015. But, allowing any further extension compounds the potential risk to health information exchange infrastructure and may detrimentally affect the alignment with related CMS programs such as PQRS and IQR. For these reasons, we did not propose extending the options for the use of CEHRT beyond 2014.

Comment: A few commenters questioned whether providers ready to move forward with attestations should still do so. These commenters questioned whether providers who have adopted and are live with 2014 Edition

CEHRT should use one of the CEHRT options proposed for the EHR reporting period in 2014. Some commenters further questioned if they should delay active installation of their 2014 Edition CEHRT to accommodate these changes.

Response: Providers who have fully implemented 2014 Edition CEHRT must attest to the objectives and measures for their stage of meaningful use for an EHR reporting period in 2014. The proposed options for using CEHRT are available only to those providers who are unable to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 because of issues related to 2014 Edition CEHRT availability delays.

We stated in the proposed rule that we strongly recommend EPs, eligible hospitals, and CAHs that have not yet purchased EHR technology to obtain 2014 Edition CEHRT as these providers will still need to use 2014 Edition CEHRT for their EHR reporting period in 2015. This also applies for providers in the process of installing or implementing 2014 Edition CEHRT. These providers should continue the implementation process as 2014 Edition CEHRT will be required for use for an EHR reporting period in 2015.

In addition, we proposed that a Medicaid provider must adopt, implement, or upgrade to only 2014 Edition CEHRT if they wish to qualify for the adopt, implement, or upgrade incentive payment under Medicaid for their first participation year. This was proposed in order to avoid inadvertently incentivizing the purchase of an outdated product that cannot be used to demonstrate meaningful use in a subsequent year.

Comment: A commenter requested clarification of what we meant by requiring Medicaid EPs to adopt, implement, or upgrade 2014 Edition CEHRT. The commenter questioned whether documentation of a plan to upgrade from older technology is sufficient.

Response: We proposed that to receive an incentive payment for ''adopt, implement, upgrade'' under Medicaid, EPs will need to adopt, implement, or upgrade (AIU) to 2014 Edition CEHRT only. As mentioned in the proposed rule, this requirement discourages the purchase of an outdated product that could not be used to meet meaningful use in subsequent years. We do not consider a plan to upgrade from older technology sufficient. We further note that Medicaid EPs who qualify for a first year incentive payment for AIU may be subject to the Medicare payment adjustment under section 1848(a)(7) of the Act if they do not demonstrate meaningful use for an applicable EHR reporting period.

Comment: We received multiple comments on the proposed options for the use of CEHRT. Generally, the majority of commenters supported the proposed options, and several commenters requested clarification on one or more of the options. A few commenters generally objected to one or more of the options, finding the options for the use of CEHRT time consuming, complicated, confusing, or inconvenient.

Some commenters requested that CMS clarify how the edition of CEHRT would dictate the stage of Meaningful Use under the CEHRT options. Specifically, commenters requested clarification on how the proposed options for the use of CEHRT would work with objectives, associated measures, and CQMs. Commenters questioned whether the options for the use of CEHRT extended to allowing options for measure selection. A few commenters suggested that we allow additional options for the use of CEHRT regardless of the Edition of CEHRT the provider has implemented. These options included: allowing providers to attest to Stage 2 with exclusion of one or more core objectives; allowing providers to report on either Stage 1 or 2, using either the 2011 or 2014 Edition CEHRT; allowing providers to choose between 2014 Stage 1 objectives and measures and the 2013 Stage 1 objectives and measures; and allowing providers to report on any version of CQMs.

Many commenters wanted additional explanation of what we meant by a combination of 2011 and 2014 Edition CEHRT. These commenters requested that we clarify if the combination referred to set amounts of time, or whether a specific ratio between CEHRT editions was required, or whether a specific CEHRT edition needed to be used for each objective or measure. These commenters were also concerned that the coding differences between the software editions would make it difficult to use a combination of the two as proposed in the options for the use of CEHRT. Other commenters requested clarification if the combined 2011/2014 option for the use of CEHRT could be used for providers practicing in multiple locations equipped with different editions of CEHRT.

In addition, many commenters requested that guidance on the documentation requirements for the related reporting requirements be provided to program auditors for each potential option.

Response: We appreciate the supportive comments regarding the options for the use of CEHRT proposed for meeting meaningful use for an EHR reporting period in 2014. Our priority is to promote the meaningful use of certified EHR technology and support the successful implementation of 2014 Edition CEHRT including the functionalities required to support enhanced patient engagement, interoperability, and health information exchange. We recognize clinical workflows, business procedures, and maintaining documentation may require modifications upon implementation of 2014 Edition CEHRT. In addition, we recognize that affected providers will need to consider multiple factors in determining the option for which they may be eligible. However, we believe the proposals outlined for the use of CEHRT in 2014 will allow affected providers the flexibility to choose the option which applies to their particular circumstances. Upon attestation, providers may select one of the options proposed and the EHR Incentive Program Registration and Attestation System will prompt the provider to attest to meeting the applicable objectives, measures, and CQMs based on their Edition of CEHRT. Furthermore, we note, as suggested by some commenters, that auditors will be provided guidance related to reviewing attestations associated with the options for using CEHRT.

While we understand it may be cumbersome for providers to use a combination of 2011 and 2014 Edition CEHRT to meet meaningful use in 2014, we expect the benefit of ultimately demonstrating meaningful use outweighs the complexity of using two CEHRT editions. We do not specify whether a provider must use 2011 Edition CEHRT or 2014 Edition CEHRT for a certain amount of time during the EHR reporting period, whether a certain amount of modules in one CEHRT edition or another is required, or whether a certain number of provider settings must have one CEHRT edition over another. This is because we expect there will be significant variation among practices based on the type of software used, the complexity of a provider's total systems, and the overall implementation timeline for 2014 Edition CEHRT installation.

Providers who use a combination of 2011 Edition and 2014 Edition CEHRT will enter a certification number into the Registration and Attestation System, and they will be presented with a choice of 2013 Stage 1 objectives and measures, or 2014 Stage 1 objectives and measures (and Stage 2 objectives and measures if

they were previously scheduled to begin Stage 2). Providers using a combination of 2011 Edition and 2014 Edition CEHRT who choose to attest to the 2013 Stage 1 meaningful use objectives and measures will report on only those objectives and measures and attest to the CQMs that were applicable for 2013. Providers using a combination of 2011 and 2014 Edition CEHRT who choose to attest to the 2014 Stage 1 meaningful use objectives and measures will report on only those objectives and measures and submit the 2014 CQMs through attestation or electronic reporting. Providers using a combination of 2011 Edition and 2014 Edition CEHRT who choose to attest to Stage 2 objectives and measures will attest to only the Stage 2 objectives and measures and submit the 2014 CQMs through attestation or electronic reporting.

Comment: We received numerous comments on the EHR reporting periods for both 2014 and 2015. For 2014, some commenters wanted us to allow providers to skip attestation entirely. Some commenters requested clarification regarding the EHR reporting period for providers employing the options outlined in the rule. Another commenter questioned whether it was possible to attest based on a 3rd quarter (April through June) instead of 4th quarter (July through September) EHR reporting period in FY 2014 using the CEHRT options proposed. Some commenters suggested that eligible hospitals should attest using any one quarter of the fiscal year, while others disagreed with using a 3-month period by quarter.

Another commenter suggested that CMS should generally allow a 90-day reporting period for Stage 2, year 1, in order to allow ample time to test and meet the measures in Stage 2.

However, the majority of commenters, focused on the 2015 reporting period and made suggestions regarding the length of the EHR reporting period. Several commenters requested that CMS consider 2015 a transition period with the use of 2014 Edition CEHRT. Many of these commenters suggested a 90-day attestation period for 2015, citing that providers and EHR vendors do not have enough time in 2014 to fully integrate 2014 Edition CEHRT. The majority of these commenters then requested a flexible 90-day period, explaining that the rule will not be finalized prior to the beginning of the last EHR reporting period. Commenters added reporting for a full year in 2015 is impossible if providers had to switch systems on the first of the year.

Other commenters explained that a 90-day reporting period is needed for 2015 because the proposed extension is not enough given the time needed to adopt, implement, and operationalize a 2014 Edition CEHRT and all of the changes that accompany it. These commenters noted such a short extension does not adequately serve the purpose of the proposed rule. Finally, some commenters wanted a 90-day reporting period because of the delay in ICD–10 implementation, or because they believed Stage 2 measures fell outside their control. Many commenters requested clarification regarding the ramifications of not being able to implement 2014 Edition CEHRT by January 1, 2015.

Response: The special 3-month quarter EHR reporting period in 2014 was established in the Stage 2 final rule and does not apply to 2015 or subsequent years. In the proposed rule, we did not propose to change the EHR reporting periods that were established in the Stage 2 final rule for 2014 or any subsequent year with regard to the incentive payments or payment adjustments. The purpose of the proposed rule was to provide options for the use of CEHRT to allow providers to meet meaningful use within the existing EHR reporting periods using the technology available to them. We are not considering changes to the EHR reporting periods for 2015 or subsequent years in this final rule for the same reasons we are not considering changing the edition of CEHRT required for 2015 or subsequent years. Changes to the EHR reporting period would put the forward progress of the program at risk, and cause further delay in implementing effective health IT infrastructure. In addition, further changes to the reporting period would create further misalignment with the CMS quality reporting programs like PQRS and IQR, which would increase the reporting burden on providers and negatively impact quality reporting data integrity.

However, as stated previously in this final rule, providers may attest based on an EHR reporting period of any quarter in 2014 using the options specified in this final rule. We believe the options for using CEHRT proposed, as well as the ability for a provider to attest based on any quarter in 2014, strike a balance between being responsive to those providers unable to fully implement 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability delay and continuing to move the EHR Incentive Program forward.

Comment: Commenters questioned how states will verify that eligible providers are ''unable to fully implement 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability delays'' when they attest to meaningful use objectives and measures for the Medicaid EHR Incentive Program. Commenters stated that without having detailed guidance on how states should capture and verify this new attestation requirement that states would be at a greater risk of making improper payments to providers.

Response: We recognize the potential difficulties in adding this requirement for both providers and state Medicaid agencies, but still believe that it is necessary to ensure that this final rule is tailored to those providers who were unable to fully implement 2014 Edition CEHRT.

Comment: Several commenters sought clarification on the circumstances under which providers could use the proposed options for the use of CEHRT outlined in the proposed rule. Commenters requested that CMS clarify or further define the terms ''unable to fully implement'' and ''2014 Edition CEHRT availability delays.''

The comments pertaining to this particular area fell into several categories. The largest commenter group wanted precise definitions because they believed the proposed rule was not sufficiently clear. Several commenters remarked that we provided limited examples in the proposed rule. These commenters explained these terms, so critical to determining available options for using CEHRT, could encompass an endless number of scenarios. Other commenters wanted to know if providers retained the discretion to determine what these terms meant, and if not, who would ultimately decide what they meant. Some commenters suggested that the use of the proposed options should be based on a provider's determination that it could not effectively deploy 2014 Edition CEHRT. Other commenters wanted the options for using CEHRT expanded to more than just issues with 2014 CEHRT availability delays.

Some commenters expressed concern that the language we used was too broad; while others stated that the language was too restrictive. Several commenters wanted us to either substitute or add to ''fully implement'' with a host of other terms, including deployment, operationalize, work, establish, institute, initiate, place, or execute. Several commenters expressed confusion about whether they could use the options for CEHRT when they have 2014 Edition CEHRT available, but could not train new personnel or establish new workflows because of late software installations.

Many commenters requested timeframes or deadlines for when these terms would be applicable. For example, a commenter questioned what would be considered an adequate amount of time to complete all of the transitional processes (training, workflow, validation of reporting) post 2014 Edition CEHRT deployment.

Other commenters suggested expanding the circumstances where an inability to fully implement or 2014 Edition CEHRT availability delays could be used. Specifically, many commenters remarked delays with implementation of 2014 Edition CEHRT consisted of more than just vendor related availability issues and added that we should clarify that many issues could be involved. A commenter noted that the time period to be considered for the option to report on Stage 1 should consist of not only the time for the vendor to obtain 2014 edition certification, but also should extend to all subsequent vendor and health care provider tasks required to fully operationalize Stage 2. Other commenters wanted us to consider an inability to fully test 2014 Edition CEHRT an appropriate circumstance under which to use the CEHRT options. Other commenters noted a lack of training on the new technology changes and requested that this be considered a valid reason for using the CEHRT options.

Commenters explained that EHR vendors did not train providers in time, thereby resulting in an inability to attest to meaningful use. Other commenters stated that cost and staff turnover and changes caused their inability to fully implement 2014 Edition CEHRT, and wanted clarification on whether that qualified them to use the CEHRT options. Another commenter suggested we consider a financial hardship as a reason to be unable to fully implement 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability delays.

Some commenters stated problems associated with the 2014 Stage 1 objectives and measures or the Stage 2 objectives and measures themselves should be considered as a suitable reason for using the CEHRT options. A commenter remarked that his vendor only released the capability for the lab result measure in June, and he still is waiting for the upgrade to be able to report on the measure.

Many commenters expressed concern over attesting to Stage 2 because of a lack of 2014 Edition CEHRT availability associated with the Stage 2 transitions of care measure requiring transmission of an electronic summary of care document using 2014 Edition CEHRT. This measure requires providers to send an electronic summary of care document for more than 10 percent of transitions or referrals. EPs especially expressed this concern because their 2014 implementation timeline may be 3 months behind eligible hospitals and CAHs given fiscal and calendar year differences. Commenters explained that even those EPs who did fully implement their own 2014 Edition CEHRT systems may still be unable to meet Stage 2 requirements due to other EPs and community hospitals lacking 2014 Edition CEHRT. Since Stage 2 requires electronic summary of care records for more than 10 percent of transitions of care to be electronically transmitted by the referring or transitioning EP using 2014 Edition CEHRT or facilitated by an eHealth Exchange participant, commenters indicated that the EP cannot guarantee receipt if the recipient or intermediary does not have the 2014 Edition CEHRT functionality required to receive the electronic document. These commenters suggested we allow an EP under these circumstances to attest to the Stage 1 objectives when insufficient opportunities exist to send summary of care records electronically because recipients did not fully implement 2014 Edition CEHRT.

Other commenters raised concerns over other measures under the EHR Incentive Program, some requiring the specific use of 2014 Edition CEHRT. Many commenters wanted to know whether issues with direct messaging, portal non-use by patients, mapping problems, or other similar measure issues could be considered an inability to fully implement 2014 Edition CEHRT because of issues related to a 2014 CEHRT availability delay. A commenter explained that Stage 2's focus on cooperation among providers makes implementation difficult when not all providers are at the same capability level. Commenters maintained these issues fell outside the provider's control and should be considered suitable reasons to use the CEHRT options. Some commenters added that providers should be allowed to meet less than the required thresholds and still be considered to meet meaningful use for the EHR reporting period in 2014.

Other commenters remarked that although they had no issues with 2014 Edition CEHRT availability, providers could not meet several measure requirements because of late code releases on a short time frame. Therefore, these commenters suggested that all providers be allowed to use the CEHRT options. Similarly, many commenters wanted all restrictions for using the CEHRT options eliminated completely, and instead, allow all providers to use the options for CEHRT regardless of the reason.

Response: We agree that some clarification is necessary regarding what we meant by ''not able to fully implement'' and ''delays in 2014 Edition CEHRT availability'' in the proposed rule. We begin by addressing those commenters who pointed out that we did not provide examples which fully encompass every scenario where an inability to fully implement or a 2014 Edition CEHRT availability delay was possible, as well as those commenters who stated the terminology generally was vague and unclear. We did not provide an exhaustive list of every possible scenario in the proposed rule in recognition of the many different scenarios where a provider may not be able to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 due to delays in 2014 Edition CEHRT availability. We also did not propose alternate terminology for ''implement'', such as operationalize, institute, or initiate, as suggested by commenters because we wanted to use consistent terminology in the proposed rule.

Next, we clarify what we meant by a delay in 2014 Edition CEHRT availability. As stated previously, we proposed the options for using CEHRT due to the overwhelming number of providers who informed us they could not meet the objectives and measures of meaningful use with 2014 Edition CEHRT because, for example, they did not have the product installed, or were waiting for EHR vendor certification or for necessary software updates from the EHR vendor. Such delays then gave the provider little to no time to get the necessary training, system testing and workflow revisions in place to fully implement their 2014 Edition CEHRT in time for an EHR reporting period in 2014. Thus, the delay in the 2014 Edition CEHRT availability resulted from one or more delays related to the development, certification, testing, and release of an EHR product by the EHR vendor which then results in the inability for a provider to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014. In stating that the delays are attributable to the development, certification, testing, and release of an EHR product by the EHR vendor, we do not intend to infer that the EHR vendor is culpable. We recognize that vendors themselves may have experienced unexpected delays during the development process because of the compressed timeline between receipt of final requirements to the

deadline for implementation. This could include delays within the certification process as well. For example, if a vendor's actions were timely but the ONC Authorized Certification Body experienced a backlog due to a high volume of certification requests, a delay in the testing and certification of a product may have occurred. Further, as reflected in the special shortened EHR reporting period in 2014 established in the Stage 2 final rule, we anticipated potential delays from the volume of providers requiring a simultaneous software upgrade. Rather, we proposed the options for the use of CEHRT to alleviate provider and vendor burden in light of our research and analysis demonstrating that the scale of the problem was greater than anticipated when the Stage 2 final rule was published. Accordingly, a provider's ability to use these flexible options for CEHRT is based on the provider's inability to fully implement 2014 Edition CEHRT based on these types of issues related to software development, certification and release of the product by the EHR vendor which affected 2014 CEHRT availability.

We did not intend, as suggested by some commenters, to allow reasons such as a provider waiting too long to purchase the software or, as explained later in this section, a lack of staff or resources to constitute a ''delay'' for purposes of using one of the proposed CEHRT options. Therefore, we stress the delay in 2014 Edition CEHRT availability must be attributable to the issues related to software development, certification, implementation, testing, or release of the product by the EHR vendor which affected 2014 CEHRT availability, which then results in the inability for a provider to fully implement 2014 Edition CEHRT.

Next, we clarify what we meant by an inability to fully implement 2014 Edition CEHRT. It is in this area where we intended to provide the broadest application. We start with examples of what does not constitute an inability to fully implement 2014 Edition CEHRT. We believe that beginning with what is not permissible, rather than what is, represents a far smaller set of circumstances that will both quell providers' concerns about audits and provide additional parameters on the use of the CEHRT options generally.

Accordingly, we clarify that the following situations would not be permissible reasons to use the options for CEHRT because they do not constitute an inability to fully implement 2014 Edition CEHRT. First, providers that did not fully implement 2014 Edition CEHRT due to financial issues, such as the costs associated with implementing, upgrading, installing, testing, or other similar financial issues, would not be able to use the options for CEHRT for the EHR reporting period in 2014. Although we understand cost is a factor for health care providers, as it is with any other business, we proposed the options for CEHRT to address delays in the availability of 2014 Edition CEHRT, and not the costs associated with it. Therefore, we do not find cost to be a permissible reason for using one of the options for CEHRT. Rather, we point out that providers facing significant cost concerns relating to such things as insufficient internet access and insurmountable barriers to obtaining infrastructure (broadband access) have the option to file an application for a hardship exception.

Second, with limited exception discussed later in this section, issues related to the meaningful use objectives and measures do not constitute an inability to fully implement 2014 Edition CEHRT. Several commenters mentioned that although 2014 Edition CEHRT was available, fully functioning, and implemented, they wanted to attest with one of the CEHRT options because of issues relating to one or more Stage 2 objectives and measures, such as the inability to meet certain measure thresholds which increased from Stage 1 to Stage 2, an overall objection to Stage 2 measures generally, or concerns with measures believed to be outside a provider's control—such as an inability to obtain a beneficiary's email address. Again, we proposed alternate options only for those providers who could not fully implement 2014 Edition CEHRT for a full EHR reporting period in 2014 because of issues related to 2014 Edition CEHRT availability delays. We did not propose these options in order for providers to be exempted from meeting Stage 2 measure requirements. We do not find that an inability to meet one or more measures, as in the examples cited previously, fits within the rationale we proposed for using one of the CEHRT options. Rather, overall concerns and comments requesting changes or exemptions to one or more of the Stage 2 measures and objectives fall outside the scope of this rule, and will not be discussed with any further detail here. Accordingly, for the reasons stated previously, those providers who have fully implemented 2014 Edition CEHRT and cannot meet one or more measures for reasons unrelated to the inability to fully implement 2014 Edition CEHRT due to delays in the product availability cannot use the options for the use of CEHRT and must attest to their stage of meaningful use using 2014 Edition CEHRT as originally intended.

However, we recognize the concern raised by commenters, stated previously, that in the Stage 2 meaningful use objective for provision of a summary of care document during for more than 10 percent of transitions of care, the second measure requires electronic transmission using CEHRT, which implies that the recipient or intermediary is able to receive the summary of care document in the standard required for transmission. As mentioned by commenters, the sending provider may experience significant difficulty meeting the 10 percent threshold, despite the referring provider's ability to send the electronic document, if the intermediary or the recipient of the transition or referral is experiencing delays in the ability to fully implement 2014 Edition CEHRT. We acknowledge referring providers may not be able to meet the summary of care measure in 2014, if receiving providers they frequently work with have not upgraded to 2014 Edition CEHRT. We therefore believe a limited exception is warranted for providers who could not meet the threshold for the Stage 2 summary of care measure requiring the transmission of an electronic summary of care document for more than 10 percent of transitions or referrals because the recipients of the transitions or referrals were impacted by issues related to 2014 Edition CEHRT availability delays and therefore could not implement the functionality required to receive the electronic summary of care document. Therefore, we consider the inability to fully implement to extend to those providers for the summary of care document measure at 42 CFR 495.6 (d)(14)(ii)(B) for EPs and (l)(11)(ii)(B) for eligible hospitals and CAHs. A referring provider under this circumstance may attest to the 2014 Stage 1 objectives and measures for the EHR reporting period in 2014. However, the referring provider must retain documentation clearly demonstrating that they were unable to meet the 10 percent threshold for the measure to provide an electronic summary of care document for a transition or referral for the reasons previously stated.

We stress that other issues related to objectives and measures, such as a failure to meet a measure threshold, or failure to conduct the activities required to meet a measure, will not be considered a suitable basis to use the CEHRT options outlined in this final rule.

Next, we find staff changes and turnover to be an insufficient rationale

for a provider to use the CEHRT options. Some commenters explained that circumstances such as the termination or attrition of staff rendered them unable to train new staff in time to implement 2014 Edition CEHRT. However, we did not intend such rationale to be permissible. Rather, references we made in the proposed rule regarding the inadequate amount of time to train staff stemmed, again, from the fact that EHR vendors were delayed in installing 2014 Edition CEHRT, which, in turn, gave providers little to no time to train their staff on the new software. We consider staff turnover and changes, as well as any other similar situations, to be issues frequently encountered in the normal course of business and therefore insufficient grounds for a provider to use the CEHRT options.

Finally, we do not find situations stemming from a provider's inaction or delay in implementing 2014 Edition CEHRT sufficient to use one of the CEHRT options. These situations include providers waiting too long to engage a vendor or a provider's inability or refusal to purchase the requisite software update. Such circumstances would not be permissible reasons to use the CEHRT options because they did not stem from a 2014 Edition CEHRT availability delay.

We again stress that the proposed rule was intended to allow options for providers that were unable to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 due to issues relating to 2014 Edition CEHRT availability delays. Therefore, we will not remove the requirement that a provider's inability to fully implement 2014 Edition CEHRT was based on issues related to 2014 Edition CEHRT availability delays, because this requirement comprises the primary reason for the proposed rule.

In deciding whether a provider can use a CEHRT option, we stress that the installation of 2014 Edition CEHRT alone is not the sole factor. Obviously, those providers still waiting for installation of 2014 Edition CEHRT represent the most concrete example of those able to use the CEHRT options because it represents the clearest illustration of both a 2014 Edition CEHRT availability delay and lack of full implementation. However, those providers with 2014 Edition CEHRT installed may also be able to use the options for the use of CEHRT. Again, we stress that an availability delay is not based solely on whether the software is certified and then installed or not, as many commenters questioned. Rather, providers with 2014 Edition CEHRT installed may nonetheless face a 2014 CEHRT availability delay because they are waiting for vendor software updates, or the software itself is presenting problems with functionality, or when the software does not yet contain all required components. This also may include situations where a problem with the software presents a safety issue, such as when a drug allergy or drug interaction clinical decision support does not function properly, or cases where the vendor identified a functionality problem and sends out patches to fix the problem, requiring the provider to wait until the issue is resolved to use the software. We recognize these issues take time to resolve, and the overall delay in 2014 Edition CEHRT availability may have constrained that time for many providers. So, although we cannot list every possible scenario, installed 2014 Edition CEHRT with delayed or missing software updates, or cases where the software itself renders a provider unable to reliably use the software would be permissible reasons to use the CEHRT options because such issues are considered to be a 2014 Edition CEHRT availability delay. We stress that this does not include, as explained earlier, circumstances where the software functions properly but the provider cannot meet one or more requirements of the measure or the increased thresholds on measures common to both stages. The basis for using one of the CEHRT options stems from a problem with first getting the software installed because of EHR vendor delays, and then fully implementing (including training, workflows, and related activities) 2014 Edition CEHRT in time for a full EHR reporting period in 2014. We note that being able to implement 2014 Edition CEHRT for a part of the reporting period is not considered full implementation of 2014 Edition CHERT. Providers who are only able to implement 2014 Edition CEHRT for part of a reporting period would be permitted to use the CEHRT options in this rule.

Along this vein, we received requests to define what is allowable for staff training, system testing and workflow revision under the proposed options for providers who are unable to fully implement 2014 Edition CEHRT. An inability to train staff, test the updated system, or put new workflows in place because of delays associated with the installation of 2014 Edition CEHRT constitutes a failure to fully implement, and provides sufficient rationale to use the options for the use of CEHRT. We note several commenters wanted us to specify cutoff dates for training or workflows where we would find it suitable to allow using the CEHRT options. However, such limits would be impossible for us to adequately capture. Because the number and types of providers involved with the EHR Incentive Program vary greatly, we cannot simply state a hard date or exact time because a large hospital chain would possess different time and workflow requirements, for example, than a single EP. However, we can clarify that in order to use one of the options for the use of CEHRT, the provider must not have had enough time to fully implement 2014 Edition CEHRT, including training of staff, perform system testing, and establishing revised workflows in order to report for a full EHR reporting period. If a large hospital, for example, had their CEHRT installed in August, we expect that this hospital would not have enough time to be able to report for an EHR reporting period in 2014 because the hospital would not be able to train staff or establish the necessary changes in workflow. However, if a hospital had 2014 Edition CEHRT installed in January 2014 and decided to wait until August 2014 to begin training, testing and workflow activities, for example, then this rationale would not be sufficient to establish that the provider could not fully implement 2014 Edition CEHRT due to a delay in 2014 Edition CEHRT availability, because the delay was on the part of the hospital.

Again, we note that we cannot capture every scenario where a provider can use an option for the use of CEHRT and understand a number of providers will likely choose to attest under one of the options proposed in this final rule. Given the number of stakeholders who raised problems with getting 2014 Edition CEHRT fully implemented and running, we expected a fairly wide use of the options for the use of CEHRT, which is why we proposed these provisions. However, as explained earlier, we also proposed the requirement that a provider must attest to an inability to fully implement 2014 Edition CEHRT due to issues relating to 2014 Edition CEHRT availability delays in order to use the CEHRT options. Although we understand the broad application that will likely ensue, we believe the parameters set forth earlier will provide further guidance to stakeholders in determining whether to use the options, while at the same time, continue to move the program forward toward the overall goal of the meaningful use of certified EHR technology.

Comment: A number of commenters raised fairness concerns around those providers who met all requirements and

can report using 2014 Edition CEHRT in 2014. These commenters explained that such providers and EHR vendors were not being provided with any benefit from the options outlined in the proposed rule, or with meeting requirements as originally created. Some even suggested that we provide additional incentives to those providers who can report as scheduled, as an award for meeting all requirements in 2014. Other commenters requested that all providers be allowed to use the options for the use of CEHRT regardless of the reason.

Response: We appreciate the commenters' feedback. However, the proposed rule was not intended to unfairly favor any stakeholder. Rather, we proposed this rule to provide relief to those providers who could not meet meaningful use for an EHR reporting period in 2014 using 2014 Edition CEHRT because of vendor delays with software implementation. These providers were caught in situations where their vendors did not have 2014 Edition CEHRT ready, and therefore would be unable to meet meaningful use for an EHR reporting period in 2014. These providers would otherwise not be participating in the program which would weaken the overall momentum and diminish essential program goals such as continuing to build health information exchange infrastructure, increasing participation in essential public health reporting programs, and capturing and reporting data on clinical standards and quality.

We applaud those providers and EHR vendors who met all requirements and upgraded in time for the EHR reporting period in 2014. We understand the time and effort that such a task entailed and continue to appreciate the work these pioneers accomplish in moving the EHR Incentive Program forward. But, allowing all providers, including those who have fully implemented 2014 Edition CEHRT, to use an alternate edition of CEHRT would simply be counterintuitive. If we allowed such a step, we expect many providers would choose the alternate options and continue to report on Stage 1, which would thereby leave us, as also noted by some commenters, with little to no data to review on Stage 2. Such circumstances, we fear, would later prove problematic in implementing Stage 3 and would go against our rationale to review Stage 2 data in order to mold Stage 3. The entire overarching purpose of the EHR Incentive Program is to move providers towards advanced use of health IT to support reductions in cost, increased access, and improved outcomes for patients. However, allowing all providers—including those who can meet meaningful use using 2014 Edition CEHRT—to delay their forward progress would put these goals at significant risk. Therefore, providers must be able to show an inability to fully implement 2014 Edition CEHRT because of delays in 2014 Edition CEHRT availability in order to use one of the options for the use of CEHRT.

In addition, although we again applaud those providers who can meet meaningful use for an EHR reporting period in 2014 using 2014 Edition CEHRT as originally intended, we do not believe that an extra incentive for these providers is warranted. The dollar amounts of the incentive payments are established by statute, and we do not have authority to award additional amounts.

Comment: Many commenters raised objections to the Stage 2 objectives and measures. Some commenters stated the measure requirements for meeting meaningful use in 2014 are unreasonable. Other commenters suggested that the resources and costs required to meet the Stage 2 objectives and measures are substantial.

A commenter stated that although EHR vendors do not have 2014 Edition CEHRT ready, CMS and ONC continue to set requirements ahead of the pace of the market. Some commenters stated that the rush results in hurried check box measures, which vendors cannot have ready on time and which simply do not work. Other commenters cited general issues with 2014 Edition CEHRT measures including lab interfaces, patient portals, and direct messaging functions.

Many commenters took objections to the Stage 2 measures themselves. Some commenters stated it was unrealistic to expect the Medicare beneficiary population to be computer savvy or use email. Other commenters objected that labs, prescriptions, and radiology orders must be initiated electronically by a licensed clinician. These commenters stated that the lack of hand writing for such orders requires a great deal of changes in workflows for most practices and affects the staffing choices providers make in their practices.

Many commenters objected to the data that needed to be entered for one or more of the Stage 2 measures themselves, finding them time consuming, intrusive, costly, and difficult to implement.

Response: We appreciate the thoughtful input commenters provided regarding the Stage 2 meaningful use objectives and measures, including challenges in meeting certain measures and the number of objectives to report. The flexibility in this final rule recognizes the difficulties in meeting measures and objectives specifically due to the inability to fully implement 2014 Edition CEHRT based on delays in availability. However, modifications to the Stage 2 meaningful use objectives and measures were not included in the scope of the proposed rule and will not be considered in this final rule. We urge readers to wait until the release of the Stage 3 proposed rule to provide comments on ways to improve the meaningful use requirements.

Comment: Some commenters requested clarity on how this will affect public health reporting with respect to HL7 version 2.3.1 and version 2.5.1, and the effect on how providers will meet the measures or claim exclusions.

Response: We proposed no changes to specific measures or to the exclusions related to the measures where exclusions apply. We expect providers will continue the process of enrolling with and reporting to public health agencies as per the requirements of the meaningful use objectives related to public health reporting. In addition, if a provider sent a test message to a public health agency in a previous EHR reporting period and chooses to report to 2013 Stage 1 objective and measures or 2014 Stage 1 objectives and measures for the 2014 reporting period with one of the alternate options for the use of CEHRT, the provider is not required to send another test message to meet the public health measure for the 2014 reporting period.

Comment: Some commenters requested that CMS clarify how the flexible CEHRT options would be applicable for a provider who practices in multiple locations. These commenters questioned how an EP should attest to meaningful use if 2014 Edition CEHRT is fully implemented in one location, but not in other locations. These providers seek clarification as to whether they can attest to meaningful use using patient data from only the location with the most encounters during an EHR reporting period, and exclude patient data from other locations.

Response: EPs who practice in multiple locations which have been unable to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 due to CEHRT availability delays may attest using the options outlined in this final rule. If an EP uses different editions of CEHRT at multiple locations, he or she may choose to use the alternate CEHRT option that is best applied for his or her patient encounters across all locations during the EHR reporting period. However, these EPs

should then use the data from all patient encounters which occur at a location equipped with any edition of certified EHR technology, just as the EP would use the patient data from all locations equipped with CEHRT to meet meaningful use in any other year.

However, if over 50 percent of the EP's patient encounters during the EHR reporting period occur at locations equipped with 2014 Edition CEHRT which has been fully implemented, the EP would not be eligible to use the flexibility options in this final rule and should therefore limit their denominators to only those patient encounters in locations equipped with fully implemented 2014 Edition CEHRT.

Comment: Several commenters noted that it is unreasonable to expect first time providers to attest by October 1, 2014. These commenters suggested that providers who are attesting for the first time in 2014 should be allowed to do so through the end of the calendar year.

Response: It should be noted that new participants in the EHR Incentive Programs may choose any 90 days up to the end of the year to complete and EHR reporting period, and they have until the close of the attestation period (February 28, 2015 for EPs and November 30, 2014 for CAHS and eligible hospitals) to attest to meaningful use and receive an incentive payment for the EHR reporting period in 2014. Successfully demonstrating meaningful use for any reporting period in 2014 would allow these providers to avoid the 2016 payment adjustment. The October 1, 2014 deadline is the date by which EPs who have not demonstrated meaningful use in a prior year must attest in order to also avoid the 2015 payment adjustment. First time participants would otherwise be subject to the 2015 payment adjustment because they did not meet meaningful use in 2013. This does not apply to brand new providers who have an automatic 2 year exemption from the payment adjustments.

However, we reiterate all new participants in 2014 may earn an incentive payment for 2014 and avoid the 2016 payment adjustment by successfully demonstrating meaningful use for an EHR reporting period of any continuous 90 days in 2014. Even if these providers do not meet the early attestation deadline and therefore receive a payment adjustment in 2015, they may still earn an incentive payment for meeting meaningful use for an EHR reporting period in 2014.

Comment: Several commenters questioned whether they could attest for 2014 using a prior quarter in 2014 using 2011 Edition CEHRT and 2013 Stage 1 objectives and measures, or whether they can only use the fourth quarter for an EHR reporting period. Other commenters stated generally whether any earlier reporting period could be used and requested clarification on the attestation deadlines for each quarterly reporting period.

Response: Given commenter feedback, we recognize that some confusion exists in this area. We wish to reiterate the attestation deadline to attest for an EHR reporting period is not 60 days after the end of any given reporting period (3-month quarter or 90 days for new participants). The deadline is 2 months after the end of the federal fiscal year (for hospitals) or the calendar year (for EPs).).

Therefore, we are clarifying that providers may attest to any 3-month quarter EHR reporting period in 2014 from the date of completion of that reporting period, through the end of the open attestation period for the year. For EPs, this means any point after the close of their chosen reporting period through to 2 months after the end of the calendar year (February 28, 2015). For eligible hospitals and CAHs this means any point after the close of their chosen reporting period through to 2 months after the end of the fiscal year (November 30, 2014).

Comment: Several commenters requested clarification regarding the attestation process. Commenters rrequested that CMS clarify what documentation that would be required to show an inability to fully implement 2014 Edition CEHRT. A commenter recommended that CMS provide an attestation statement for providers to certify they could not fully implement the 2014 Edition CEHRT due to delays in availability. Another commenter suggested that CMS specify when the attestation system will be updated with the new requirements promulgated in the final rule.

Response: For providers attesting for the EHR reporting period in 2014, the system determines the CEHRT edition entered by the provider when the EHR certification number is entered. Providers utilizing the options proposed would be required to attest that they were unable to fully implement 2014 Edition CEHRT for a full EHR reporting period in 2014 due to delays in 2014 Edition CEHRT availability. We did not propose requiring additional documentation from providers at the time of attestation beyond the data required to be entered into the Registration and Attestation System. We present further clarification of the full attestation process in section IV of this final rule.

Comment: Several commenters questioned how the audit process would work given the flexible options for using certified EHR technology. These commenters sought clarification on what types of documentation would be required in cases of an audit. Some commenters request that CMS not require any documentation, in order to alleviate provider burden. However, other commenters, mainly those responsible for attestation, wanted us to require some level of documentation, in order to provide protection in cases of an audit. Commenters were generally concerned with auditors retroactively applying different standards than what is outlined in this rule.

A few commenters wanted the provider's decision to use flexible attestation outside the auditor's purview completely. Other commenters were concerned with the auditor's focus given these flexible requirements. These commenters explained with such a small pool of Stage 2 attesters likely, auditors may not focus their efforts evenly across both Stages, thereby unfairly punishing the smaller Stage 2 attester group, who succeeded in implementing and reporting using the 2014 Edition CEHRT. These commenters suggested ensuring that audits were fairly conducted across both Stages, given the likelihood for a higher number of Stage 1 attesters.

Response: We appreciate the commenters' feedback and would like to clarify some aspects of the audit process in response to the comments. Audits under the EHR Incentive Program do not occur based solely upon provider type, location, stage of meaningful use, or year of participation. Rather, we follow standard guidelines for programs conducting audits including auditing providers based on a random selection process, as well as selection based on key identifiers such as prior audit failure or known incidence of fraud.

Therefore, although we acknowledge that the flexible options for CEHRT we proposed may modify a provider's timeline for implementation of meaningful use, we stress that a provider attesting to Stage 2 using the 2014 Edition CEHRT is no more likely to be subject to an audit than any other provider attesting in 2014.

We also acknowledge providers' concerns about required documentation in cases of an audit. To alleviate those concerns, we wish to clarify that we will provide guidance to auditors relating to this final rule and the attestation process. This instruction should include requiring auditors to work closely with providers on the supporting documentation needed applicable to the

provider's individual case. We further stress that audit determinations are finalized on a case by case basis, which allows us to give individual consideration to each provider. We believe that such case-by-case review will allow us to adequately account for the varied circumstances that may result in a provider selecting a different CEHRT option.

Comment: Some commenters suggested that these changes would lead to many Medicaid EPs not submitting their 2014 attestations until after January 1, 2015; and if they are also Medicare providers they may be subject to the Medicare penalty if they did not submit a hardship exemption by the deadline. Many commenters are concerned that if states extend the attestation period in order to accommodate these changes, it will only result in slowing 2015 work flows. They believe that providers who are already struggling with navigating the requirements must add another layer of decisions in the process.

Response: We do anticipate that if states require additional time to implement system changes to allow providers to attest to meaningful use under these proposed options, a contingent of Medicaid EPs may not be able to submit 2014 attestations until after January 1, 2015. However, if a provider meets meaningful use for an EHR reporting period for 2014 in the Medicaid program, they will not be subject to a Medicare payment adjustment in 2016 even if they attest after January 1, 2015.

It is true that Medicaid providers who do not meet meaningful use for an EHR reporting period in 2014, who are also Medicare providers, may be subject to the Medicare penalty if they did not submit a hardship exception application by the deadline. However, we note that the application deadline for providers who do not demonstrate meaningful use in 2014 is April 1, 2015 for eligible hospitals and July 1, 2015 for EPs. Therefore, there is time for these EPs to apply for an exception if they find they are unable to meet meaningful use in the Medicaid program. Further clarification of hardship exceptions may be found in later in this section of this final rule. Regarding the deadline for attestations, states that have extended this deadline (and in many cases, on an annual basis) in the past, have had a significant number of EPs and eligible hospitals attest during that period. These states have not reported work flow delays as a result. It is important for states, with CMS support, to educate the provider community with the latest information related to meeting the requirements of meaningful use and to raise awareness on CEHRT requirements so providers can make informed decisions and successfully participate in the program.

Comment: Some commenters expressed a variety of concerns around hardship exceptions for the Medicare payment adjustments. Some wanted clarification on the requirements for a hardship exception application for providers who were unable to implement 2014 Edition CEHRT due to delays in 2014 Edition CEHRT availability. A few commenters requested clarification that this final rule did not affect the ability for a provider to receive an incentive payment. Another commenter expressed frustration with losing his incentive payment should he choose to file a hardship exception application. Other commenters stated that their vendors refused to provide letters on their behalf to include with their hardship exception application. A commenter specifically questioned whether the 2014 Edition CEHRT hardship would remain in effect for payment year 2015. Several commenters suggested that we should allow hardship exceptions for those providers near retiring, as the cost to implement and upgrade EHR systems are far too costly for those with one or few more years of practice. Many commenters stated that the deadline to file a hardship application should be extended given the timing of this rule. Other commenters wanted us to consider a blanket hardship exemption allowing all EPs to skip attestations in 2014 without penalty. These commenters noted establishing this alternative would push back penalties to 2016, allowing Medicare EPs to skip 2014 without affecting their Medicare reimbursement rates.

Response: We thank the commenters for their input and we recognize that further clarification is required around the subject of hardship exceptions related to the 2014 Edition CEHRT availability delays. To clarify the basic deadlines, a provider who is unable to demonstrate meaningful use in 2014 may apply to qualify for a hardship exception for the 2016 payment adjustment at any point before April 1, 2015 for eligible hospitals and CAHS, and July 1, 2015 for EPs.

The only providers for whom the hardship exception application deadline has already passed are providers seeking an exception from the 2015 payment adjustment because they did not successfully demonstrate meaningful use in 2013. This may include providers that are participating in the program for the first time in 2014 and seek to demonstrate meaningful use by the deadline established for new participants to avoid the 2015 payment adjustment. A new participant who applied for a hardship by the July 1 deadline, and then later is able to meet meaningful use, may attest to their meaningful use data for 2014 without needing to withdraw the hardship application and without any other penalty.

The proposals allow providers flexible options to meet meaningful use in order to qualify for an incentive payment for 2014, and to meet meaningful use to avoid the 2016 payment adjustment. These options are based on a provider's inability to fully implement 2014 Edition CEHRT caused by a delay in 2014 Edition CEHRT availability.

Again, it is not necessary to extend the hardship exception application deadline for providers who are unable to meet meaningful use in 2014 and therefore wish to apply for an exception to the 2016 payment adjustment. We reiterate that the deadline for eligible hospitals to apply for a hardship exception for the 2016 payment adjustment is April 1, 2015. The deadline for EPs to apply for a hardship exception for the 2016 payment adjustment is July 1, 2015. Comments requesting that we consider other types of hardship exceptions fall outside the scope of this rule and will not be addressed.

Comment: Many commenters questioned whether the proposed changes would affect the payment incentives and payment adjustments for 2014 and subsequent years. Some commenters requested clarification on the progression through the Stage of meaningful use and on the participation schedule if providers use one of the CEHRT options to meet meaningful use for an EHR reporting period in 2014. These comments included suggestions such as extending incentive payments indefinitely and suggestions to provide additional payment incentives for providers who meet meaningful use using 2014 Edition CEHRT in 2014 as scheduled. On payment adjustments, commenters requested that we delay all payments adjustments for multiple years or eliminate payment adjustments entirely.

Response: First, the schedule of participation for a provider in the Medicare EHR Incentive Program for 2015 and subsequent years is not altered under this rule. For example, if a provider in the Medicare program first demonstrates meaningful use in 2012 that is Stage 1 Year 1 for that provider. Subsequently, the stages and years

progress consecutively for the Medicare EHR Incentive Program whether or not the provider meets meaningful use; or whether or not the provider uses a different CEHRT option in 2014. So a Medicare provider who does Stage 1 Year 1 in 2012 would be in Stage 2 Year 2 in 2015 regardless of their participation in the intervening years. One of the reasons we proposed this rule was because we recognized that 2014 is the last year to begin earning incentive payments under the Medicare EHR Incentive Program. This rule will allow providers to meet meaningful use and earn and incentive payment using the flexible CEHRT options for an EHR reporting period in 2014 if they were unable to fully implement 2014 Edition CEHRT due to 2014 Edition CEHRT availability delays. If a provider meets meaningful use in 2014, that provider may go on to earn incentive payments for successful participation in 2015 and 2016 in the Medicare EHR Incentive Program.

However, both the incentive payment amounts and timing, and the payment adjustment amounts and timing, are set by the HITECH Act. The dollar amounts and timing of the incentive payments under Medicare and Medicaid are established by statute (see, for example, section 1848(o)(1)(B) of the Act), and CMS does not have authority to extend or provide additional incentive payments. Similarly, the statute requires downward adjustments to Medicare payments beginning in 2015 (see, for example, section 1848(a)(7)(A) of the Act) if a provider is not a meaningful EHR user for an EHR reporting period for the payment adjustment year, and we do not have authority to delay or eliminate these adjustments.

Comment: Several commenters suggested that we consider whether the regulation text under 42 CFR Part 495 should be further revised to reflect the proposed options for using CEHRT in 2014 and the corresponding objectives and measures of Stages 1 and 2 of meaningful use to which a provider would attest. In particular, the commenters noted that the regulation text for the Stage 1 criteria of meaningful use for EPs, eligible hospitals, and CAHs under § 495.6 includes references to changes in the criteria applicable beginning in 2014.

Response: We thank the commenters for their suggestions and agree that further changes to the regulation text will help to offer clarity for providers seeking to demonstrate meaningful use for 2014 under these options. Accordingly, we revised § 495.6 to specify the flexible options for using CEHRT in 2014 and the objectives and associated measures of meaningful use to which providers using these options would attest. Specifically, these revisions indicate that for an EHR reporting period in 2014, if a provider could not fully implement 2014 Edition CEHRT due to delays in 2014 Edition CEHRT availability, the following apply. An EP, eligible hospital, or CAH that uses only 2011 Edition CEHRT must satisfy the objectives and measures for Stage 1 applicable for an EHR reporting period in 2013. An EP, eligible hospital, or CAH that uses a combination of 2011 Edition CEHRT and 2014 Edition CEHRT may choose to satisfy the objectives and measures for Stage 1 that were applicable for 2013 or the objectives and measures for Stage 1 that are applicable beginning with 2014, or if they are scheduled to begin Stage 2 in 2014, they may choose to satisfy the objectives and measures for Stage 2. An EP, eligible hospital, or CAH that is scheduled to begin Stage 2 in 2014, but is unable to fully implement all the functions of their 2014 Edition CEHRT required for the Stage 2 objectives and measures due to delays in 2014 Edition CEHRT availability, may choose to satisfy the objectives and measures for Stage 1 that are applicable beginning with 2014 using 2014 Edition CEHRT.

As noted earlier, we proposed that EPs, eligible hospitals, and CAHs that use these options must attest that they are unable to fully implement 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability delays when they attest to the meaningful use objectives and measures. In this final rule, we revised § 495.8 to reflect this attestation requirement for providers that use the options for CEHRT in 2014 described in the preceding paragraph.

After reviewing the public comments, and for the reasons stated previously, we are finalizing the proposals discussed in section III.A.1. of this final rule without modification as well as the revisions to the regulation text under §§ 495.6, 495.8, and 495.302.

2. Extension of Stage 2

In the proposed rule, we noted that under the current timeline shown in Table 1, an EP, eligible hospital or CAH that first became a meaningful user in 2011 or 2012 would be required to begin Stage 3 on January 1, 2016 (the first day of CY 2016 for EPs) or October 1, 2015 (the first day of FY 2016 for eligible hospitals or CAHs), respectively. However, because we intend to analyze the meaningful use Stage 2 data to inform our development of the criteria for Stage 3 of meaningful use, we proposed a 1-year extension of Stage 2 for those providers as is reflected in Table 3. We proposed that Stage 3 would begin in CY 2017 for EPs and FY 2017 for eligible hospitals and CAHs that first became meaningful users in 2011 or 2012. The goal of this proposed change is two-fold: first, to allow CMS and ONC to focus efforts on the successful implementation of the enhanced patient engagement, interoperability, and health information exchange requirements in Stage 2; and second, to use data from Stage 2 participation to inform policy decisions for Stage 3.

This proposed change would allow EPs, eligible hospitals, and CAHs that first became meaningful users in 2011 or 2012 to begin Stage 3 on January 1, 2017 (EPs) and October 1, 2016 (eligible hospitals and CAHs). We will maintain the existing timeline for providers that first became meaningful users in 2013 and for those that begin in 2014 and subsequent years or until new certification requirements are adopted in subsequent rulemaking, as shown in Table 3.

TABLE 3—PROPOSED STAGE OF MEANINGFUL USE CRITERIA BY FIRST PAYMENT YEAR

First payment year	Stage of meaningful use										
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
2011	1	1	1	1 or 2*	2	2	3	3	TBD	TBD	TBD
2012		1	1	1or 2*	2	2	3	3	TBD	TBD	TBD
2013			1	1*	2	2	3	3	TBD	TBD	TBD
2014				1*	1	2	2	3	3	TBD	TBD
2015					1	1	2	2	3	3	TBD
2016						1	1	2	2	3	3

TABLE 3—PROPOSED STAGE OF MEANINGFUL USE CRITERIA BY FIRST PAYMENT YEAR—Continued

First payment year	Stage of meaningful use										
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
2017	.....	.....	.....		.....	.....	1	1	2	2	3

*3-month quarter EHR reporting period for Medicare and continuous 90-day EHR reporting period (or 3 months at State option) for Medicaid EPs. All providers in their first year in 2014 use any continuous 90-day EHR reporting period.

Comment: Many commenters supported what they considered to be a delay of Stage 2. Some commenters requested that we delay the start of Stage 2 into 2015 for private practices given the significant changes to the EHR systems, which challenge small independent private practices to become knowledgeable about new features and allow enough time to train staff.

Response: As confirmed by the overwhelming number of comments received in support of these proposals, we believe the changes proposed give providers the flexibility and time needed to adequately upgrade and implement 2014 Edition CEHRT. However, we do wish to clarify that the proposals do not delay the start of Stage 2, as characterized by several commenters. Rather, the proposals do two things: provide options to those providers who could not fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 due to delays in the availability of 2014 Edition CEHRT, and extend Stage 2 through 2016 so that providers who would have started Stage 3 in that year will not do so until 2017. Moreover, although we welcome comments and suggestion on the EHR Incentive Program, we did not propose to delay the start of Stage 2 to 2015. The proposed rule was not intended to delay the forward progress from Stage 1 to Stage 2, but to provide relief for providers in any stage of meaningful use who were unable to fully implement 2014 Edition CEHRT as required for any stage or year of participation in the program. We believe the requirements of Stage 2 build on the foundation of Stage 1, and are essential to moving toward advanced use of EHRs, enhanced interoperability and health information exchange, and ultimately will support efforts to improve patient care. For these reasons, we did not propose to change the schedule to begin Stage 2, the reporting requirements, or the objectives and measures of Stage 2 of meaningful use.

Comment: Commenters generally agree with extending Stage 2 through 2016 for providers who would have begun Stage 3; however, many commenters further suggested delaying Stage 3 indefinitely or at least for one or more additional years. Some commenters believe that starting Stage 3 in 2017 is premature. Some commenters requested that Stage 3 remain optional or not even start until at least 2018. Other commenters requested that CMS not finalize Stage 3 yet or at all and continue with Stages 1 and 2 until we change the requirement in future rulemaking. Another commenter suggested we stay on Stage 1 for the next few years and then implement Stages 2 and 3 as optional pilot programs.

Response: Although we always welcome suggestions on ways to improve the EHR Incentive Program, other changes to Stage 3 of meaningful use are not under consideration in this rule. We urge readers to wait until the release of the Stage 3 proposed rule to provide comments on this particular area including potential timing for implementation.

Comment: Commenters generally supported delaying Stage 3 to allow time to evaluate prior performance so that we can incorporate lessons learned from Stage 2 into Stage 3, although some questioned whether the timing for Stage 3 would allow adequate reflection on performance in Stage 2. Some commenters stated that merely delaying Stage 3, as proposed, is not enough. A commenter specifically requested detail on how the data we obtain in Stage 2 would be analyzed and used in Stage 3. Another requested that we conduct surveys of providers as part of Stage 3, to increase the quality of our educational guidance.

Response: We appreciate the commenters' input and reiterate that we intend to use the data received on performance at Stages 1 and 2 of meaningful use to inform policy decisions in consideration for Stage 3. We also are engaged with our partners at ONC in conducting ongoing analysis into meaningful use participation among providers including both readiness for advanced use of EHRs and provider reflections on the functions of CEHRT including the objectives and measures which represent the greatest potential benefit for providers and patients. We will use this information to inform decision making for the provisions included in Stage 3 of meaningful use.

After consideration of the public comments received, and for the reasons stated previously, we are finalizing the proposal to extend Stage 2 through CY 2016 for EPs and FY 2016 for eligible hospitals and CAHs that first became meaningful EHR users in CY/FY 2011 or 2012. These providers will begin Stage 3 in CY or FY 2017, respectively. Stage 3 objectives and measures and reporting criteria will be defined in future rulemaking.

B. Clinical Quality Measure Submission in 2014

In the proposed rule, we described how beginning in 2014, as part of the definition of ''meaningful EHR user'' under 42 CFR 495.4, all eligible providers are required to select and report on CQMs from the relevant sets adopted in the Stage 2 final rule (77 FR 54069 through 54075, and 77 FR 54081 through 54089) and further specified as noted in the December 7, 2012 interim final rule with comment period (77 FR 72985) and published on the CMS eCQM Library [*http://cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/eCQM_Library.html*], regardless of their stage of meaningful use or year of participation in the EHR Incentive Program. We proposed the following changes for reporting on clinical quality measures in 2014 for EPs, eligible hospitals, and CAHs for the Medicare and Medicaid EHR Incentive Programs. The method of CQM submission under this proposal would depend on the edition of CEHRT a provider uses to record, calculate, and report its CQMs for the EHR reporting period in 2014.

Due to limitations in the Registration and Attestation System for the EHR Incentive Program and other CMS data systems, the reporting options and methods for CQMs for 2014 would depend upon the edition of CEHRT that a provider uses for the EHR reporting period in 2014. If a provider elects to use only 2011 Edition CEHRT for the EHR reporting period in 2014, the provider would be required to report CQMs by attestation as follows:

• EPs would report from the set of 44 measures and according to the reporting criteria finalized in the Stage 1 final rule (75 FR 44386 through 44411)—

++ Three core/alternate core;

++ Three additional measures; and

++ The reporting period would be any continuous 90 days within CY 2014 for EPs that are demonstrating meaningful use for the first time or a 3-month CY quarter for EPs that have previously demonstrated meaningful use.

• Eligible hospitals and CAHs would report all 15 measures finalized in the Stage 1 final rule (75 FR 44411 through 44422).

• The reporting period would be any continuous 90 days within FY 2014 for hospitals that are demonstrating meaningful use for the first time or a 3-month FY quarter for hospitals that have previously demonstrated meaningful use.

If a provider elects to use a combination of 2011 Edition and 2014 Edition CEHRT and chooses to attest to the 2013 Stage 1 objectives and measures for its EHR reporting period in 2014, the provider would be required to report CQMs by attestation using the same measure sets and reporting criteria outlined earlier for providers who elect to use only 2011 Edition CEHRT for the EHR reporting period in 2014. Because of the differences in how CQMs are calculated and tested between the 2011 and the 2014 Editions of CEHRT, we further proposed that a provider may attest to data for the CQMs derived exclusively from the 2011 Edition CEHRT for the portion of the reporting period in which 2011 Edition CEHRT was in place.

If a provider elects to use a combination of 2011 Edition and 2014 Edition CEHRT and chooses to attest to the 2014 Stage 1 objectives and measures or the Stage 2 objectives and measures, the provider would be required to submit CQMs in accordance with the requirements and policies established for clinical quality measure reporting for 2014 in the Stage 2 final rule and subsequent rulemakings. For further explanation, we refer readers to the following: For EPs—77 FR 54049 through 54089, 77 FR 72985 through 72991, 78 FR 74753 through 74757; and for eligible hospitals and CAHs—77 FR 54049 through 54089, 77 FR 72985 through 72991, 78 FR 50903 through 50906. We also proposed that a provider must submit CQMs in accordance with the requirements and policies established for 2014 in those rulemakings if the provider elects to use only 2014 Edition CEHRT for the entire duration of its EHR reporting period in 2014, regardless of the stage of meaningful use that the provider chooses to meet. For the Medicaid EHR Incentive Program, the method of reporting CQMs for EPs and eligible hospitals will continue to be at the state's discretion subject to our prior approval, as established in the Stage 2 final rule (77 FR 54075 through 54078, and 54087 through 54089).

Comment: We received a number of comments on a variety of issues relating to the CQMs under the EHR Incentive Program. These comments included multiple suggestions falling outside the scope of the proposals outlined in the proposed rule. These suggestions included changing or excluding one or more measures from the program, general objections to the measures or measure calculations, or suggestions for new measures for inclusion in the program. Other commenters suggested hospitals were simply not ready to report quality measures through electronic health data rather than chart abstraction. These commenters requested that we allow hospitals more time to move into the electronic world. Other commenters expressed concern over the difficulty specialists may encounter in reporting on the current CQMs as some CQMs are not relevant to their practice specialty or their patient population.

Those comments falling within the scope of the proposed rule mainly sought clarification on CQM reporting given the flexible options proposed for the use of CEHRT. Some commenters questioned if a provider, using 2014 Edition CEHRT, could choose to attest to either Stage 1 or Stage 2 objectives and measures, and whether the provider would need to submit CQMs in accordance with the requirements established for clinical quality measure reporting for 2014 in prior final rules.

Other commenters sought clarification on the proper CQM version to use for attestation. Specifically, commenters sought confirmation that a provider must report on the versions of the CQMs in use before 2014 if they attest to the 2013 Stage 1 objectives and measures; and that a provider must report on the 2014 CQMs if they attest to the 2014 Stage 1 objectives and measures or Stage 2 objectives and measures. A few commenters added that under these types of situations, making vendors support older versions of CQMs represents an obstacle and burden to participating using an alternate CEHRT option. A commenter added that most vendors who upgraded to 2014 will not be able to support requirements for the prior version of CQMs.

Other commenters requested clarification regarding quality measure reporting and alignment across programs such as how the proposals affect requirements for the EHR Incentive Program and PQRS. Some commenters encouraged CMS to allow physician participation in PQRS in 2014 to satisfy the quality measure portion of the EHR Incentive Program for 2014. These commenters pointed out that the use of an older edition may not support electronic quality measure reporting, thereby resulting in duplicative reporting in PQRS and the EHR Incentive Programs. The commenters believe such duplicative reporting will be confusing and burdensome to many providers, and requested that CMS consider reporting in PQRS sufficient to cover both programs.

Response: As detailed in previous parts of this final rule, we proposed a limited number of changes for the EHR Incentive Programs in 2014. These changes did not include alterations or exclusions to the CQMs themselves.

We appreciate commenter's concern regarding the limited number of measures applicable to certain specialties and wish to provide some clarification in this area. For these providers, we encourage them to evaluate the entire list of CQMs and choose those CQMs most applicable to their practice, including the more broadly applicable preventive care CQMs. We understand cases may exist where an EP may not find a full set of CQMs where they have data for both the numerator and denominator. We remind providers that they may submit a zero as the denominator for a CQM if that is the resulting calculation displayed by their EHR, and as long as their EHR is certified to report the CQM for providers who are using 2014 Edition CEHRT.

Next, we wish to address those comments raised in relation to CQM reporting for the purposes of meeting meaningful use for an EHR reporting period in 2014. We remind providers that for any of the options for the use of CEHRT, a provider may report CQMs on a 3 month quarter, or any 90 days if demonstrating meaningful use for the first time. A provider may also report a full year of CQM data if they so choose.

We confirm that a provider who chooses to attest to the 2013 Stage 1 objectives and measures must also report the CQMs that were applicable for 2013 through the registration and attestation system in the manner that was required for 2013 for the purposes of meeting meaningful use. Although we acknowledge that this requirement may cause some difficulty with maintaining older measure versions that cannot be

electronically reported, we believe for many providers it outweighs the risk of failing to meet meaningful use due to the inability to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014.

We further clarify that a provider who chooses to attest to the 2014 Stage 1 objectives and measures or the Stage 2 objectives and measures must also report the 2014 CQMs in the manner that was required for 2014 for the purposes of meeting meaningful use. This includes attestation or electronic reporting of CQM data through the established reporting methods.

Finally, while we understand and share the commenter's commitment to quality measurement alignment, we cannot accept submission of CQMs unless they are submitted using the previously established reporting methods for the EHR Incentive Program in 2014 using 2014 Edition CEHRT. In addition, we cannot accept CQM submissions for providers using only 2011 Edition CEHRT unless they are submitted through the attestation process. We seek to align quality reporting programs where appropriate and reduce provider burden wherever possible, as shown by our previous efforts to align some of the reporting and submission requirements for the CQM portion of meaningful use with the EHR reporting option for PQRS. Moving forward, we will continue to evaluate ways to align these programs to reduce provider burden.

Comment: Some commenters wanted clarification of the CQM submission in 2014 and alignment of the GPRO Web interface program with Meaningful Use in 2014 as a GPRO submitter. These commenters questioned if the option to submit quality measures via the GPRO web interface to report the 2014 CQMs and meet the meaningful use requirement for CQM reporting would still be available in 2014 if they are attesting to the 2014 edition of CEHRT for Meaningful Use for either stage 1 or 2.

Response: We appreciate the commenter for these questions and provide confirmation that this understanding is correct. Group practices that successfully complete the PQRS GPRO Web Interface in 2014 will also satisfy the CQM component of meaningful use for the Medicare EHR Incentive Program as long as they use an EHR technology product certified to the 2014 edition certification criteria. However, we note that EPs within the group will still be required to separately attest to their meaningful use objectives through the Medicare EHR Incentive Programs Registration and Attestation System.

Comment: Several commenters wanted the option of mixing and matching between 2013 and 2014 Stage 1 objectives and measures and the related CQMs. These commenters wanted the ability to pick some 2013 stage 1 functional objectives and measures and then some 2014 stage 1 functional objectives and measures and different versions of the CQMs in order to demonstrate meaningful use. Other commenters, along similar lines, wanted to mix and match between the 2013 Stage 1 functional objectives and the 2014 CQMs, or vice versa. Several commenters believe providers should have more flexibility in the CQMs they choose to report, regardless of the specific stage of meaningful use they meet.

Response: We appreciate the commenters' suggestions. However, we did not propose the ability to mix and match between the meaningful use objectives and measures and the CQMs for different years for a number of reasons. First, the flexibility proposed leverages the existing definitions of meaningful use which are tied to the use of specific editions of CEHRT. These CEHRT Editions are required to support specific meaningful use objectives and measures as well as the clinical quality measures required for the program. Second, the complexity of the systems required to support attestation and CQM submission would mean we would be unable to operationalize that flexibility in time to allow providers to attest for an EHR reporting period in 2014 if we allowed for additional flexibility in this manner. Therefore, providers must attest to the required set of objectives and measures applicable for the CEHRT option they choose, as well as the CQMs that relate to that option. If a provider chooses the 2013 Stage 1 objectives and measures they must attest to the CQMs using the reporting requirements specified for 2013. Providers selecting this option for the use of CEHRT have the ability to electronically report the 2014 CQMs to quality programs such as PQRS and IQR separately for participation in those programs should they so choose.

Comment: Some commenters expressed concern about the potential difficulty with reporting CQMs for the EHR reporting period in 2014 under the options outlined in the proposed rule. These concerns included issues around the backward compatibility of 2014 Edition CEHRT to 2011 CQMs, as well as the overall changes to the CQMs available for providers to report in 2014 which may not include CQMs they reported on in previous years. In addition, some commenters mentioned that their EHR modules for reporting CQMs might be entirely separate from the rest of their CEHRT and therefore updated at a different point in time. Providers also mentioned that this could impact the integrity of the data for CQMs which are derived from 2011 Edition CEHRT or a combination of CEHRT editions. A commenter questioned whether an EP using 2011 Edition CEHRT for 60 days of a 90-day reporting period (and 2014 Edition CEHRT for 30 days of the EHR reporting period), would only have to report on CQMs for that 60-day period if they chose to attest to the 2013 Stage 1 meaningful use objectives and measures.

Response: We appreciate the commenters for their insight on how CQM reporting may be a challenge under the proposed options, especially given the nuances of how the CQMs are collected within the CEHRT. As discussed previously, we are not considering an option to decouple the CQMs applicable for use in 2013 from the 2013 Stage 1 objectives and measures, nor are we considering separating the 2014 CQMs from the 2014 Stage 1 objectives and measures or the Stage 2 objectives and measures.

However, providers are already permitted under the EHR Incentive Programs to use a different reporting period for the CQMs for 2014 than for the objectives and measures of meaningful use under § 495.6. We believe this existing provision will help to mitigate the potential of a provider having a different timeline for implementation of a 2014 Edition CEHRT module for CQMs than for the rest of their 2014 Edition CEHRT. This means that providers could use an earlier quarter of data derived from their 2011 Edition CEHRT to report CQMs if they use the option allowing for attestation to the 2013 Stage 1 objectives and measures using 2011 Edition CEHRT or a combination of 2011 and 2014 Edition CEHRT. In addition, we confirm the commenter's query that if a provider chooses to use a combination of 2011 Edition and 2014 Edition CEHRT and attests to the 2013 Stage 1 meaningful use objectives and measures, that provider may use the 2011 Edition CEHRT for 60 days of a 90-day reporting period (and 2014 Edition CEHRT for 30 days of the reporting period), and only report on CQMs for that 60-day period. We proposed allowing providers to use a subset of data for the CQMs in use for 2013 for any period of time in which the 2011 Edition CEHRT was in place if they are

attesting to the 2013 Stage 1 objectives and measures using a combination of 2011 Edition and 2014 Edition CEHRT. We believe this will help mitigate problems for providers that are seeking to use a combination of 2011 Edition and 2014 Edition CEHRT that may no longer have the same CQMs available in their 2014 Edition CEHRT. Finally, we will be clearly categorizing the data received from each reporting option in order to preserve the ability to effectively analyze the data received for the purposes of meaningful use.

After reviewing the public comments, and for the reasons stated previously, we are finalizing the proposals discussed in this section (III.B) without modification.

C. Revision to the CEHRT Definition for Flexibility in 2014

In the May 23, 2014 proposed rule, ONC proposed making a minor, but necessary, corresponding revision to the CEHRT definition at 45 CFR 170.102 to support the CMS proposals to provide additional flexibility in the use of CEHRT for the Medicare and Medicaid EHR Incentive Programs during 2014. This proposal was intended to remove the cutoff date for the use of 2011 Edition CEHRT in order to allow for its continued use by providers to meet meaningful use for an EHR reporting period in 2014.

ONC proposed revising the CEHRT definition to change certain Federal fiscal year (FY)/calendar year (CY) cutoffs in paragraphs (1) and (2) of the CEHRT definition under 45 CFR 170.102. These FY/CY cutoffs were finalized in ONC's 2014 Edition final rule (77 FR 54257 through 54260). The policy in paragraph (1) of the definition applies to any fiscal year/calendar year up to and including 2013. The policy in paragraph (2) of the definition applies to FY 2014/CY 2014 and all subsequent years.

Paragraph 1 sets forth policy that permitted the use of 2011 Edition certified Complete EHRs and EHR Modules, a combination of 2011 and 2014 Edition certified Complete EHRs and EHR Modules, and 2014 Edition certified Complete EHRs and EHR Modules to be used to meet the CEHRT definition through the end of FY 2013/CY 2013. In addition, paragraph 2 establishes that, starting with FY 2014/CY 2014, only the use of 2014 Edition certified Complete EHRs and EHR Modules could be used to meet the CEHRT definition.

Therefore, we proposed the following specific revisions to the CEHRT definition, which are necessary to support the added flexibility in the use of CEHRT for providers to meet meaningful use for an EHR reporting period in 2014. The effect of these revisions would be to allow EPs, eligible hospitals, and CAHs to use either 2011 Edition or a combination of 2011 Edition and 2014 Edition CEHRT, including certified Complete EHRs and EHR Modules, to meet the CEHRT definition required to meet meaningful use for an EHR reporting period in 2014.

Specifically, ONC proposed modifying the CEHRT definition at 45 CFR 170.102 to replace the following:

- ''2013'' with ''2014'' in the first sentence of paragraph (1).
- ''FY and CY 2014'' with ''FY and CY 2015'' in paragraph (1)(i) and (1)(iii).
- ''2014'' with ''2015'' in the first sentence of paragraph (2).

Overall, this proposed revision would make the first day of FY 2015 (for eligible hospitals and CAHs) and CY 2015 (for EPs) the new required start date for exclusive use of 2014 Edition certified Complete EHRs and EHR Modules to meet the CEHRT definition.

As discussed in sections III.A. and III.B. of this final rule, we received numerous comments about the options available for the use of CEHRT; however we received no comments specific to this proposal to change the definition of CEHRT at 45 CFR 170.102. We note that this change does not limit the ability of providers to use 2014 Edition CEHRT for an EHR reporting period in 2014 as scheduled. For the reasons stated previously, we are finalizing this provision as proposed with no further revisions.

IV. Attestation and the Options in This Final Rule

We offer several points of clarification around attestation and the options finalized in this rule, as follows:

- The options outlined in this final rule may be used only by providers who are unable to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 due to delays in the availability of 2014 Edition CEHRT.
- Providers will be required to attest to their inability to fully implement 2014 Edition CEHRT as part of the attestation process should they select one of the options outlined in this final rule.
- Providers may attest based on an EHR reporting period of any 3-month quarter (or any continuous 90 days for new participants) in 2014 (CY for EPs; FY for eligible hospitals and CAHs) up until the close of the 2014 attestation period 2 months following the end of the fiscal or calendar year.
- Providers must attest to the objectives and measures supported by their CEHRT for the 2013 Stage 1 objectives and measures, the 2014 Stage 1 objectives and measures, or the Stage 2 objectives and measures, as well as the related CQMs specified, for each of the options. There are no options to attest to a mixed set of objectives or split the CQM reporting from the option selected.
- For providers attesting to 2014 Stage 1 objectives and measures or Stage 2 objectives and measures, the CQM reporting methods for the 2014 CQMs are available including attestation and electronic reporting options as outlined in section III.B of this regulation.

Upon the effective date of this final rule, we generally expect the attestation process for the EHR reporting periods in 2014 to be as follows, although we recognize that operational or systems issues may require procedural changes:

- A provider will first select from the ONC's Certified Health IT Product List (CHPL) the certified Complete EHR(s) or certified EHR Module(s) they used for the EHR reporting period in 2014. Upon selecting the certified products used during the EHR reporting period, the provider will need to generate a ''CMS EHR Certification ID'' number for their attestation.
- If the provider selects from the CHPL only EHR technology certified to 2011 Edition certification criteria (to meet the CEHRT definition), the CHPL will create a ''CMS EHR Certification ID'' number that reflects only 2011 Edition EHR technology was selected. When this number is entered in the EHR Registration and Attestation System, it will interpret the number to mean that—

++ The provider is attesting to 2013 Stage 1 performance for 2014;

++ Reporting on the 2013 Stage 1 Objectives and Measures; and

++ Attesting to the CQMs that were applicable for 2013 (2011 Edition).

- If the provider selects from the CHPL only EHR technology certified to 2014 Edition certification criteria (to meet the CEHRT definition), the CHPL will create a ''CMS EHR Certification ID'' number that reflects only 2014 Edition EHR technology was selected. When this number is entered in the EHR Registration and Attestation System, it will interpret the number and will then trigger the system to determine the provider's scheduled Stage of meaningful use participation.

If the provider is scheduled to be in Stage 1 for 2014 the system identifies that—

++ The provider remains in Stage 1 for 2014 and is attesting to 2014 Stage 1 performance;

++ Reporting on the 2014 Stage 1 Objectives and Measures; and

++ Reporting on the 2014 CQMs via attestation or electronic reporting.

• If the provider is scheduled to be in Stage 2 for 2014 the system will offer them a choice to select Stage 1 or Stage 2.

If the provider selects Stage 1, the system then records that—

++ The provider is attesting to 2014 Stage 1 performance instead of their previously required Stage 2 performance level for 2014;

++ Reporting on the 2014 Stage 1 Objectives and Measures; and

++ Reporting on the 2014 CQMs via attestation or electronic reporting;

or

If the provider selects Stage 2, the system then records that—

++ The provider is attesting to Stage 2 performance as scheduled for 2014;

++ Reporting on the Stage 2 Objectives and Measures; and

++ Reporting on the 2014 CQMs via attestation or electronic reporting

• If the provider selects from the CHPL a combination of EHR technology certified to the 2011 Edition and 2014 Edition certification criteria (to meet the CEHRT definition), the CHPL will create a specific ''CMS EHR Certification ID'' number that reflects the combination of 2011 Edition and 2014 Edition EHR technology was selected. When this number is entered in the EHR Registration and Attestation System, it will interpret the number and then ask the provider to select whether they intend to attest to the 2013 Stage 1 objectives and measures or whether they intend to attest to the 2014 Stage 1 objectives and measures or the Stage 2 objectives and measures.

++ If the provider selects 2013 objectives and measures, the provider remains in Stage 1 for 2014 and reports on the 2013 Stage 1 objectives and measures and attests to the clinical quality measures as outline previously for 2011 Edition CEHRT.

++ If the provider selects 2014 objectives and measures, the system determines the provider's scheduled Stage of meaningful use and then provides the options as outlined previously for 2014 Edition CEHRT.

Providers who use a 2011 Edition CEHRT number, or who make any selection which differs from their scheduled participation timeline, will be required to attest that they are unable to fully implement 2014 Edition CEHRT for the EHR reporting period in 2014 because of issues related to 2014 Edition CEHRT availability delays.

Providers must retain all relevant supporting documentation (in either paper or electronic format) used in the completion of the EHR Registration and Attestation System responses. Documentation to support attestation data for meaningful use objectives and CQMs must be retained for 6 years post-attestation. Documentation to support payment calculations (such as cost report data) should continue to follow the current documentation retention processes.

In the attestation disclaimer, providers agree to keep such records as necessary to demonstrate meeting Medicare EHR Incentive Program requirements and to furnish those records to the Medicaid state agency, Department of Health and Human Services, or contractor acting on their behalf.

V. Collection of Information Requirements

This document does not impose any new information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements, as defined under the Paperwork Reduction Act of 1995 (5 CFR 1320). However, it does make reference to the currently approved information collection request associated with the Electronic Health Record Incentive Program. The information collection requirements for the program are currently approved under OMB control number 0938–1158 with an expiration date of April 30, 2015.

VII. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) (Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not include provisions which incur significant additional cost beyond the expenditures previously estimated for incentive payments and operations costs for the EHR Incentive Programs in 2014. Therefore, this rule does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.0 million to $35.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this final rule would not have a significant economic impact on a substantial number of small entities. The reporting burden for small entities does not significantly change as a result of this rule therefore the impact on small entities would be negligible.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this final rule would not have a significant impact

on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This final rule will have no consequential effect on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. Because the programs allow that states may receive federal assistance for administrative costs incurred to support the Medicaid EHR Incentive Programs, this rule does not impose substantial costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

We proposed, for 2014 only, that EPs, eligible hospitals, and CAHs would be able to use either 2011 Edition, 2014 Edition or a combination of 2011 and 2014 Edition certified Complete EHRs and EHR Modules to meet the CEHRT definition and to demonstrate meaningful use during 2014.

To support the policy to provide added flexibility in the Medicare and Medicaid EHR Incentive Programs during 2014, ONC made a minor, but necessary, corresponding revision to the CEHRT definition specified at 45 CFR 170.102, to change certain FY/CY cutoffs in paragraphs (1) and (2) of the CEHRT definition. These FY/CY cutoffs were finalized in ONC's 2014 Edition final rule (77 FR 54257 through 54260).

This final rule will allow the flexibility to use 2011 Edition Certified EHR Technology, a combination of 2011 Edition and 2014 Edition Certified EHR Technology, or solely 2014 Edition Certified EHR Technology in 2014, we do not believe that this will have a significant impact as it merely gives providers the flexibility to choose to retain and use their 2011 Edition CEHRT, a combination of 2011 and 2014 Edition CEHRT, or 2014 Edition CEHRT in 2014. We finalized this policy in response to concerns that the availability of 2014 Edition CEHRT is quite limited. We refer readers to the impact analyses included in the final rule titled ''Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 2'' (77 FR 53698 through 54162). Similarly, ONC finalized the revised CEHRT definition to provide additional flexibility in support of our proposal and ONC does not believe that it will have a significant impact (see ''Health Information Technology: Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology, 2014 Edition; Revisions to the Permanent Certification Program for Health Information Technology'' (77 FR 54163 through 54292)).

In accordance with the provisions of Executive Order 12866, this rule was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 495

Administrative practice and procedure, Health facilities, Health maintenance, organizations (HMO), Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

45 CFR Part 170

Computer technology, Electronic health record, Electronic information system, Electronic transactions, Health, Health care, Health information technology, Health insurance, Health records, Hospitals, Incorporation by reference, Laboratories, Medicaid, Medicare, Privacy, Reporting and recordkeeping requirements, Public health, Security.

For the reasons stated in the preamble of this final rule, the Centers for Medicare & Medicaid Services and the Department of Health and Human Services confirms as final without changes the interim rule published on December 7, 2012 at 77 FR 72985 and further amend 42 CFR Part 495 and 45 CFR subtitle A, subchapter D, part 170 as set forth below:

Title 42—Public Health

PART 495—STANDARDS FOR THE ELECTRONIC HEALTH RECORD TECHNOLOGY INCENTIVE PROGRAM

■ 1. The authority citation for part 495 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

■ 2. Section 495.6 is amended by adding paragraphs (a)(4), (b)(4), (h)(3), and (i)(3) to read as follows:

§ 495.6 Meaningful use objectives and measures for EPs, eligible hospitals, and CAHs.

(a) * * *

(4) *Flexible options for using certified EHR technology in 2014.* For an EHR reporting period in 2014, if an EP could not fully implement 2014 Edition certified EHR technology due to delays in availability and uses—

(i) Only 2011 Edition certified EHR technology, the EP must satisfy the objectives and associated measures of the Stage 1 criteria that were applicable for 2013; or

(ii) A combination of 2011 Edition certified EHR technology and 2014 Edition certified EHR technology, the EP may choose to satisfy one of the following sets of objectives and associated measures:

(A) The Stage 1 criteria that were applicable for 2013.

(B) The Stage 1 criteria that are applicable beginning 2014.

(C) If the EP is scheduled to begin Stage 2 in 2014, the Stage 2 criteria.

(b) * * *

(4) *Flexible options for using certified EHR technology in 2014.* For an EHR reporting period in 2014, if an eligible hospital or CAH could not fully implement 2014 Edition certified EHR technology due to delays in availability and uses—

(i) Only 2011 Edition certified EHR technology, the eligible hospital or CAH must satisfy the objectives and associated measures of the Stage 1 criteria that were applicable for 2013;

(ii) A combination of 2011 Edition certified EHR technology and 2014 Edition certified EHR technology, the eligible hospital or CAH may choose to satisfy one of the following sets of objectives and associated measures:

(A) The Stage 1 criteria that were applicable for 2013.

(B) The Stage 1 criteria that are applicable beginning 2014.

(C) If the eligible hospital or CAH is scheduled to begin Stage 2 in 2014, the Stage 2 criteria.

* * * * *

(h) * * *

(3) *Flexible options for using certified EHR technology in 2014.* For an EHR reporting period in 2014, if an EP is scheduled to begin Stage 2 in 2014, but is unable to fully implement all the functions of 2014 Edition certified EHR technology required for the objectives and associated measures of the Stage 2 criteria due to delays in availability, the EP may choose to satisfy the objectives and associated measures of the Stage 1 criteria that are applicable beginning 2014 using 2014 Edition certified EHR technology.

(i) * * *

(3) *Flexible options for using certified EHR technology in 2014.* For an EHR reporting period in 2014, if an eligible hospital or CAH is scheduled to begin

Stage 2 in 2014, but is unable to fully implement all the functions of 2014 Edition certified EHR technology required for the objectives and associated measures of the Stage 2 criteria due to delays in availability, the eligible hospital or CAH may choose to satisfy the objectives and associated measures of the Stage 1 criteria that are applicable beginning 2014 using 2014 Edition certified EHR technology.

* * * * *

■ 3. Section 495.8 is amended by adding paragraphs (a)(2)(i)(D) and (b)(2)(i)(D).

§ 495.8 Demonstration of meaningful use criteria.

(a) * * *

(2) * * *

(i) * * *

(D) For 2014 only, if the EP uses one of the options specified under § 495.6(a)(4) or (h)(3), the EP must attest that he or she is unable to fully implement 2014 Edition certified EHR technology for an EHR reporting period in 2014 due to delays in 2014 Edition certified EHR technology availability.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(D) For 2014 only, if the eligible hospital or CAH uses one of the options specified under § 495.6(b)(4) or (i)(3), it must attest that it is unable to fully implement 2014 Edition certified EHR technology for an EHR reporting period in 2014 due to delays in 2014 Edition certified EHR technology availability.

* * * * *

■ 4. Section 495.302 is amended by adding paragraph (4) to the definition of ''Adopt, implement or upgrade'' to read as follows:

§ 495.302 Definitions.

* * * * *

Adopt, implement or upgrade * * *

(4) For payment year 2014, the references to ''certified EHR technology'' in paragraphs (1) through (3) of this definition are deemed to be references to paragraph (2) of the definition of ''Certified EHR Technology'' under 45 CFR 170.102 (that is, the definition of ''Certified EHR Technology'' for FY and CY 2015 and subsequent years).

* * * * *

Title 45—Public Welfare

PART 170—HEALTH INFORMATION TECHNOLOGY STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA AND CERTIFICATION PROGRAMS FOR HEALTH INFORMATION TECHNOLOGY

■ 5. The authority citation for part 170 continues to read as follows:

Authority: 42 U.S.C. 300jj–11; 42 U.S.C. 300jj–14; 5 U.S.C. 552.

§ 170.102 [Amended]

■ 6. In § 170.102, the definition of ''Certified EHR Technology'' is amended as follows:

■ A. In paragraph (1) introductory text, by removing the year ''2013'' and adding in its place the year ''2014''.

■ B. In paragraph (1)(i), by removing ''; or'' and adding in its place '';''.

■ C. In paragraph (1)(iii), by removing the phrase ''FY and CY 2014'' and adding in its place the phrase ''FY and CY 2015'' and by removing the cross-reference ''paragraph (2);'' and adding in its place the cross-reference ''paragraph (2) of this definition''.

■ D. In paragraph (2) introductory text, by removing the phrase ''FY and CY 2014'' and adding in its place the phrase ''FY and CY 2015''.

Dated: August 19, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: August 27, 2014.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2014–21021 Filed 8–29–14; 4:15 pm]

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Presidential Documents

Title 3—

The President

Proclamation 9154 of August 29, 2014

National Alcohol and Drug Addiction Recovery Month, 2014

By the President of the United States of America

A Proclamation

Every day, courageous men and women take the first step toward reclaiming their lives from substance use disorders. We recognize the strength and resolve of these individuals who have committed to recovery, and we are reminded that in the face of great trials, Americans have always drawn on the power of hope, determination, and perseverance. During the 25th annual National Alcohol and Drug Addiction Recovery Month, we celebrate those who are seeking treatment and those who have found pathways to healthy, rewarding lives, and we stand with the families, friends, and professionals who support them.

For the more than 20 million Americans who struggle with substance use disorders, recovery is possible. Research shows addiction is a chronic disease of the brain which can be prevented and treated. However, the stigma associated with this disease—and the false belief that addiction represents a personal failing—creates fear and shame that discourage people from seeking treatment and prevents them from fully rejoining and contributing to their communities. This year's theme, ''Join the Voices for Recovery: Speak Up, Reach Out,'' urges those who need help to ask for it, and it reminds us that prevention works, treatment is effective, and people can and do recover. Americans seeking help for themselves or their loved ones can call 1–800–662–HELP, or use the ''Treatment Locator'' tool at *www.SAMHSA.gov.*

Substance use is a major public health concern, and my Administration is dedicated to promoting evidence-based strategies to combat it. Our 2014 *National Drug Control Strategy* promotes programs to stop substance use before it begins in our schools and workplaces. It supports policies that remove barriers and expand access to treatment, making recovery a reality for millions of people. And under the Affordable Care Act, more Americans are able to obtain quality, affordable health coverage, and companies participating in the Health Insurance Marketplace are required to cover mental health and substance use disorder treatment services as part of their essential health benefits.

Recovery is a positive force that transforms individuals, families, and communities—but often it is a long and difficult journey. This month, we come together to spread its promise, and remind everyone struggling with substance use that a better life is possible.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2014 as National Alcohol and Drug Addiction Recovery Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



[FR Doc. 2014–21254
Filed 9–3–14; 11:15 am]
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Presidential Documents

Proclamation 9155 of August 29, 2014

National Childhood Cancer Awareness Month, 2014

By the President of the United States of America

A Proclamation

Each year, pediatric cancer interrupts the childhood and limits the potential of thousands of young Americans. It is estimated that almost 16,000 of our daughters and sons under the age of 20 will be diagnosed with cancer this year, and it remains the leading cause of disease-related death for children. This month—in honor of these young patients, their loved ones, and all those who support them—we rededicate ourselves to combating this devastation.

Critical research has led to real progress in the fight against pediatric cancer. Improvements in treatment and increased participation in clinical trials have helped decrease mortality rates for many types of childhood cancer by more than 50 percent over the past 30 years. These gains remind us of the importance of supporting scientific advances, and give us hope for a future free from cancer in all its forms. My Administration continues to invest in long-term research efforts that will build on this progress. As part of this commitment, earlier this year I signed the Gabriella Miller Kids First Research Act, which established the 10-Year Pediatric Research Initiative Fund. I continue to call on the Congress to invest the millions of dollars available in this Fund to support the urgent medical innovation that could lead to life-changing breakthroughs.

As we continue to pursue medical advances, the Affordable Care Act is improving families' access to quality, affordable health coverage. Childhood cancer can occur suddenly, with no early symptoms, and regular medical checkups can help detect pediatric cancer at an early stage. The Affordable Care Act helps millions of families access this essential medical care, and new protections eliminate annual and lifetime dollar limits on coverage. Insurance companies are also prohibited from denying coverage due to a history of cancer, or any other pre-existing condition, and from denying participation in an approved clinical trial for any life-threatening disease.

During National Childhood Cancer Awareness Month, our Nation comes together to remember all those whose lives were cut short by pediatric cancer, to recognize the loved ones who know too well the pain it causes, and to support every child and every family battling cancer each day. We join with their loved ones and the researchers, health care providers, and advocates who support them as we work toward a tomorrow where all children are able to pursue their full measure of happiness without the burden of cancer.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2014 as National Childhood Cancer Awareness Month. I encourage all Americans to join me in reaffirming our commitment to fighting childhood cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



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Presidential Documents

Proclamation 9156 of August 29, 2014

National Childhood Obesity Awareness Month, 2014

By the President of the United States of America

A Proclamation

Childhood obesity is one of the most urgent health issues we face in the United States. Nearly one in three American children are overweight or obese, putting them at risk for many immediate and long-term health problems—including high cholesterol, high blood pressure, heart disease, diabetes, and cancer. As a Nation, we have a responsibility to ensure our children have every chance to fulfill their potential, and that starts by providing them with the opportunities to make healthy choices. Recent data show progress is possible: obesity rates have fallen by 43 percent among children ages two to five years old. But we must remain committed to improving the health of kids of all ages. This month, we build on our progress and raise awareness of the benefits of healthy eating and active living so our children can lead prosperous and productive lives.

First Lady Michelle Obama's *Let's Move!* initiative is striving to ensure every young person has a chance at a healthy childhood. For more than 4 years, *Let's Move!* has brought together stakeholders across the public and private sectors to encourage and expand access to physical activity and nutritious foods—two components of a healthy lifestyle. Across America, more communities have gained access to healthy and affordable food and the information needed to make more nutritious choices. Businesses are marketing healthier foods to kids, and families are buying healthier products.

Family members, caregivers, and other role models can also play a critical role in helping children make healthy choices. Those who support our kids can model healthy behaviors by staying active and preparing healthy meals at home. Families can plant kitchen gardens, cook together, and encourage lifestyle choices that support a healthy weight.

My Administration is working to make sure the hard work parents and caregivers are doing to teach kids healthy habits will not be undone outside the home. We have fought to improve the overall quality of school meals, and as students return to school this fall, they will have more opportunities than ever before to make healthy choices—including changes in foods offered in vending machines and a la carte lines. This past year, my Administration announced a new proposal to prohibit items that cannot be sold or served in schools from being marketed in schools. These measures build on the progress already made by the Healthy, Hunger-Free Kids Act of 2010, which this year will allow more than 22,000 schools across the country to qualify to serve free, healthy breakfasts and lunches for all their students.

Each American has an important part to play as we build healthier communities for young people across our Nation. During National Childhood Obesity Awareness Month, we continue our work to provide every child with healthy food, active play, and a good example to follow. By committing to a healthy lifestyle for our families and eating right ourselves, we can help turn the tide against childhood obesity across our country.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2014 as National Childhood Obesity Awareness Month. I encourage all Americans

to learn about and engage in activities that promote healthy eating and greater physical activity by all our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



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Presidential Documents

Proclamation 9157 of August 29, 2014

National Ovarian Cancer Awareness Month, 2014

By the President of the United States of America

A Proclamation

Ovarian cancer is the most deadly of all female reproductive system cancers. This year nearly 22,000 Americans will be diagnosed with this cancer, and more than 14,000 will die from it. The lives of mothers and daughters will be taken too soon, and the pain of this disease will touch too many families. During National Ovarian Cancer Awareness Month, we honor the loved ones we have lost to this disease and all those who battle it today, and we continue our work to improve care and raise awareness about ovarian cancer.

When ovarian cancer is found in its early stages, treatment is most effective and the chances for recovery are greatest. But ovarian cancer is difficult to detect early—there is no simple and reliable way to screen for this disease, symptoms are often not clear until later stages, and most women are diagnosed without being at high risk. That is why it is important for all women to pay attention to their bodies and know what is normal for them. Women who experience unexplained changes—including abdominal pain, pressure, and swelling—should talk with their health care provider. To learn more about the risk factors and symptoms of ovarian cancer, Americans can visit *www.Cancer.gov.*

Regular health checkups increase the chance of early detection, and the Affordable Care Act expands this critical care to millions of women. Insurance companies are now required to cover well-woman visits, which provide women an opportunity to talk with their health care provider, and insurers are prohibited from charging a copayment for this service.

For the thousands of women affected by ovarian cancer, the Affordable Care Act also prohibits insurance companies from denying coverage due to a pre-existing condition, such as cancer or a family history of cancer; prevents insurers from denying participation in an approved clinical trial for any life-threatening disease; and eliminates annual and lifetime dollar limits on coverage. And as we work to ease the burden of ovarian cancer for today's patients, my Administration continues to invest in the critical research that will lead to earlier detection, improved care, and the medical breakthroughs of tomorrow.

Ovarian cancer and the hardship it brings have affected too many lives. This month, our Nation stands with everyone who has been touched by this disease, and we recognize all those committed to advancing the fight against this cancer through research, advocacy, and quality care. Together, let us renew our commitment to reducing the impact of ovarian cancer and to a future free from cancer in all its forms.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2014 as National Ovarian Cancer Awareness Month. I call upon citizens, government agencies, organizations, health care providers, and research institutions to raise ovarian cancer awareness and continue helping Americans live longer, healthier lives. I also urge women across our country to talk to their health care providers and learn more about this disease.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



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Presidential Documents

Proclamation 9158 of August 29, 2014

National Preparedness Month, 2014

By the President of the United States of America

A Proclamation

In times of emergency, our Nation pulls together—neighbors support each other, communities react with compassion, and afterward, our country emerges stronger and more resilient. But before emergencies occur, we must make sure we are ready to respond, and it is every American's responsibility to be prepared. There are simple but important steps we can all take to ensure we know what to do and have what we need in the event of a crisis. National Preparedness Month is an opportunity to talk with our families, friends, and colleagues about the risks in our communities and to practice our responses in all the places we regularly visit.

Emergencies—from hurricanes and wildfires to cyber and terrorist attacks—can strike anywhere at any time. Americans should be familiar with local threats and hazards and take steps to reduce their devastating impacts. Families should assemble a disaster supplies kit well in advance and have a plan to reconnect after a tragedy. To make sure you are ready in the event of a crisis and to learn more about the types of disasters common in your area, visit *www.Ready.gov* or *www.Listo.gov.*

In regions affected by disaster, my Administration invested billions of dollars during the immediate aftermath to support a rapid response. We bolstered coordination with our local, State, tribal, and territorial partners to cut through red tape and kept our commitment to rebuild stronger and fully recover together. We are harnessing our Nation's innovative spirit to develop new tools and technologies that will empower survivors and better inform Americans before, during, and after an emergency. My Administration also launched *America's PrepareAthon!* to assist with increasing local readiness. Through this initiative, communities across our country will participate in the second national day of action on September 30, providing Americans of all ages with resources and opportunities to increase their preparedness.

Our Nation also faces longer wildfire seasons, more severe droughts, heavier rainfall, and more frequent flooding in a changing climate. That is why, as part of my Climate Action Plan, we are committed to building smarter, more resilient infrastructure that can withstand more frequent and more devastating natural disasters and to supporting our communities as they prepare for these impacts.

When and where emergencies occur are beyond our control—but how we prepare and how we respond are up to us. This month, we honor the heroes who put the needs and lives of others before their own and rush to help in times of tragedy: our emergency responders and other extraordinary Americans who are prepared to act in critical moments. Let us resolve to be ready for any crisis and work to inspire a new generation of Americans, vested with the knowledge and experience to protect themselves, their families, and their communities in the face of any challenge.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2014 as National Preparedness Month. I encourage all Americans to recognize

the importance of preparedness and work together to enhance our national security, resilience, and readiness.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



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Presidential Documents

Proclamation 9159 of August 29, 2014

National Prostate Cancer Awareness Month, 2014

By the President of the United States of America

A Proclamation

Prostate cancer is one of the most common cancers among American men. They are fathers, brothers, and sons—and this year, more than 230,000 of them are expected to be diagnosed with this disease. During National Prostate Cancer Awareness Month, we honor all those whose lives have been touched by this disease, and we renew our commitment to reducing its devastating impact through more effective prevention, detection, and treatment.

Since the mid-1990s, the mortality rate for prostate cancer has fallen, but too many men—an estimated 29,000 this year—will die from this disease, and even more are at risk. Increased awareness can help these men make informed choices about their health. While the exact causes of prostate cancer remain unknown, medical research has identified well-established risk factors with which men should be familiar, including age, family history, and race. I encourage all men, especially those at higher risk, to talk with their doctors about how prostate cancer could affect them.

My Administration continues to invest in critical research to help better prevent this disease and treat it with fewer side effects, and to further our understanding of the disproportionate impact prostate cancer has on African-American men. As part of the Affordable Care Act, more options for quality, affordable health coverage are available and new protections are in place, expanding access to life-saving care for millions of Americans, including those impacted by prostate cancer. Insurance companies can no longer deny coverage due to a pre-existing condition, such as cancer, or deny participation in an approved clinical trial for any life-threatening disease. And men fighting prostate cancer are no longer faced with annual or lifetime dollar limits on coverage that could disrupt their treatments.

Even as we continue the urgent work of improving care, too many lives will be disrupted and too many families will experience the pain of prostate cancer. But we must remain steadfast in our commitment to ease the burden of this disease, and every day we must continue to work toward a future free from cancer in all its forms.

This month, as we come together to raise awareness about prostate cancer, we remember those we lost to this disease. Let us support the patients who continue to battle this cancer each day and the families who stand by their side, and recognize the tireless work of our Nation's health care providers, researchers, and advocates.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2014 as National Prostate Cancer Awareness Month. I encourage all citizens, government agencies, private businesses, non-profit organizations, and other groups to join in activities that will increase awareness and prevention of prostate cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



[FR Doc. 2014–21260
Filed 9–3–14; 11:15 am]
Billing code 3295–F4

Presidential Documents

Proclamation 9160 of August 29, 2014

National Wilderness Month, 2014

By the President of the United States of America

A Proclamation

Fifty years ago, a forward-thinking Nation came together, a President put pen to paper, and a great society secured an enduring gift for future generations. Signed by President Lyndon B. Johnson on September 3, 1964, the Wilderness Act and the Land and Water Conservation Fund Act began a new era of American conservation. Together, they set aside an initial 9.1 million acres of Federal land for the use and enjoyment of the American people and recognized our obligation to preserve a piece of our original and unspoiled splendor for posterity. For the first time, our Nation defined vast stretches of our continent as wilderness and codified the simple premise that when we take something from the earth, we have a responsibility to give something back. On the anniversary of this environmental milestone, we reflect on our rich tradition of stewardship, which has preserved the wild and scenic places we enjoy today, and renew our commitment to advancing our country's legacy of conservation in our own time.

Our Nation's wilderness shaped the growth of our country and the character and spirit of our people. Early pioneers explored its expanse as they pushed westward, and its natural bounty sustained settlers who found new land and new opportunities for prosperity. Today our vast wilderness—which has grown to more than 109 million protected acres—provides laboratories for our researchers and classrooms for our students pursuing new frontiers of science, medicine, and technology. This land is the habitat for our Nation's diverse flora and fauna and refuge for Americans of all ages. And it supports recreation and tourism that strengthen our economy.

My Administration continues to pursue a conservation agenda for the 21st century. During my first year as President, I designated over 2 million acres of wilderness and more than 1,000 miles of rivers. And earlier this year, I established the Organ Mountains-Desert Peaks National Monument, marking the eleventh time I have used my Executive authority to protect our pristine landscapes and historic and cultural heritage.

America's open spaces stretch from rocky mountain tops to windswept tundras, but they are also found between city blocks and at the end of country roads. In small towns and urban centers across our Nation, my Administration is working to reconnect Americans to our natural beauty. To empower local communities to protect and utilize these natural resources, we launched the America's Great Outdoors Initiative. For decades, the Land and Water Conservation Fund has supported these efforts by making critical investments to increase access to the outdoors for hunting and other recreation, protect our country's iconic features—from National Parks to Civil War battlefields—and advance over 40,000 local projects establishing everything from baseball fields to community green spaces. But 50 years after President Johnson signed the Fund into law, it is set to expire without action from the Congress. I have called for the full and permanent funding of this vital tool of environmental stewardship, and I continue to work to make it easier for families to spend time outside no matter where they live.

Today, our outdoor spaces are more precious than ever, and it is more important than ever to come together and protect them for the next generation. During National Wilderness Month, we draw on the audacity and vision of previous generations of environmental stewards and resolve to do our part to preserve our planet for our children and for their children.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2014 as National Wilderness Month. I invite all Americans to visit and enjoy our wilderness areas, to learn about their vast history, and to aid in the protection of our precious national treasures.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



[FR Doc. 2014–21261
Filed 9–3–14; 11:15 am]
Billing code 3295–F4

Presidential Documents

Proclamation 9161 of August 29, 2014

Labor Day, 2014

By the President of the United States of America

A Proclamation

On Labor Day, we honor the legacy of our working women and men who have played a defining role in the American story and all those who carry forward our Nation's proud tradition of hard work, responsibility, and sacrifice. From assembly lines to classrooms, across highways and steel mills, American workers strengthen the foundation of our country and demonstrate that our economy grows best from the middle out.

For generations, working Americans have fought to build a better life for their families and a better future for their country. United in the cause of dignity and justice in the workplace, they organized for the workplace protections that have helped build the largest and most prosperous economy in the world, including the 40-hour workweek, overtime pay, and safe working conditions. Each hard-won victory, from laws establishing collective bargaining to those guaranteeing a minimum wage, has helped raise standards of living for people across our Nation and provided them with opportunities to climb the ladder of success.

In the same spirit of strength and resilience, Americans today have battled back from a financial crisis, a weakening economic foundation, and the worst recession of our lifetimes. We have brought manufacturing jobs back to America, invested in skills and education, and begun to lay the groundwork for stronger, more durable economic growth.

But we still have more work left to do to reverse the forces that have conspired against working Americans for decades. As we seek to strengthen our economy and our middle class, we must secure a better bargain for all—one where everyone who works hard in America has a chance to get ahead. I am committed to boosting economic mobility by empowering our workers and making sure an honest day's work is rewarded with an honest day's pay. My Administration is fighting for a fair minimum wage for every employee because nobody who works full-time should ever have to raise a family in poverty. We must also eliminate pay discrimination so women receive equal pay for equal work, combat unfair labor practices, and continue to defend the collective bargaining rights our parents and grandparents fought so hard for.

As we celebrate Labor Day, we reflect on the efforts of those who came before us to increase opportunity, expand the middle class, and build security for our families, and we rededicate ourselves to moving forward with this work in our time. We stand united behind our great American workforce as we lay the path for economic growth and prosperity.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 1, 2014, as Labor Day. I call upon all public officials and people of the United States to observe this day with appropriate programs, ceremonies, and activities that honor the contributions and resilience of working Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



[FR Doc. 2014–21262
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